
**IN THE
COURT OF APPEALS OF VIRGINIA**

Record No. 1062-22-4

AMBER LAURA HEARD,
Defendant-Appellant,

v.

JOHN C. DEPP, II,
Plaintiff-Appellee.

**REPLY IN FURTHER SUPPORT OF MOTION FOR LEAVE TO FILE
BRIEF OF *AMICI CURIAE* SANCTUARY FOR FAMILIES, THE
VIRGINIA NATIONAL ORGANIZATION FOR WOMEN, THE DC
COALITION AGAINST DOMESTIC VIOLENCE, EQUALITY NOW,
ESPERANZA UNITED, THE FEMINIST MAJORITY FOUNDATION,
BATTERED WOMEN’S JUSTICE PROJECT, THE WOMEN’S EQUAL
JUSTICE PROJECT, NATIONAL CRIME VICTIM LAW INSTITUTE,
THE COALITION AGAINST TRAFFICKING IN WOMEN, PROFESSOR
CATHARINE A. MACKINNON AND THE ORGANIZATIONS,
PROFESSORS, ADVOCATES AND PROFESSIONALS IN SUPPORT OF
THE DEFENDANT-APPELLANT**

Amici Curiae (“*Amici*”)—Sanctuary for Families, the Virginia National Organization for Women, the DC Coalition Against Domestic Violence, Equality Now, Esperanza United, the Feminist Majority Foundation, Battered Women’s Justice Project, the Women’s Equal Justice Project, National Crime Victim Law

Institute, the Coalition Against Trafficking in Women and Professor Catharine A. Mackinnon, *et al.*— respectfully submit this Reply in further Support of their Motion for Leave to File their Brief of *Amici Curiae* in Support of the Defendant-Appellant.

Mr. Depp asks this Court to disregard the brief supported by 59 organizations and individuals dedicated to advancing the safety and well-being of survivors of domestic violence based on a purported failure to follow the pleading requirements of this Court. None of Mr. Depp’s technical (and incorrect) challenges to *Amici’s* Brief justify setting aside the important and unique perspective of these *Amici* on the question of why the jury verdict was plainly wrong to ignore uncontroverted evidence of widely-recognized forms of abuse.

Mr. Depp’s Omnibus Opposition (“Opp.”) is simply incorrect in claiming that *Amici* used size 12 font in their Opening Brief. *See* Opp. at 5. As is clear from the face of *Amici’s* submission, their Brief and Motion for Leave were both submitted in size 14 font. *Amici’s* compliance with this requirement is further demonstrated by Exhibit A, which samples one page from *Amici’s* Brief and makes clear that the highlighted text from *Amici’s* Brief is size 14 font. Mr. Depp’s unsubstantiated claim to the contrary has no merit.

In a further attempt to preclude this Court from considering *Amici’s* submission, Mr. Depp argues that the Brief does not adequately identify the Assignment of Error to be addressed on appeal. *See* Opp. at 4. This purported

deficiency is far from “so substantial as to preclude the court’s addressing the merits of the case.” *Macione v. Macione*, 2013 WL 3947744, at *1 n.1 (Va. Ct. App. July 30, 2013).¹ *Amici’s* Brief clearly states that it supports Ms. Heard “with respect to Assignment of Error No. 14,” and quotes the relevant Assignment of Error in its totality. *See* Br. at 6. The record cites related to this Assignment of Error are identified in Ms. Heard’s opening brief. *See* Heard Br. at 5 (“The trial court erred in denying the motions to strike and to set aside the jury’s verdict with regard to Depp’s failure to prove actual malice by clear and convincing evidence. (Preserved at R21889-93, R22136-37, R26506-10, R26516.)”). That *Amici* did not provide these record cites in their own submission will hardly preclude the Court from addressing the merits of Ms. Heard’s appeal or *Amici’s* perspective on the matters at issue on appeal. In any event, and for the avoidance of doubt, *Amici* hereby identify the record cites supporting Assignment of Error No. 14 as follows: R21889-93, R22136-37, R26506-10, R26516.

Mr. Depp additionally argues without basis that *Amici* and Appellant Heard

¹ *See also id.* (“[Appellee] contends that [appellant’s] assignments of error are not accompanied by the required ‘clear and exact reference to the page(s) of the transcript, written statement, record, or appendix where each assignment of error was preserved in the trial court.’ Rule 5A:20(c). While we agree with [appellee] that [appellant’s] citations to the appendix could be more precise, we do not deem any deficiency in [appellant’s] brief in this regard to be ‘so substantial as to preclude the court’s addressing the merits of the case.’”) (quoting *Moore v. Commonwealth*, 276 Va. 747, 753 (2008)).

“act[ed]” in coordination . . . to circumvent the page limits imposed on both parties.”
See Opp. at 6. No such coordination occurred, and *Amici* did not “previously receive[]” Ms. Heard’s brief. *Id.* It is common practice for *Amici* to incorporate by reference the statement of facts of the party the *amicus* brief is supporting.

In a final attempt to have this Court disregard *Amici’s* submission, Mr. Depp argues that *Amici’s* perspective is “irrelevant,” and that it would be overly burdensome for Mr. Depp to respond to *Amici’s* arguments. *See Opp.* at 6-7. The Opposition is bereft of any explanation as to why in a case where Mr. Depp is contesting the merits of Ms. Heard’s belief that she was a victim of abuse, the Court would not benefit from the perspective of numerous, nationally-recognized organizations and practitioners, who specialize in counseling, researching, and supporting victims of abuse. These *Amici* are uniquely positioned to provide the Court with valuable insight into why under laws of the Commonwealth of Virginia, as well as other national and international laws and authorities, Mr. Depp’s uncontroverted emotional, psychological, and verbal attacks on Ms. Heard should have been properly considered as forms of domestic abuse. Rather than request leave to file additional pages or separately respond to *Amici’s* arguments, Mr. Depp simply seeks to artificially restrict the number of pages this Court may consider. It is up to this Court—not Mr. Depp—to determine what submissions may be helpful to its review. *Amici* respectfully submit that their submission provides a unique

perspective on the matters at issue in the case and their broader ramifications—
precisely the kind of perspective this Court has welcomed on past appeals.²

Respectfully submitted:

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² See, e.g., *Ely v. Whitlock*, 238 Va. 670, 676 (1989) (considering *amicus* brief addressing policy implications and potential chilling effects of trial court decision).

EXHIBIT A

The image shows a screenshot of a PDF editor interface. The title bar reads "1062-22-4 Amici Brief - Kofax Power PDF Advanced (Advanced Edit Mode)". The ribbon includes "File", "Home", "Insert", "View", "Track", and "Help". The "Home" ribbon is active, showing options for Cut, Copy, Paste, Undo, Redo, Format Painter, and various text and paragraph formatting tools. The font is set to Times New Roman, size 14. The main document area shows a page with a blue highlight over a paragraph. The text in the highlighted area is as follows:

IDENTITIES AND INTERESTS OF AMICI CURIAE⁴¹

Amici curiae ("Amici") are leading nonprofit organizations, professors, victim advocates and professionals around the world dedicated to advancing the safety and well-being of survivors of domestic violence. Collectively, *Amici* provide a broad range of legal and other services to victims of domestic violence, and are active contributors to, and experts in, the scholarship surrounding the dynamics of domestic violence. *Amici* are concerned because the jury verdict reflects a deep and dangerous⁴¹ ignorance of the coercive tactics and non-physical forms of abuse that are a critical⁴¹ component of domestic violence. *Amici* also wish to advise the Court of the⁴¹ troubling chilling effects this highly-publicized verdict will have on victims of abuse seeking to protect themselves, report abuse and raise awareness. Pursuant to Rule 5A:23, *Amici* respectfully submit this Brief in support of Appellant, Amber Laura Heard.⁴¹

Amici are qualified to understand and express the interests of domestic⁴¹ violence victims in Virginia with respect to matters of common concern that come before this Court.⁴¹

Amici requested the consent from all parties to file this *amicus curiae* brief.⁴¹ Appellant, Ms. Heard, has consented. Appellee, Mr. John C. Depp, II, opposed.⁴¹

A full list of *Amici* is attached hereto as Appendix A.⁴¹

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of December, 2022, pursuant to Rules 5A:1, an electronic copy of this Reply in Further Support of Motion for Leave to File Brief of *Amici Curiae* has been filed with the Clerk of the Court of Appeals of Virginia, via VACES. On this same day, an electronic copy of this Reply in Further Support of Motion was served, via email, upon:

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The foregoing contains 879 words.

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