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Transcript of Jury Trial - Day 24

Date: May 26, 2022
Case: Depp, II -v- Heard

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Transcript of Jury Trial - Day 24
Conducted on May 26, 2022

1 (7436 to 7439)

7436	1 VIRGINIA: 2 IN THE CIRCUIT COURT OF FAIRFAX COUNTY 3 -----x 4 JOHN C. DEPP, II, : 5 Plaintiff and : 6 Counterclaim Defendant, : 7 v. : Civil Action No.: 8 AMBER LAURA HEARD, : CL-2019-0002911 9 Defendant and : 10 Counterclaim Plaintiff. : 11 -----x 12 HEARING 13 BEFORE THE HONORABLE PENNEY AZCARATE 14 Fairfax, Virginia 15 Thursday, May 26, 2022 16 9:00 a.m. EDT 17 TRIAL DAY 24 18 19 20 Job No.: 443908 21 Pages: 7436 - 7705 22 Reported by: Judith E. Bellinger, RPR, CRR	7438	1 A P P E A R A N C E S 2 3 ON BEHALF OF THE PLAINTIFF AND COUNTERCLAIM 4 DEFENDANT: 5 BENJAMIN G. CHEW, ESQUIRE 6 ANDREW C. CRAWFORD, ESQUIRE 7 BROWN RUDNICK LLP 8 601 Thirteenth Street NW 9 Suite 600 10 Washington, D.C. 20005 11 202.536.1700 12 13 CAMILLE M. VASQUEZ, ESQUIRE 14 SAMUEL A. MONIZ, ESQUIRE 15 BROWN RUDNICK LLP 16 2211 Michelson Drive 17 7th Floor 18 Irvine, CA 92712 19 949.440.0234 20 21 22
7437	1 Held at: 2 3 4 CIRCUIT COURT OF FAIRFAX COUNTY 5 4110 Chain Bridge Road 6 Courtroom 5J 7 Fairfax, Virginia 22030 8 703.691.7320 9 10 11 12 13 14 15 16 17 18 19 20 21 22	7439	1 A P P E A R A N C E S C O N T I N U E D 2 3 JESSICA N. MEYERS, ESQUIRE 4 BROWN RUDNICK LLP 5 7 Times Square 6 New York, NY 7 212.209.4938 8 9 WAYNE DENNISON, ESQUIRE 10 BROWN RUDNICK LLP 11 One Financial Center 12 Boston, MA 02111 13 617.856.8149 14 15 16 17 18 19 20 21 22

Transcript of Jury Trial - Day 24
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2 (7440 to 7443)

7440		7442	
<p>1 APPEARANCES CONTINUED</p> <p>2 ON BEHALF OF THE DEFENDANT AND COUNTERCLAIM</p> <p>3 PLAINTIFF:</p> <p>4</p> <p>5 ELAINE CHARLSON BREDEHOFT, ESQUIRE</p> <p>6 ADAM S. NADELHAFT, ESQUIRE</p> <p>7 DAVID E. MURPHY, ESQUIRE</p> <p>8 CHARLSON BREDEHOFT COHEN BROWN &</p> <p>9 NADELHAFT, P.C.</p> <p>10 11260 Roger Bacon Drive</p> <p>11 Suite 201</p> <p>12 Reston, VA 20190</p> <p>13 703.318.6800</p> <p>14</p> <p>15 J. BENJAMIN ROTTENBORN, ESQUIRE</p> <p>16 ELAINE D. McCAFFERTY, ESQUIRE</p> <p>17 WOODS ROGERS PLC</p> <p>18 10 South Jefferson Street</p> <p>19 Suite 1400</p> <p>20 P.O. Box 14125</p> <p>21 Roanoke, VA 24011</p> <p>22 540.983.7540</p>		<p>1 EXHIBITS</p> <p>2 Offered Admitted</p> <p>3 Plaintiff's</p> <p>4 712A 7507 7510</p> <p>5 713A 7507 7510</p> <p>6 1308 7508 7508</p> <p>7 1312 7540 7540</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	
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<p style="text-align: right;">7444</p> <p>1 sustained, as well as Dr. Jordan and Dr. Moore's 2 opinions relating to it. So since this is in 3 rebuttal and they didn't call him in 4 case-in-chief, Dr. Jordan's out, she never 5 testified. 6 THE COURT: I agree with you. 7 MR. ROTTENBORN: Dr. Moore, here's the 8 issue: Doctor -- in his deposition, Dr. Gilbert 9 seemed to believe that Amber had said the phone 10 took the finger off, smashing the phone against 11 the wall, which Amber never said. She said, I 12 don't know how it happened. 13 THE COURT: That sounds like it's for 14 cross-examination. 15 MR. ROTTENBORN: No, I know, but I just 16 want to -- this is part of the rebuttal issue that 17 we talked about yesterday. So Dr. Moore, in his 18 testimony, never mentioned the phone. He never 19 said -- basically what Dr. Gilbert wants to do is 20 say, given the competing potential causes that 21 I've heard, there's a phone and there's a bottle 22 and there's, you know, whatever Dr. Moore</p>	<p style="text-align: right;">7446</p> <p>1 wall took the finger off. Amber said I saw him 2 slam the phone against the wall, I don't know how 3 his finger came off, but if he's saying Ms. Heard 4 said it happened when the phone slammed against 5 the wall, that's him improperly setting up a 6 strawman rebuttal argument on a lay witness, 7 because Dr. Moore did not testify to that. 8 MR. MURPHY: Dr. Moore testified about 9 all sorts of things that could have caused this 10 injury. This is the witness that's rebutting it. 11 We're entitled to say -- 12 MR. ROTTENBORN: He didn't testify 13 about a phone. 14 THE COURT: I'm going to overrule the 15 objection on that. 16 Anything else? 17 MR. ROTTENBORN: No, thank you. 18 THE COURT: Okay. Good. 19 (Open court.) 20 THE COURT: All right. Then, are we 21 ready for the jury? 22 MS. BREDEHOFT: Yes, Your Honor.</p>
<p style="text-align: right;">7445</p> <p>1 testified to. It's fair for him to rebut what 2 Dr. Moore testified to, but if he's testifying 3 about saying, well, it didn't happen with the 4 phone, that's, first of all, that's not what Amber 5 testified to, but that would be rebutting lay 6 witness testimony, which isn't appropriate. I 7 want to make sure we're on the same page that he 8 can't testify about a phone as a possible cause or 9 not. 10 THE COURT: But that's his opinion, 11 right? 12 MS. VASQUEZ: Yeah. 13 MR. ROTTENBORN: But it's in rebuttal, 14 so has to be rebutting something from our case, 15 and there's been no testimony on that. 16 THE COURT: But when he's rebutting, he 17 can have an opinion, a different opinion, right? 18 MR. ROTTENBORN: Correct. 19 THE COURT: Okay. 20 MR. ROTTENBORN: But I'm saying there's 21 been no evidence put forward by an expert witness 22 in our case that the slamming a phone against the</p>	<p style="text-align: right;">7447</p> <p>1 THE COURT: Okay. Thank you. 2 (Whereupon, the jury entered the 3 courtroom and the following proceedings took 4 place.) 5 THE COURT: All right. Good morning 6 ladies and gentlemen. All right. 7 Have your seat. 8 All right. Your next witness. 9 MR. MONIZ: We call Dr. Richard 10 Gilbert, Your Honor. 11 THE COURT: Dr. Gilbert. 12 RICHARD GILBERT, M.D. 13 a witness called on behalf of the 14 Plaintiff and Counterclaim Defendant, having been 15 first duly sworn by the Clerk, testified as 16 follows: 17 THE COURT: Good morning, sir. 18 THE WITNESS: Good morning 19 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND 20 COUNTERCLAIM DEFENDANT 21 BY MR. MONIZ: 22 Q Good morning, Dr. Gilbert.</p>

<p style="text-align: right;">7448</p> <p>1 A Good morning. 2 Q Would you please state your name for 3 the record. 4 A Richard Stephen Gilbert. 5 Q And what is your occupation? 6 A I am an orthopedic surgeon, and I have 7 a subspecialty training in surgery of the hand and 8 upper extremity. 9 Q Dr. Gilbert, where do you work, 10 currently? 11 A I currently work in New York, in Long 12 Island at Northwell Health. 13 Q And you mentioned you have a specialty. 14 Can you tell us a little bit more about what your 15 specialty is? 16 A So, after medical school, I trained in 17 orthopedic surgery, and I did an orthopedic 18 surgery residency. And for a year thereafter, I 19 did a hand and upper extremity surgery – 20 fellowship, so my practice for the past 22 years 21 has been limited to surgery of the hand, wrist, 22 and elbow.</p>	<p style="text-align: right;">7450</p> <p>1 hand itself. And this really varies from anything 2 from conditions like carpal tunnel syndrome to 3 tendonitis to injuries such as amputations, 4 fractures, sharp lacerations, et cetera. 5 Q Over the course of your 22 years of 6 practice, how many surgeries would you estimate 7 you've performed? 8 A I performed about 3- to 400 surgeries a 9 year, so a rough estimate would be, approximately, 10 10,000, maybe a little less. 11 Q Where are you currently licensed? 12 A In New York. 13 Q And how long have you been licensed in 14 New York? 15 A I've been licensed in New York since 16 1994, so that would be 28 years. 17 Q And do you have any certifications? 18 A Yes. 19 Q And can you tell us about those? 20 A I am board certified by the American 21 Board of Orthopaedic Surgery, and I have a 22 certificate of added qualifications in surgery of</p>
<p style="text-align: right;">7449</p> <p>1 Q And I think you may have gotten ahead 2 of me there. But how long have you been 3 practicing? 4 A 22 years. 5 Q Okay. What percentage of your practice 6 over the past 22 years has involved surgery? 7 A Approximately, one-third of my 8 practice. 9 Q Okay. And other than that one-third 10 that involves surgery, what does the rest of your 11 practice entail? 12 A The rest of my practice entails some 13 academic work, but, mostly, seeing patients in the 14 office, seeing them either pre or postoperatively, 15 a large portion of hand surgeons treat patients 16 nonoperatively. 17 Q In terms of the surgeries that you do, 18 can you describe for us the types of surgeries 19 that you will perform? 20 A So, again, I limit my practice to hand, 21 wrist, and elbow. I would say, approximately, 22 75 percent or so of my practice is limited to the</p>	<p style="text-align: right;">7451</p> <p>1 the hand from the American Society for Surgery of 2 the Hand. 3 Q When did you receive your board 4 certification? 5 A 2002. 6 Q And can you describe for us what 7 current positions you hold? 8 A I am currently an assistant professor 9 of orthopedic surgery at Northwell Health, and I'm 10 also the president elect of the New York Society 11 for Surgery of the Hand. 12 Q In what professional organizations are 13 you a member? 14 A I'm a member of multiple orthopedic 15 organizations, including the American Board of 16 Orthopaedic Surgery, the American Association of 17 Orthopedic Surgery and the American Society for 18 Surgery of the Hand, as well as the New York 19 Society for Surgery of the Hand. 20 Q Have you published any articles in your 21 field? 22 A Yes, I have.</p>

<p>1 Q Have you testified as an expert before? 2 A Yes, I have. 3 Q Can you ballpark for us how many times? 4 A Certainly less than ten, over the past 5 22 years. 6 MR. MONIZ: Your Honor, at this time, 7 we'd like to offer Dr. Gilbert as an expert in the 8 field of orthopedic surgery, specializing in the 9 hand. 10 THE COURT: All right. Any objection? 11 MR. ROTTENBORN: No objection, Your 12 Honor. 13 THE COURT: So moved. 14 Q So, Dr. Gilbert, what work were you 15 asked to do in connection with this case? 16 A So, I was asked to review medical 17 records, radiographs, pictures, as well 18 testimonies and depositions related to Mr. Depp's 19 finger injury. 20 Q Okay. And to your understanding, what 21 is Mr. Depp's explanation of how his finger was 22 injured?</p>	<p>7452</p>	<p>1 type of blunt force with a high mechanism of 2 injury. He also sustained loss of the tissue 3 along what's called the ulnar side of the finger, 4 towards the little finger, and this appears, based 5 upon my review of the pictures, to be some type of 6 sharp laceration because it represented a clean 7 edges of the wound. 8 Q Can you take a look at Plaintiff's 9 Exhibit 60. 10 MR. MONIZ: And pull up to -- go to 11 page 3. 12 Q And, Dr. Gilbert, are you familiar with 13 this document? 14 A Yes. 15 Q And what is it? 16 A So these are two radiographs, X-rays, 17 of Mr. Depp's fingers -- finger, his middle 18 finger. 19 Q Okay. 20 A And -- 21 Q Sorry, just to stop you. 22 MR. MONIZ: Your Honor, may we publish</p>	<p>7454</p>
<p>1 A He describes that he was in Australia 2 and his right hand was over the side of a bar when 3 a vodka bottle was thrown at his hand, injuring 4 his right middle finger. And he describes that 5 that vodka bottle exploded. 6 Q Are you aware of other explanations for 7 that injury? 8 A There have been multiple other 9 explanations, but I think the one that was brought 10 out was by Ms. Heard, who believed that Mr. Depp 11 was holding a landline and anger -- was punching 12 it against the wall, and this resulted in his 13 right middle finger injury. 14 Q Based on your review of the medical 15 records and other documents in connection with 16 Mr. Depp's finger injury, how would you describe 17 the nature of the injury to Mr. Depp's finger? 18 A Well, the nature of the injury was, he 19 had what we described as a comminuted fracture of 20 the distal phalanx, meaning there was a fracture 21 of the tip of the finger, and comminuted meaning 22 that there were multiple pieces. So this is some</p>	<p>7453</p>	<p>1 this to the jury as a demonstrative? 2 THE COURT: Any objection? 3 MR. ROTTENBORN: No objection. 4 THE COURT: All right. We'll identify 5 it as 60, page 3, and publish to the jury. 6 Q And, Dr. Gilbert, sorry to cut you off 7 there. 8 A No, that's okay. 9 Q Can you just tell the jury what we're 10 looking at here in this X-ray? 11 A We're looking at two X-rays of 12 Mr. Depp's right middle finger after the injury, 13 and towards the tip of the finger, there's a 14 fracture, again, what I describe as a comminuted 15 fracture, meaning there are multiple pieces at the 16 tip. There's also a transverse component to the 17 fracture, closer to the joint. 18 Q In your view, what types of mechanisms 19 can cause this sort of injury? 20 A So this is a mechanism of injury that 21 has high velocity or force, generally a crush-type 22 injury. A simple fall would not result in a</p>	<p>7455</p>

<p style="text-align: right;">7456</p> <p>1 comminuted fracture, such as seen in these X-rays. 2 Q And we're using the term "comminuted 3 fracture," can we just define that quickly for us? 4 A So, again, comminuted, and it's not 5 particular to a finger, is a medical term for a 6 fracture that has multiple fragments. 7 Q In your opinion, could this injury have 8 been sustained in the manner Mr. Depp described? 9 A I do believe so. 10 Q And how might that work? How might a 11 thrown vodka bottle produce an injury like this? 12 A So, a vodka bottle, which is a hard 13 object, would have crushed the tip of the finger, 14 resulting in the comminuted fracture, and in 15 addition, as the vodka bottle broke, the glass 16 would have lacerated the finger, resulting in the 17 soft tissue loss that was also seen with this 18 injury. 19 Q What's your assessment of the 20 description of the cause of the injury offered by 21 Ms. Heard? 22 A I think that's highly unlikely.</p>	<p style="text-align: right;">7458</p> <p>1 the cause of the injury, you would certainly -- 2 that would be a dorsally directed -- so this is a 3 dorsum, the back of hand, as opposed to the palmar 4 side. So if you're punching against something, 5 you should certainly expect an injury to the 6 nailbed, and those are always seen in those type 7 of injuries, if there is an injury to the tip of 8 the finger, which, again, I said is rare. So 9 you'd see either loss of the nail or blood 10 underneath the nail called a subungual hematoma. 11 Q In your review of the medical records, 12 did you see any sign of anything like that? 13 A None, whatsoever. 14 Q In your view, is the injury -- can you 15 explain to us exactly why you think the injury is 16 consistent with Mr. Depp's description? 17 A Well, again, his hand -- he describes 18 his hand being held over a marble bar, which is a 19 firm -- something firm, unyielding, and the bottle 20 hit against the finger. So basically, the finger 21 was crushed, resulting in, again, what I described 22 as a comminuted fracture. And as Mr. Depp</p>
<p style="text-align: right;">7457</p> <p>1 Q And why is that? 2 A Because, one, in general, when an 3 injury is caused by punching against a wall or a 4 hard object, it is extremely rare to see an injury 5 to the tips of the fingers, which is seen with 6 Mr. Depp's injury. Generally, you're holding 7 something with a fist, and that, in general, leads 8 to injuries, most commonly, of the knuckles here 9 or fractures of the metacarpal. We call these 10 boxer fractures. Second most common, after those, 11 would be injuries to these. But as you can see, 12 if you're holding something and make -- hitting 13 against something, it is very unlikely that the 14 tips on the fingers will be injured. In addition, 15 just taking into account the radiographs and the 16 picture of the injury, I would not believe that a 17 blunt force, solely a blunt force against a wall 18 would result in the soft tissue loss. 19 Q What other injuries, if any, would you 20 expect to see on Mr. Depp's hand if the injury had 21 occurred as Ms. Heard described? 22 A So, if you would have -- if that were</p>	<p style="text-align: right;">7459</p> <p>1 described, the bottle exploded, so it's certainly 2 reasonable that the glass that exploded, as well, 3 led to the soft tissue loss along the ulnar aspect 4 of his finger. 5 Q Now, did you observe the testimony of 6 Dr. Richard Moore? 7 A Yes, I did. 8 Q And he testified about Mr. Depp's 9 finger injury as well, right? 10 A Correct. 11 Q Did you agree with Dr. Moore's 12 testimony? 13 A Certain parts of his testimony, I did, 14 yes. 15 Q Okay. 16 A But not all of it. 17 Q Focusing on the parts that you -- well, 18 first of all, why don't you tell us what you agree 19 on. 20 A Well, I agreed in terms of his 21 interpretation of the X-rays, saying that he had a 22 comminuted fracture and this was some type of</p>

<p style="text-align: right;">7460</p> <p>1 high-force injury. 2 Q Okay. What did you disagree with? 3 A Well, I disagreed with several things 4 that he said. He first said that he does not 5 believe that the mechanism of injury could be as 6 described by Mr. Depp, holding the hand on the 7 side of a marble bar because he said it was all a 8 palmar injury. And there was a palmar component 9 to the injury, when I'm talking about the soft 10 tissue loss, but there's also a dorsal, meaning 11 the back of the finger. So the soft tissue loss 12 was actually, if you looked at the pictures which 13 were shown when Dr. Moore testified, the injury 14 goes like this (indicating), so it's an angle or 15 an oblique-type injury, and there's no way that 16 anybody could determine whether or not it was a 17 palmar-directed force, meaning from the palm side 18 or dorsally directed force. But certainly either 19 are plausible. 20 Q Okay. Anything else come to mind that 21 you disagreed with. 22 A Well, he also described that this was</p>	<p style="text-align: right;">7462</p> <p>1 found at the bar. 2 Q Now, you were saying that Dr. Moore 3 testified that this was an avulsion and said -- 4 meaning a pinching injury, right? 5 A Correct. 6 Q Why do you believe it's more likely 7 that it was a laceration? 8 A Well, again, in general, a pinch-type 9 injury results in one much more damaged, the 10 remaining tissue, but the remaining tissue is 11 usually very irregular, the borders are jagged, 12 and that's not what was depicted in the pictures. 13 Q Dr. Moore also testified that he 14 thought a vodka bottle might not have sufficient 15 force to cause the injury here. 16 Is that your understanding of his 17 testimony? 18 A Correct. 19 Q What's your response to that? 20 A I certainly believe that a vodka bottle 21 that was thrown from a distance against a hand 22 that was resting on a marble bar is more than</p>
<p style="text-align: right;">7461</p> <p>1 definite -- well, he thought that this was a 2 pinching or what he described as an avulsion-type 3 injury, and that's referring to the soft tissue 4 loss. That's certainly possible, but if you look 5 at the pictures that were shown when he testified, 6 the laceration looked fairly clean. There were 7 clean edges, they were not jagged. Generally, 8 when an avulsion or a pinch-type injury, you see a 9 very irregular border to the skin that's pinched 10 off, you could imagine, as opposed to something 11 cleaner that would be lacerated by, let's say, a 12 piece of glass, knife, or whatever. And that's 13 more consistent with the pictures of Mr. Depp's 14 injury. 15 Q And we're using the term "soft tissue 16 loss," and just to make sure we're on the same 17 page, can you just tell the jury quickly what 18 you're referring to there? 19 A So he -- there were two components to 20 his injury, one, the fracture of the bone, and 21 two, he had loss of the soft tissue so that the 22 bone was exposed; so that amputated part that was</p>	<p style="text-align: right;">7463</p> <p>1 sufficient force to result in this fracture and 2 soft tissue loss. 3 Q Now, in looking at the medical records 4 and the pictures of Mr. Depp's hand, what was the 5 condition of his nail? 6 A There was no injury to the nail. 7 Q And other than what you've already told 8 us, how does that factor into your analysis, if at 9 all, the fact that there was no injury to the 10 nail? 11 A Well, it makes it highly unlikely that 12 the mechanism of injury described by Ms. Heard 13 resulted in this injury because you really would 14 always see an injury to the nail and/or nailbed. 15 Q Do you have any opinion regarding the 16 direction of the injury? 17 A Well, it's certainly, based upon the 18 soft tissue loss, it's an angled injury or what we 19 call, medically, an oblique injury, because the 20 soft tissue is at angle. He lost some of the 21 tissue on the back of the finger, as well as the 22 palm side, primarily along the palm side. But</p>

<p style="text-align: right;">7464</p> <p>1 other than that, you can't make any assumptions, 2 unless you saw a videotape of this injury, nobody 3 could tell you definitively what the direction of 4 the injury was. 5 Q Dr. Moore also commented on the absence 6 of fragments of broken glass in Mr. Depp's injury. 7 Do you remember that? 8 A Yes, I do. 9 Q And how does the absence of glass 10 fragments factor into your analysis? 11 A It really doesn't. I've seen hundreds, 12 if not probably, at least, 500 or more of glass 13 injuries, and I would say probably the majority, 14 you don't see glass in these injuries. It is much 15 more common to see glass embedded in the wounds 16 when you're talking about very fine glass. So 17 if -- to say a wine glass would explode or 18 something of that nature, where you get little 19 tiny shards. But in general, when you have thick 20 glass, such as you see in a bottle, or a pane of 21 glass, you generally don't see because they break 22 into bigger pieces, and you generally don't see</p>	<p style="text-align: right;">7466</p> <p>1 things, right? 2 A Yes. 3 Q And you're not offering an expert 4 opinion on what you believe caused the injury, 5 correct? 6 A Correct. 7 Q And you're aware, you said a few times, 8 Ms. Heard's account or Ms. Heard's explanation, 9 right, do you remember saying that? 10 A Yes. 11 Q You're actually aware that Amber has 12 said she didn't -- doesn't know how he lost his 13 finger. 14 You're aware of that, right? 15 A Yes. 16 Q So, when you were just talking about 17 Ms. Heard's account or Ms. Heard's explanation, 18 you're aware she's never actually given an 19 explanation for how she thinks he lost his finger, 20 correct? 21 A No. 22 Q You're aware Ms. Heard testified, and</p>
<p style="text-align: right;">7465</p> <p>1 the glass. But you certainly can, but it's not 2 surprising that you don't. 3 Q Can you definitively state how this 4 injury occurred? 5 A No. Nobody can definitively state. 6 MR. MONIZ: I have no further 7 questions, Your Honor. 8 THE COURT: All right. 9 Cross-examination. 10 MR. ROTTENBORN: Thank you, Your Honor. 11 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND 12 COUNTERCLAIM PLAINTIFF 13 BY MR. ROTTENBORN: 14 Q Good morning, Dr. Gilbert. 15 A Good morning. 16 Q Now you're being paid a thousand 17 dollars an hour for your work on this case, 18 correct? 19 A Correct. 20 Q And you agree, just to sum up how 21 Mr. Moniz finished, you agree that the finger 22 injury could have been caused by any number of</p>	<p style="text-align: right;">7467</p> <p>1 this is from your deposition, you're aware that 2 she testified she doesn't know how he got his 3 fingertip chopped off. 4 You're aware of that, right? 5 MR. MONIZ: Asked and answered, Your 6 Honor. 7 THE COURT: Overruled. 8 A No, I'm not. I reviewed the records 9 and in one of the testimonies that I -- 10 depositions that I reviewed, it was ascribed that 11 potentially it was lost when he was punching 12 against the wall with a phone. 13 Q And on that -- the last point there, I 14 think we agree. Ms. Heard's testified in this 15 trial, and previously, that she saw him smash a 16 phone to smithereens, a wall phone, you'd agree 17 with that, correct? 18 A Correct. 19 Q But she doesn't know if that was what 20 caused him to lose his finger, you agree with 21 that, correct? 22 A I agree, but I cannot speak for her,</p>

<p>7468</p> <p>1 but, yes. 2 MR. ROTTENBORN: May I approach, Your 3 Honor. 4 THE COURT: Yes, sir. Thank you. 5 Q Dr. Gilbert, you gave a deposition in 6 this case on March 17th, correct? 7 A Correct. 8 Q You were under oath in that deposition, 9 you swore to tell the truth, correct? 10 A Correct. 11 Q Okay. If you could turn to page 61, 12 please. You see there are four pages per page of 13 paper. It's on page 16 of the document. 14 A Okay. 15 Q Okay. Line 9, you're asked a question, 16 "And then Amber's response to that question, 17 that's the line 9, can you read that, please." 18 "Answer: 'I do not know. I did not 19 see his finger go off.' 20 "Question: And, Dr. Gilbert, are you 21 aware of Amber did not see Mr. Depp's finger go 22 off?</p>	<p>7470</p> <p>1 But the area under the fingernail, in 2 the pulp of the finger, that's where the injury 3 took place, right? 4 A It was not isolated to the pulp, no. 5 Q But it didn't injure the fingernail, 6 that's my question? 7 A Correct, yes. 8 Q And under Mr. Depp's alleged theory, 9 Amber threw a vodka bottle at him from ten feet 10 away or so, right? 11 A Correct. 12 Q And you've testified you have no way to 13 determine the angle that the bottle was coming 14 from -- 15 A Correct. 16 Q -- right? 17 But she threw it on a downward 18 trajectory, correct, there's no allegation, you've 19 never read anything that she somehow underhanded 20 it so it came up to his finger, right? 21 A Correct. 22 Q There's no way to tell, as you</p>
<p>7469</p> <p>1 "Answer: Well, I'm aware that -- well, 2 I'm aware -- I am from reading this. I'm aware of 3 the mechanic that she claimed would cause the 4 finger injury. 5 "Question: But have you read anything 6 so far that indicates she doesn't know how the 7 finger injury happened? 8 "Answer: So far, from what I'm reading 9 here, yes." 10 Did I read that right? 11 A Yes. 12 Q And you've heard no testimony in this 13 trial from Ms. Heard that the finger injury was 14 definitively caused by the phone, that she doesn't 15 know, correct? 16 A Correct. 17 Q And you'd agree that the fingernail is 18 uninjured, you said that, right? 19 A Correct. 20 Q And the nailbed was uninjured? 21 A Correct. 22 Q Correct?</p>	<p>7471</p> <p>1 testified, what exact direction it came from, 2 right? 3 A Correct. 4 Q And the glass exploded, but you've 5 already testified there was no glass in the wound, 6 right? 7 A Correct. 8 Q You haven't read any record of that in 9 the medical records, correct? 10 A Correct. 11 Q You also haven't read anything about 12 there being cuts on the rest of his hand, right? 13 A Correct. 14 Q And there was no glass found anywhere 15 on the rest of his hand, correct? 16 A Correct. 17 Q No bruising or injury on any other part 18 of his hand, other than the tip of his middle 19 finger? 20 A Correct. 21 Q And somehow, under Mr. Depp's theory, 22 that bottle hit the bar and his fingers, but</p>

<p>7472</p> <p>1 didn't damage the fingernail while it amputated 2 the area under the nail, correct? 3 A Correct. 4 Q And your explanation of that is that 5 you believe that his hand must have moved at some 6 point during the force of the injury; isn't that 7 correct? 8 A No, I said it could have, I did not say 9 that it did. 10 Q No, you believe that it did, don't you? 11 A I said that it likely did, but I was 12 not there, and I don't have videotape of the 13 injury, so I can't determine that definitively. 14 Q Okay. Well, let's turn to page 25 of 15 your deposition, please, on page 7. 16 A Sorry, page? 17 Q Page 25 and 26. So it's page 7 of the 18 document. 19 A Okay. 20 Q Sorry if I was unclear on that. 21 A No problem. I'm there. 22 Q Okay. Line 18. "Question: And to be</p>	<p>7474</p> <p>1 Q That was testimony you gave under oath 2 a month or two ago, right? 3 A Correct. 4 Q So even though you have never read 5 anything that suggests Mr. Depp's hand moved, his 6 hand moving is the only way that you can fit your 7 testimony into what Mr. Depp wants you to testify 8 to about how the injury occurred, isn't it? 9 A No, that's incorrect. 10 Q Okay. That's what you testified to, 11 that if his hand hadn't moved, there would be a 12 nailbed injury, correct? 13 A That is incorrect. That's not what I 14 testified. 15 Q In fact, Dr. Gilbert, there's another 16 explanation for how Mr. Depp somehow suffered an 17 injury that didn't injure his nail one bit but 18 injured underneath the nail, and that explanation 19 is it didn't happen how Mr. Depp says it did, 20 correct? 21 A I cannot make that assumption, nor can 22 you.</p>
<p>7473</p> <p>1 clear, by 'sitting in that position,' you mean 2 hand down, palmar side down? 3 "Answer: That's what he claimed. I 4 mean, according to the history, yes. 5 "Question: And would it matter if 6 Mr. Depp's hand was palmar side down? 7 "Answer: Not really because it 8 really -- and I discussed this. It really just 9 depends upon the angle at which the injury 10 occurred, and, as well, you can't determine if his 11 hand had moved at some point during the force of 12 the injury, which I believe it probably did, which 13 I didn't get into in my note here, but... 14 "Question: And why do you believe 15 that? Have you read anything in any of the 16 materials to suggest that? 17 "Answer: No. Just that if it 18 completely hit on the back of the finger, then he 19 would have had a nailbed injury, which he did 20 not." 21 Did I read that right? 22 A Correct.</p>	<p>7475</p> <p>1 MR. ROTTENBORN: No further questions. 2 Thank you 3 THE COURT: All right. Redirect. 4 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND 5 COUNTERCLAIM DEFENDANT 6 BY MR. MONIZ: 7 Q Dr. Gilbert, just very briefly. 8 The absence of other cuts on Mr. Depp's 9 hand, how do you factor that into your analysis? 10 A You certainly can see an isolated 11 finger injury with any type of injury, and I would 12 say any other host of mechanism of injuries, you'd 13 more likely see other -- so, again, if you're -- 14 I'm just using this as an example, if you're 15 punching against a wall, you would more likely see 16 multiple injuries to multiple fingers. It really 17 just depends upon how the bottle, or how the 18 mechanism of the injury impacted the hand at that 19 point in time. 20 Q Ms. Heard's counsel made a point of 21 emphasizing that there were no bruises or other 22 injuries on the hand, right?</p>

<p>1 A Correct. 7476 2 Q And how does that fact affect your 3 analysis, if at all? 4 A Well, it doesn't discount anything, but 5 it certainly makes other potential causes of 6 injury more unlikely, meaning punching against the 7 wall or getting the hand slammed in a door or 8 something like that. 9 Q Okay. And your discussion of 10 Ms. Heard's explanation of the alternative cause 11 of the injury, was that based on anything other 12 than Ms. Heard's statements? 13 A No. 14 MR. MONIZ: No further questions, Your 15 Honor. 16 THE COURT: All right. Thank you. 17 Doctor, you can have a seat in the courtroom or 18 you're free to go. Thank you. 19 THE WITNESS: Thank you. 20 THE COURT: You can just leave it 21 there, that's fine. Thank you, sir. 22 THE WITNESS: Thank you.</p>	<p>1 MR. CHEW: I think you're tired of 7478 2 hearing the same. I shouldn't presume that. I 3 assume you're tired. 4 THE COURT: Just leave it at tired. 5 MR. ROTTENBORN: Yeah, so basically, 6 Your Honor, as required by the rules, we renew our 7 motion to strike on the following grounds. After 8 concluding all the evidence short of Ms. Heard's 9 rebuttal case, no reasonable jury could find for 10 Mr. Depp for the following reasons: The 11 statements relating to the statements that 12 Ms. Heard made are not defamatory. This is for a 13 number of reasons, but as it relates to this 14 motion, it's because the undisputed evidence shows 15 that Mr. Depp did not -- did abuse Ms. Heard, at a 16 minimum, emotionally, verbally, psychologically 17 and otherwise. That's undisputed. It is disputed 18 whether he abused her physically, though we -- and 19 we understand that that's a question for the jury, 20 but even if he was abusive a single time, in any 21 way, then we -- Ms. Heard prevails. 22 Second ground is that the headline was</p>
<p>1 THE COURT: All right. Your next 7477 2 witness. 3 MR. CHEW: Plaintiff rests, Your Honor. 4 THE COURT: All right. Plaintiff rests 5 their rebuttal case. 6 All right. Defendant counterclaim 7 rebuttal case. 8 MS. BREDEHOFT: Yes, Your Honor. May 9 we approach? 10 THE COURT: Sure. 11 (Sidebar.) 12 MR. ROTTENBORN: Your Honor, I think 13 just for the record -- 14 MR. CHEW: Hang on. 15 MR. ROTTENBORN: Sorry. So sorry. 16 Just for the record, I think we would need to 17 renew our motion to strike at this time. I'm 18 happy to just do it right here. We don't have to 19 leave -- let the jury. 20 MR. CHEW: We'll do the same when 21 they -- 22 THE COURT: That's fine.</p>	<p>1 not defamatory. She didn't write or approve it. 7479 2 Merely linking to an article does not establish 3 the element of defamation, and the words in her 4 tweet did not affirmatively reiterate the 5 statement or add context or direct the statement 6 to a new audience in a way required for 7 republication. 8 The third ground, Your Honor, is that 9 no jury could find, based on the evidence as 10 described in our motion, and has come out in 11 Ms. Heard's case, that Ms. Heard acted with actual 12 malice. And that includes the testimony of both 13 Terence Dougherty, Ms. Heard herself, Eric George, 14 and others. For those reasons, we believe the 15 Court should enter summary judgment on Mr. Depp's 16 claim in favor of Ms. Heard. 17 THE COURT: All right. 18 MR. CHEW: Mr. Depp respectfully 19 opposes the motion to strike for the grounds 20 stated in our written motion and oral argument. 21 There are a myriad of issues in dispute, including 22 the legal issue as to whether verbal abuse</p>

Transcript of Jury Trial - Day 24
Conducted on May 26, 2022

12 (7480 to
7483)

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<p>1 occurred or would even be germane here because the 2 clear implication of the defamatory statements is 3 physical abuse. But in any event, for the reasons 4 previously stated and incorporated by reference, 5 Plaintiff Depp believes the motion to strike 6 should, again, be denied. 7 THE COURT: All right. 8 MR. CHEW: Thank you, Your Honor. 9 THE COURT: Anything further? 10 MR. ROTTENBORN: No. I'll just -- rest 11 on my argument. 12 THE COURT: Motion to strike is denied 13 for the reasons previously given by the Court. I 14 previously didn't strike, okay? 15 MR. ROTTENBORN: Thank you, Your Honor. 16 THE COURT: While you are still up 17 here, just a couple housekeeping matters. The 18 sketch artist yesterday was sketching the jury, so 19 I have that now. Not going to do anything with 20 it. I took it. She knows, she's been notified. 21 She thought she could do it, she knows now she 22 can't. I went through public affairs of Fairfax</p>	<p>1 Caribbean. 2 MR. CHEW: Those are okay. 3 THE COURT: I just wanted to get that 4 on the record in case you talk to the jurors and 5 they start talking about jigsaw puzzles. 6 MR. ROTTENBORN: I hope they can finish 7 the third. 8 THE COURT: They've got about 50 pieces 9 left, so we will see. 10 MR. CHEW: Thank you, Your Honor. 11 THE COURT: Thank you, Your Honor. 12 MS. BREDEHOFT: Thank you, Your Honor. 13 (Open court.) 14 THE COURT: All right. Rebuttal 15 evidence. 16 MR. MURPHY: Yes, Your Honor. 17 THE COURT: Mr. Murphy. 18 MR. MURPHY: We call Mr. Julian Ackert. 19 Okay. Mr. Ackert. 20 Julian Ackert 21 A witness called on behalf of the 22 defendant and counterclaim plaintiff, having been</p>
7481	7483
<p>1 County, they went back and told all the sketch 2 artists and the photographers, no pictures of the 3 jury. That's taken care of. 4 One thing I don't think I ever put on 5 the record is in the very beginning, the jurors 6 asked if they could have jigsaw puzzles while 7 they're waiting, and I said okay, as long as I 8 knew what they were, for obvious reasons. So they 9 have been doing a fish jigsaw puzzle and did a 10 landscape jigsaw puzzle for lighthouses, and then 11 I gave them one that was a Life is Good jigsaw 12 puzzle, but I am going to be taking all the jigsaw 13 puzzles away from them. They've completed two and 14 they are almost done with their third. But I 15 think they had a team building exercise there, but 16 I'm going to be taking them away from them this 17 afternoon, okay? I wanted to put it on the 18 record. And if you talk to the jurors later and 19 they talk about jigsaw puzzles, I didn't -- 20 MR. CHEW: As long as there's no 21 Aquaman. 22 THE COURT: Aquaman or Pirates of the</p>	<p>1 first duly sworn by the clerk, testified as 2 follows: 3 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND 4 COUNTERCLAIM PLAINTIFF 5 BY MR. MURPHY: 6 Q Good morning. 7 A Good morning. 8 Q Could you, please, state your name. 9 A Julian Ackert. 10 Q Could you, please, describe your 11 educational background following high school. 12 A I have a Bachelor of Science in 13 computer science from the University of Virginia. 14 Q What is your profession? 15 A I am a computer forensics investigator. 16 Q Where are you employed? 17 A I work for a company called iDiscovery 18 Solutions or IDS. 19 Q And what is your title? 20 A I'm a managing director at that 21 company. 22 Q What services does IDS perform?</p>

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<p style="text-align: right;">7484</p> <p>1 A IDS provides consulting, expert 2 testimony, forensic analysis, data analysis, 3 electronic data, review and production services, 4 all to the business and legal community. 5 Q What, if any, of those services 6 performed by IDS have you performed? 7 A I perform all of those services. 8 Q How many years of experience do you 9 have in computer forensics investigation? 10 A I've worked in the industry for 11 20 years. 12 Q Can you, please, describe that 13 experience to the jury? 14 A I have experience creating and 15 implementing data preservation and collection 16 strategies, doing data collections and a 17 forensically sound matter, extracting data from 18 collections, as well as analysis and metadata 19 analysis of the evidence that I extract. 20 Q You mentioned collecting data from 21 forensic collections. What material are you 22 forensically imaging?</p>	<p style="text-align: right;">7486</p> <p>1 a minimum number of hours in the field, as well as 2 you need to pass a test with a certain degree 3 of – a certain percentage of passing. 4 Q Do you belong to any professional 5 organizations? 6 A I do. I'm a member of a conference 7 called the Sedona Conference; it's a conference 8 that is a group of legal professionals, judges, 9 and technologists, and we discuss the intersection 10 of law and technology, and technology issues in 11 the legal community. 12 Q Have you previously served as an expert 13 witness? 14 A Yes, I have. 15 Q And when did you first serve as an 16 expert witness? 17 A I believe that would have been around 18 2009, was the first time I served. 19 Q Have you previously been qualified as 20 an expert witness in the field of computer 21 forensics? 22 A Yes, I have. I've been qualified,</p>
<p style="text-align: right;">7485</p> <p>1 A This would be any type of material that 2 stores digital evidence, an iPhone, an iPad, a 3 tablet, laptop, a cloud account, your Gmail 4 account. Anything that has digital evidence. 5 Q Have you published in your areas of 6 expertise? 7 A Yes. I've published on data 8 preservation and collection and analysis 9 strategies. 10 Q Have you ever given any trainings or 11 presentations to other individuals in the 12 e-discovery area? 13 A Yes, I have. I do trainings and 14 presentations to lawyers through continuous 15 learning education. 16 Q What, if any, professional 17 certifications do you have? 18 A I have a GIAC GCFE. That's the GIAC 19 Certified Forensic Examiner certification. 20 Q What were the requirements of obtaining 21 that certification? 22 A To obtain that certification, you need</p>	<p style="text-align: right;">7487</p> <p>1 probably, a half dozen to a dozen times in both 2 federal and state court, including this court 3 right here. 4 Q And has a court ever declined to 5 qualify you as an expert witness? 6 A No, they have not. 7 MR. MURPHY: Your Honor, I offer Julian 8 Ackert as an expert in the field of computer 9 forensics. 10 MR. DENNISON: No objection, Your 11 Honor. 12 THE COURT: So moved. 13 Could you spell your last name for me, 14 Mr. Ackert? 15 A Ackert, A-C-K-E-R-T. 16 THE COURT: Thank you so much, sir. 17 Q Mr. Ackert, what is forensic imaging? 18 A Forensic imaging is the process of 19 capturing the data on a digital device in a 20 forensically sound manner. 21 Q And how is a forensic copy created? 22 A Using specialized software that's</p>

<p style="text-align: right;">7488</p> <p>1 available to forensic investigators, we're able to 2 collect the data from devices. And that software 3 may vary depending on the device, like a phone or 4 a laptop. 5 Q What type of information does a 6 forensic image collect? 7 A It's meant to really collect everything 8 on the device, so, for example, on a laptop, it's 9 going to collect your documents, your emails, your 10 photographs, your documents, like Excel 11 spreadsheets, PDF files, any applications that you 12 ran, the history of what you've opened or looked 13 at on the laptop, as well as all of the metadata 14 for these different types of electronically stored 15 information files. 16 Q And does any other information 17 accompany that information that's collected? 18 A Typically, with the forensic imaging, 19 you're also going to get log files. Log files are 20 files that help you validate the forensic image 21 and verify that it was a forensically sound data 22 collection.</p>	<p style="text-align: right;">7490</p> <p>1 A I do. 2 Q What is that? 3 A Hashing is essentially a digital 4 fingerprint of a file. It's a valuation of the 5 binary 1s and 0s or how the file is stored on a 6 hard drive, and it examines the 1s and 0s in a 7 manner that gives every file a digital 8 fingerprint, essentially, and identifies the 9 uniqueness of the file. 10 Q What, if any, applicability does 11 hashing have to the visual appearance of data? 12 A Hashing has nothing to do with the 13 visual appearance. For example, if I had a Word 14 Document that I printed and then saved, therefore, 15 I haven't visually changed the Word Document, the 16 metadata of that Word Document indicating that I 17 printed it would be different, and, therefore, 18 that Word Document would not hash to the version 19 that I used before printing. 20 Q Can you give any examples of digital 21 photographs that visually appear the same not 22 hashing?</p>
<p style="text-align: right;">7489</p> <p>1 Q And how do log files enable you to do 2 that? 3 A Log files list information within the 4 files. Sometimes they're even embedded within the 5 images themselves, but they provide verification 6 information that allows you to authenticate the 7 image and the data on the image. 8 Q What is the purpose of creating a 9 forensic image of devices or data? 10 A In order to extract and analyze data, 11 forensically, for the courts, you need to create a 12 forensic image of the data first and gather the 13 forensic – gather the data from the forensic 14 image. 15 Q And what, if any, specific types of 16 data are collected in that image and extraction? 17 A It's going to be any type of data that 18 comes from the image, whether you're extracting 19 photographs or documents or spreadsheets or 20 anything of that nature. 21 Q Do you recall Mr. Neumeister mentioning 22 the term hashing yesterday?</p>	<p style="text-align: right;">7491</p> <p>1 A I believe Mr. Neumeister included three 2 of those in his demonstratives yesterday, three 3 side-by-side photographs that looked visually the 4 same but did not hash. It made sense that they 5 wouldn't hash. Each of them had different file 6 sizes. And a file size changes for a photograph 7 depending on what you do with the photograph. 8 So, for example, maybe you want to take 9 that photograph and email it to somebody, or on 10 your phone, you choose to use a small, medium or 11 large, or a different size of the photograph when 12 you email. When you send that email with that 13 photograph, you've changed the hash value because 14 you've changed the 1s and 0s because you've 15 changed the size of the photograph. 16 Q And what, if anything, do you recall 17 from Mr. Neumeister's testimony regarding Photos 18 ? 19 A Mr. Neumeister was concerned about a 20 particular metadata field, EXIF metadata, which 21 there's two types of metadata for files. There's 22 the embedded metadata, which is what we're</p>

7492

1 discussing here, the EXIF metadata and external
2 metadata. Mr. Neumeister was concerned with
3 embedded metadata within the file that indicated
4 that the software version that the file last ran
5 through is Photos.
6 Q What is Photos 3.0?
7 A Photos is actually the software
8 application that's built into the Apple/McIntosh
9 operating system for laptops. This is the
10 application that launches by default when you're
11 on an Apple computer and use Photos.
12 Q What are the capabilities of Photos
13 3.0?
14 A Multiple capabilities for it. You can,
15 for example, create an album with it and put
16 multiple photos within an album. You can organize
17 or sort your photos by date and time taken or
18 place. You can also use that to edit photos.
19 Q You mentioned metadata earlier. What
20 is that?
21 A Metadata is information about a file.
22 For example, with a document, it could be when was

7493

1 the document created or last saved or who saved
2 it? Who was the author of the documents. For
3 photographs, metadata includes information that
4 you've seen on demonstratives before, including
5 when was the image taken? What kind of phone took
6 the image? What software was originally used for
7 that image? Any type of information inside the
8 photograph, the EXIF data that you've heard, is
9 metadata.
10 Q Did you form any opinions in response
11 to Mr. Neumeister's testimony regarding Photos 3.0
12 appearing in a software EXIF metadata field?
13 A Yes, I did.
14 Q What are those?
15 A My opinion is that for each of the
16 photos that he identified, for all but one in his
17 demonstrative, I actually found the equivalent
18 original photo that did not have Photos in the
19 EXIF metadata. In other words, those are the
20 photos that he indicated he would have expected to
21 see the iOS or the phone software version on those
22 photos.

7494

1 Q How do you know it is an original
2 version of the photograph?
3 A Well, this is a little bit dependent on
4 the Apple ecosystem. Amber uses Apple devices,
5 and those devices, by definition of how Apple
6 works, synchronize your information from device to
7 device. So, for example, if you take a photo on
8 your phone, you see that same photo on your tablet
9 or your iPad or iCloud account, or even your
10 MacBook, and that's all because of user
11 experience. Apple wants you to be able to see and
12 visually have the same experience on all your
13 devices. So the photo that was originally taken
14 traverses or gets synchronized to other devices by
15 design of Apple. And that synchronization process
16 does not affect the metadata that we're talking
17 about here, which is the embedded metadata.
18 Q When you say that a version of iOS
19 software was listed in the software EXIF metadata
20 field, what does that mean?
21 A That means the photo was not saved
22 using the Photos application.

7495

1 Q And what, if any, data sets did you use
2 to come to that conclusion?
3 A I used all of the data sets that I
4 collected or were collected for Amber, including
5 mobile devices, tablets, laptops, et cetera.
6 MR. MURPHY: Michelle, can you, please,
7 pull up Defendant's Exhibit 1671.
8 Q Do you recognize this chart,
9 Mr. Ackert?
10 A I do.
11 Q What is it, without, yet, saying the
12 contents, just, generally, what is it?
13 A This is a chart I created as part of my
14 report.
15 MR. MURPHY: Your Honor, permission to
16 publish Defendant's 671 as a demonstrative.
17 THE COURT: Any objection?
18 MR. DENNISON: No objection, Your
19 Honor.
20 THE COURT: All right. It will be
21 published as a demonstrative.
22 Q Mr. Ackert, can you describe, in

<p style="text-align: right;">7496</p> <p>1 detail, what this information on this cart is? 2 MR. MURPHY: And, Michelle, can you 3 just stay at the top for a quick second? A little 4 further up. Great. 5 THE WITNESS: Thank you. 6 A This chart represents, for each of the 7 items in Neumeister's report, which his 8 demonstrative was based on, the page number of the 9 item on his report and the items that I found on 10 Ms. Heard's devices that did not indicate the 11 software metadata field showing Photos, rather 12 they indicated that they were the original 13 software metadata field of iOS. 14 Q Do you see the second column title 15 "Neumeister Report Date Captured"? 16 A Yes, I do. 17 Q What does the information in that 18 column mean? 19 A This is a date/time metadata of the 20 particular photo on Neumeister's report. So, for 21 example, the first row, 23, the date/time 22 captured -- or the date captured is December 16th,</p>	<p style="text-align: right;">7498</p> <p>1 Q And where it says "device ID and file 2 name"? 3 A Yes. 4 Q Can you, please, explain what the 5 information in that column means for each of the 6 items identified from Mr. Neumeister's 7 demonstrative? 8 A So these are the evidence IDs, and 9 evidence ID is the ID value I give to a particular 10 piece of data that I collect; for example, a phone 11 or a laptop. And the matching file name found on 12 that evidence ID that indicated the original 13 version of this same photograph that Neumeister 14 identified that did not show Photos in the 15 software metadata, rather showed the iOS version 16 in the metadata. 17 Q What do the little As followed by 18 numbers, backup, what does that mean? 19 A Those are evidence IDs. Anything with 20 an A number is the evidence ID of an actual device 21 collected. Anything that starts with a backup and 22 follows by another number is an iTunes backup.</p>
<p style="text-align: right;">7497</p> <p>1 2015. 2 The second row, 24, you see that the 3 date/time is May 21st, 2016. 4 Third row, May 21st, 2016. 5 Fourth row, May 21st, 2016. 6 MR. MURPHY: Can you scroll to next 7 page, please, Michelle. 8 Q Please continue for the items on this 9 page. 10 A The top row of this page, the one that 11 came from Neumeister's report, page 30, shows 12 December 16th, 2016. 13 And then, finally, 32 shows March 23rd, 14 2013. 15 Q Do you see -- 16 MR. MURPHY: Can you scroll back to the 17 top, please, Michelle. 18 Q Do you see the -- 19 MR. MURPHY: All the way at the top, 20 I'm sorry. 21 Q The right-hand column of this chart? 22 A Yes, I do.</p>	<p style="text-align: right;">7499</p> <p>1 Q So what, if any -- what items in this 2 right-hand column, based on the coding you have 3 here, are iTunes backups? 4 A Only the ones that start with the word 5 "backup." Even the ones that start with an A 6 number are actually an iTune -- or an iOS backup 7 in iCloud. So your phone can actually be backed 8 up to iCloud, and those are coming from an iOS 9 backup in iCloud. Everything else is coming from 10 an actual physical device. 11 MR. MURPHY: Can you just take this 12 down for a second, Michelle, and pull up 1675, 13 Defendant's 1675. 14 Q And do you recognize this chart, 15 Mr. Ackert? 16 A Yes, I do. 17 Q Without, yet, getting into the 18 contents, can you, please, describe, generally, 19 what it is. 20 A This is a chart that I prepared as a 21 summary of my findings. 22 MR. MURPHY: Permission to publish</p>

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<p>1 Defendant's 1675 as a demonstrative, Your Honor. 2 THE COURT: Any objection? 3 MR. DENNISON: No objection. 4 THE COURT: Okay. 1675 will be 5 published as demonstrative. 6 Q Can you, please, describe, in more 7 detail, what the three columns you can see in this 8 chart represent? 9 A Sure. This starts to give some detail 10 about the particular evidence ID. So, for 11 example, A001 was an iPhone X of Amber's that was 12 collected. A002 was an iPad of Amber's collected. 13 A11, 12 and 13, slightly down, are three different 14 laptops that were collected for Amber. 15 Q And do you see the IDS evidence number 16 column? 17 A Yes, I do. 18 Q Do you see the source type column? 19 A Yes, I do. 20 Q And the source details column? 21 A Yes, I do. 22 Q Can you, please, describe what those</p>	<p>1 those that do not show the software EXIF metadata 2 field of Photos, rather it shows the original iOS 3 version on A001, which was Amber Heard's iPhone X; 4 A002, which is Amber Heard's iPad Pro; scrolling 5 on down through there, you see it on A001, which 6 is Amber Heard's laptop, same with A0012 and 13. 7 You can see this, again, with the next row that's 8 visible at the very top, Neumeister identified a 9 photograph on page 30, taken on December 16th, 10 2015. And he was concerned about the EXIF 11 metadata of that showing the software version of 12 Photos. The original versions of those were 13 found, again, on A001, that's her iPhone X, A002, 14 her iPad, and it's not surprising to me that I 15 found all these on all the devices because that's 16 how the Apple ecosystem works, it replicates your 17 picture or synchronizes your pictures across your 18 devices when you take them. 19 Q Mr. Ackert -- 20 MR. MURPHY: You can take this down, 21 Michelle. 22 Q Do you recall Mr. Neumeister's</p>
7501	7503
<p>1 columns mean. 2 A Generally, the IDS evidence number is 3 the evidence number that we assign to a particular 4 piece of evidence, and the type and details come 5 from a description of that type of evidence, based 6 upon the collection set. 7 MR. MURPHY: Michelle, can you, please, 8 do a side-by-side of 1675 and 1671. Thank you. 9 Q So, Mr. Ackert, can you, please, 10 describe the relationship between these two 11 demonstrative exhibits? 12 A Certainly. If you look at 1671, the 13 one on the left, you can see, in the fourth 14 column, the different evidence IDs where I 15 identified the original versions of those same 16 pictures that Mr. Neumeister had specifically 17 identified, and the sources of where they were 18 identified. 19 So if you look at the first one, for 20 example, the picture, Neumeister referenced on 21 page 24, or I guess that's the second one. There 22 are equivalent versions or original versions of</p>	<p>1 testimony regarding what he claims of EXIF 2 metadata modification? 3 A Yes, I do. This is a completely 4 hypothetical scenario. Mr. Neumeister never 5 specified any pictures with specificity that had 6 EXIF metadata modification, and it's a 7 hypothetical, in my opinion. 8 Q Mr. Ackert, did you form any overall 9 conclusions in this case? 10 A Yes, I did. 11 Q And what were those? 12 A The images that were created in this 13 case were included log files that allowed me to 14 validate and verify the evidence collected. I 15 validated and verified the log files of the 16 evidence for which I found Mr. Neumeister's 17 original photos that he had concerns about, 18 specifically the ones that had iOS in the software 19 metadata field. I validated that those came from 20 devices that had -- had been -- had log files that 21 were validated by me; in other words, they came 22 from original evidence files, and most instances,</p>

<p>7504</p> <p>1 they came from more than one file. 2 Q Ms. Ackert, are the opinions you 3 testified to today made to a reasonable degree of 4 forensic certainty? 5 A Yes, they are. 6 MR. MURPHY: No further questions, Your 7 Honor. 8 THE COURT: All right. 9 Cross-examination, sir. 10 MR. DENNISON: Thank you, Your Honor. 11 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND 12 COUNTERCLAIM DEFENDANT 13 BY MR. DENNISON: 14 Q Good morning, sir. 15 A Good morning. 16 Q You've worked with opposing counsel's 17 law firm, approximately, 20 times before? 18 A Give or take, yes. 19 Q For more than a dozen years? 20 A Those 20 probably would have been 21 spread out over more than a dozen years. 22 Q Okay. As you sit here today, you</p>	<p>7506</p> <p>1 A Yes. 2 Q Okay. And you'll agree with me that 3 the EXIF data of some of the photos produced by 4 Ms. Heard reflect the use of a photo editing 5 application? 6 A No. 7 Q No? 8 A I'll agree that they show the use of 9 the Photos application, which is a sorting and 10 editing application. 11 Q Okay. So what you were quibbling with 12 is that it will both sort and edit? 13 A That is correct. 14 Q Okay. Are you prepared to swear, under 15 oath, that each and every photograph provided by 16 Ms. Heard and entered into evidence in this court 17 is an authentic original? 18 A Based on the metadata that I have 19 reviewed of the specific photographs I have 20 reviewed, I can confirm that those are authentic 21 original photographs. For the ones that 22 Mr. Neumeister identified, I identified photos</p>
<p>7505</p> <p>1 cannot testify that all of the photographs 2 produced by Ms. Heard are authentic originals, 3 correct? 4 A I can testify to the ones that 5 Mr. Neumeister identified with specificity. 6 Q Right. But there are thousands of 7 photographs provided that Mr. Neumeister didn't 8 testify about, right? 9 A I have no opinions on any photographs 10 that the opposing expert has no opinion on. 11 Q All right. My question to you, though, 12 is, as you sit here today, can you testify that 13 all the photographs produced by Ms. Heard are 14 authentic originals? 15 A As I sit here today? I cannot opine to 16 photographs that have not been presented to me 17 that are not authentic originals. 18 Q All right. You'll agree with me that 19 in some instances, Ms. Heard produced multiple 20 versions of the same photograph, right? 21 A Yes. 22 Q You just talked about that, right?</p>	<p>7507</p> <p>1 that were authentic originals. 2 Q No, I'm asking you a broader question 3 than that. 4 There are multiple photographs that 5 Ms. Heard provided that were entered into evidence 6 in this court. Are you testifying that those are 7 each authentic originals? 8 A I have no testimony or opinion on those 9 because nobody's provided the opinion that they're 10 not. 11 Q Okay. 12 MR. DENNISON: Mr. Gibson, will you 13 pull up Defendant's Exhibit 712 and Defendant's 14 713 next to one another. 15 Your Honor, these have already been 16 admitted, and I ask that we publish them to the 17 jury. 18 THE COURT: Okay. If they're admitted, 19 we can publish. 20 Q Can you see this, sir? 21 A Yes, I can. 22 Q You'll agree with me that those are</p>

<p style="text-align: right;">7508</p> <p>1 different pictures? 2 A Visually, they look different to me, 3 yes. 4 Q All right, 5 MR. DENNISON: We can take that down. 6 Mr. Gibson, can you pull up Plaintiff's 7 Exhibit 1308. 8 This has not been admitted, Your Honor, 9 and I propose to use it as a demonstrative. 10 THE COURT: Any objection? 11 MR. MURPHY: Not as a demonstrative, 12 Your Honor. 13 THE COURT: All right. Be identified 14 and published to the jury as a demonstrative. 15 MR. DENNISON: Any objection to 16 entering it into evidence? 17 MR. MURPHY: I would object it's 18 cumulative, Your Honor. Actually, no. No 19 objection, Your Honor. 20 THE COURT: No objection. It's in 21 evidence, then. 22 MR. DENNISON: 1308 is in evidence.</p>	<p style="text-align: right;">7510</p> <p>1 Mr. Neumeister said, that you need to look at the 2 software metadata field. 3 Q But we have two photographs entered 4 into evidence in this court that have the same 5 identifying information but, in your view, look 6 visually different, correct? 7 A I don't agree that they have the same 8 identifying information. I don't see a software 9 metadata field here. 10 Q The identifying information includes 11 the hour, minute, and second they were taken, 12 these pictures were taken? 13 A I see that. 14 MR. DENNISON: No further questions. 15 THE COURT: All right. Just for the 16 record, since we already have 712 and 713 in 17 evidence as redacted, now this will be 712 and 18 713A. So 712A and 713A are now in evidence, just 19 to keep the record clear. 20 Redirect. 21 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND 22 COUNTERCLAIM PLAINTIFF</p>
<p style="text-align: right;">7509</p> <p>1 Mr. Gibson, can you blow up the time, 2 date, and file name. 3 Q Sir, you just agreed with me that those 4 two photos are different photos, correct? 5 A I agree that they were visually 6 different, yes. 7 Q Right. So they are two visually 8 different photos that were created at the exact 9 same hour, the exact same minute, the exact same 10 second as each other, correct? 11 A That's what the date/time metadata 12 shows. 13 Q And the metadata shows something else, 14 too. They have the exact same file name, don't 15 they, sir? 16 A Yes, but that's not embedded metadata. 17 Q Right. How would you have this jury 18 decide which one is real? 19 A I think you would need to look at the 20 software metadata field, which I haven't looked 21 at. I don't recall if I looked at for this 22 particular field, but I think that's what even</p>	<p style="text-align: right;">7511</p> <p>1 BY MR. MURPHY: 2 Q Mr. Ackert, you just mentioned embedded 3 metadata. What is that? 4 A Embedded metadata is metadata inside a 5 file. I talked earlier about the date printed of 6 a Word document. That's embedded into the file 7 and that traverses with the file, whenever it 8 goes. 9 Q Based on all the photo metadata you 10 have reviewed, do you have any reason to question 11 the forensic authenticity of any photos 12 Mr. Neumeister testified to, for which you were 13 responding to? 14 A Can you repeat that question, please? 15 Q Yeah. 16 Based on all of the photo metadata you 17 have reviewed, based on the photos Mr. Neumeister 18 testified to, do you have any reason to question 19 the forensic authenticity of those photos? 20 A I do not. 21 Q Following your cross-examination, 22 Mr. Ackert, have any of your opinions in this</p>

7512	<p>1 matter changed?</p> <p>2 A They have not.</p> <p>3 Q And is it still your testimony that the</p> <p>4 opinions you testified to today are made with a</p> <p>5 reasonable degree of forensic certainty?</p> <p>6 A Yes.</p> <p>7 MR. MURPHY: No further questions, Your</p> <p>8 Honor.</p> <p>9 THE COURT: All right. Thank you.</p> <p>10 Sir, you can have a seat in the courtroom or</p> <p>11 you're free to go.</p> <p>12 All right. Did you want to approach</p> <p>13 just for a moment?</p> <p>14 (Sidebar.)</p> <p>15 Since you're short on time, I was going</p> <p>16 to go ahead and give you your actual time between</p> <p>17 witnesses; if that's okay.</p> <p>18 MS. BREDEHOFT: Thank you.</p> <p>19 MR. ROTTENBORN: Thank you.</p> <p>20 THE COURT: 51 minutes. All right.</p> <p>21 Just so we're all clear.</p> <p>22 MS. BREDEHOFT: While we're up here.</p>	7514	<p>1 IPV and that she couldn't find IPV in these test</p> <p>2 result. What she's going to say, specifically,</p> <p>3 what she's going -- she's going to respond</p> <p>4 specifically to Dr. Curry, and nothing else.</p> <p>5 THE COURT: Just what Dr. Curry said in</p> <p>6 evidence on rebuttal?</p> <p>7 MS. BREDEHOFT: Correct.</p> <p>8 THE COURT: On IPV?</p> <p>9 MS. BREDEHOFT: Correct.</p> <p>10 THE COURT: Just the factors?</p> <p>11 MR. DENNISON: My big issue is I didn't</p> <p>12 want another litany of IPV factors.</p> <p>13 THE COURT: Right. I don't think they</p> <p>14 have time to do that.</p> <p>15 MS. BREDEHOFT: We're short on time.</p> <p>16 THE COURT: Yeah.</p> <p>17 (Open court.)</p> <p>18 THE COURT: All right. Your next</p> <p>19 witness.</p> <p>20 MS. BREDEHOFT: Your Honor, we would</p> <p>21 like to call Dr. Dawn Hughes to the stand.</p> <p>22 THE COURT: All right. Dr. Hughes.</p>
7513	<p>1 I'm going to call Dr. Hughes next. After that,</p> <p>2 can we take a quick break? The only other witness</p> <p>3 we're calling is Ms. Heard, but she really has to</p> <p>4 go to the bathroom.</p> <p>5 THE COURT: Well, I assume that's going</p> <p>6 to be close.</p> <p>7 MS. BREDEHOFT: It will be right after.</p> <p>8 MR. CHEW: I think she should wait.</p> <p>9 THE COURT: You would, Mr. Chew.</p> <p>10 MR. DENNISON: While we're up here, and</p> <p>11 we're going to talk about Dr. Hughes, this is a</p> <p>12 rebuttal witness.</p> <p>13 THE COURT: Right.</p> <p>14 MR. DENNISON: There was no direct</p> <p>15 evidence from any of our experts about IPV issues</p> <p>16 or risk factors on IPV.</p> <p>17 THE COURT: Okay.</p> <p>18 MR. DENNISON: So I just want to make</p> <p>19 sure.</p> <p>20 THE COURT: The only thing to rebut --</p> <p>21 MS. BREDEHOFT: She's going to be</p> <p>22 rebutting Dr. Curry, and Dr. Curry did testify on</p>	7515	<p>1 Thank you, Doctor. Just a reminder</p> <p>2 that you're still under oath.</p> <p>3 THE WITNESS: Yes, Your Honor. Thank</p> <p>4 you.</p> <p>5 DAWN M. HUGHES, PH.D., ABPP,</p> <p>6 having been previously sworn, was</p> <p>7 examined and testified as follows:</p> <p>8 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND</p> <p>9 COUNTERCLAIM PLAINTIFF</p> <p>10 BY MS. BREDEHOFT:</p> <p>11 Q Could you, please, just remind the jury</p> <p>12 who you are again?</p> <p>13 A Sure. I'm a clinical and forensic</p> <p>14 psychologist; I am board certified in forensic</p> <p>15 psychology; I am the president elect of the trauma</p> <p>16 division of the American Psychological</p> <p>17 Association. And I evaluated Amber Heard over six</p> <p>18 visits, for, approximately 29 hours.</p> <p>19 Q Okay. And why are you here today?</p> <p>20 A To offer rebuttal testimony to Shannon</p> <p>21 Curry's testimony of yesterday.</p> <p>22 Q Okay. Now, Dr. Curry said you used</p>

<p>1 improper methods. 2 Would you agree with that? 3 A No, I would not. 4 Q Why? Please explain. 5 A I, as I testified to you all several 6 weeks ago, I used a standard forensic procedure 7 that was well-established in our field. It is a 8 multi-method, multi-hypothesis driven procedure 9 where you're looking at a variety of different 10 details and tests and external data to arrive at 11 an opinion, and you're looking at the consistency 12 across that data. 13 There are three sort of sets of tests 14 that we use as forensic psychologists, and I think 15 that's where it seems that Dr. Curry seems 16 confused. We have forensic assessment 17 instruments, those are instruments that are very 18 neatly tied to a legal criteria; those are most 19 notably done in the criminal court for competency, 20 if someone has competency to stand trial. We have 21 very clear measures that can track that legal 22 criteria.</p>	<p>7516</p>	<p>1 majority of the people that we see are in a 2 clinical realm. They're not in a courtroom. So 3 they're well-validated and well-researched 4 methods. 5 What we also do is use very different 6 types of tests within that category. We use some 7 checklists, some face value checklists; we use 8 some tests that are those broadband personality 9 inventories; we use structured clinical 10 interviews, and then we look for the consistency 11 across those data points. And when we use 12 different types of tests, it gives us information 13 about the individual, how they go about these 14 tests in these different modalities. 15 Q Now, Dr. Curry seemed to suggest that 16 Amber Heard tested the most extreme category in 17 all of these tests. 18 Is that accurate? 19 MR. DENNISON: Objection. Compound. 20 THE COURT: Overruled. 21 A That is not accurate. They were not. 22 On the checklists, I mean, people sometimes do,</p>	<p>7518</p>
<p>1 The next level are forensically 2 relevant instruments, and those instruments are 3 not linked to a specific legal criteria, but they 4 do have information that's germane to that 5 finding. And that can be an example of a risk 6 assessment measure and a malingering measure. So 7 the malingering measure that I utilized was the 8 M-FAST, and that was the only malingering measure 9 in this case. 10 The third category are clinical 11 assessment instruments, and those are instruments 12 that are validated and well-researched and used in 13 the clinical realm as we understand people's 14 symptomatology and diagnostic and functional 15 capacities. 16 Those are things like the MMPI, the 17 PAI, the CAPS, the TSI, because they are 18 clinically relevant, and they still give us very 19 valuable information to individuals who are 20 involved in a court case. 21 And the reason that we do that and we 22 use these clinical measures is because the</p>	<p>7517</p>	<p>1 they go, all the time, this happens to me all the 2 time, frequently. And that is not how she 3 endorsed these tests. She endorsed them in a very 4 moderate way and a very nuanced way, describing 5 her symptoms, that I determined was accurate and 6 reliable. 7 Q Dr. Curry also suggested that Amber 8 Heard was tested very, very high, 98th percentile, 9 I think, on malingering and feigning. Could you 10 speak to that, please. 11 A Sure. She said a lot of things, so 12 let's go through those tests. First was the PAI, 13 and that's that other - 14 MR. DENNISON: Objection. 15 Nonresponsive. 16 MS. BREDEHOFT: I think that's very 17 responsive. 18 THE COURT: Sustained. 19 Q Okay. Could you tell the jury about 20 the PAI test that Dr. Curry addressed? 21 A Yes. Thank you. So that's the 22 broadband measure that has validity scales built</p>	<p>7519</p>

<p style="text-align: right;">7520</p> <p>1 into it. That gives us indications about how the 2 individual goes about the test. I told you last 3 time that there was no evidence of malingering or 4 exaggeration or feigning on that test. What 5 Dr. Curry was talking about was this tendency to 6 put your best foot forward to minimize false on 7 this PAI. That scale was right at the cusp, and 8 then there were two other measures that we look at 9 that to say, you know, is this enough of an 10 elevation for me to consider that as a serious 11 response distortion, of which Dr. Curry was 12 saying, and it was not. What was relevant on this 13 test was there were elevations on anxiety, on 14 effectivity anxiety, meaning anxiety, tension, 15 worry, on traumatic stress, on hyperactivity, and 16 on affect of instability. Those were the four 17 scales that were elevated on this test. The 18 borderline scale was not elevated on this test, 19 and this test -- 20 MR. DENNISON: Objection, Your Honor. 21 May we approach? 22 THE COURT: Yes.</p>	<p style="text-align: right;">7522</p> <p>1 THE COURT: She can't rebut something 2 she hasn't actually done herself. She can rebut 3 anything that Dr. Curry has done, okay? 4 So, I'll sustain the objection. 5 MR. DENNISON: Thank you. 6 MS. BREDEHOFT: Thank you. 7 BY MS. BREDEHOFT: 8 Q Dr. Curry, let's move to the TSI-2. 9 Dr. Curry testified about your findings on that. 10 Did you agree with her testimony 11 yesterday? 12 A No. 13 Q Just describe why, explain why. 14 A What Dr. Curry went back to, which is 15 this 98th percentile, which I told you, in the 16 manual, all you have to do is read the manual. It 17 says, specifically, that we do not use the 18 percentile ranks for this test. That indicates to 19 me that, you know, Dr. Curry does not know the 20 psychometric properties of this test, and then 21 she's, therefore, not qualified to interpret it. 22 That score, the one that's elevated, that she's</p>
<p style="text-align: right;">7521</p> <p>1 (Sidebar.) 2 MR. DENNISON: There was no evidence -- 3 no disclosure in her initial disclosure, any of 4 the subsequent disclosures, about any diagnosis of 5 borderline personality disorder or any other 6 personality disorder by this witness. 7 MS. BREDEHOFT: All she is doing is 8 rebutting what Dr. Curry said yesterday. She's 9 not doing anything from the disclosures. And Your 10 Honor allowed them to rebut the testimony to. 11 Outside of that, she said, specifically, on this 12 test. 13 MR. DENNISON: You'll remember the last 14 time that this witness testified, I objected -- 15 MS. BREDEHOFT: Excuse me. Does this 16 count against me on time? 17 THE COURT: It kind of does, but go 18 ahead. 19 MR. DENNISON: You remember the last 20 time we were here with this witness, I objected to 21 this borderline personality material as being 22 outside the scope of the disclosure --</p>	<p style="text-align: right;">7523</p> <p>1 talking about that percentile rank, has a raw 2 score. Amber's raw score is a 10, the cutoff 3 score is a 15. She's nowhere near that level of 4 exaggerated symptoms where I can't further look at 5 that test. 6 Secondly, there are three scales out of 7 about -- maybe it was about 20, a little more, on 8 the TSI that were elevated. Intrusive 9 experiences, that's when thoughts and memories of 10 the trauma come into your mind when you don't want 11 them. Defensive avoidance, sort of behavioral 12 ways that we try to push out those memories and 13 not think about them. And relational avoidance, a 14 way of having difficulty in interpersonal 15 relationships. Those are all trauma-based 16 symptoms, and those were elevated on this test. 17 MS. BREDEHOFT: Thank you. 18 Q Dr. Hughes the M-FAST, Dr. Curry 19 addressed that as well and had criticism for your 20 interpretations. 21 Do you agree with that? 22 A No.</p>

<p style="text-align: right;">7524</p> <p>1 Q Please explain to the jury. 2 A So the M-FAST, as I told you last time, 3 is a measure of malingering. It's the only 4 measure of malingering that was done in this case. 5 Dr. Curry did not independently administer -- 6 measure malingering, and there are other ones that 7 she could have done to augment her evaluation. 8 And she kept saying the M-FAST is not 9 for malingering PTSD. That's wrong on a couple 10 levels. People who are going to malingering and 11 feign don't only feign one diagnosis. They 12 sometimes talk about all different symptoms that 13 they have, and they exaggerate and they make 14 themselves seem much worse than they are. So when 15 you're doing an evaluation, you're giving a 16 malingering measure to get a sense of how this 17 person is responding to this evaluation. 18 Now, what you do is you take those 19 three tests that I talked to you about, the PAI, 20 the TSI and the M-FAST, all with valid validity 21 scales, you have greater confidence in your 22 results. That is in the literature, and that's</p>	<p style="text-align: right;">7526</p> <p>1 Boards, those are boards after somebody has been 2 killed, a homicide has occurred in a domestic 3 situation. They look at these risk factors to see 4 what was there and what could be done. 5 Q All right. Dr. Curry also criticized 6 your administering of the CAPS-5. 7 Do you agree with her criticism? 8 A I do not. 9 Q Would you please explain to the jury. 10 A So the CAPS-5, as you all have heard 11 multiple times, is a structured clinical interview 12 in determining PTSD, according to DSM-5 criteria. 13 On this measure, Amber Heard scored in 14 a moderate range. She did not overexaggerate on 15 this test. She could have said no, mild, 16 moderate, severe, and extreme. All of hers were 17 either 2s, or 1s, or 0s. None above that. So 18 she's going in the mild range, which still has 19 functional impairment. I mean, we don't want 20 somebody to be having moderate PTSD, but that's 21 not an exaggerated profile or exaggerated response 22 of someone who's answering an instrument.</p>
<p style="text-align: right;">7525</p> <p>1 literature that Dr. Curry cited in her report, 2 that bolsters the methodology that I used; that in 3 the study that had the PAI, the M-FAST, and the 4 TSI in the title of detecting feign from bona fide 5 PTSD. 6 Q Thank you. 7 Now, Dr. Curry also talked about the 8 Danger Assessment Scale and suggested that you had 9 inappropriately interpreted that. 10 Do you agree? 11 A That's also incorrect. 12 Q Please describe for the jury. 13 A Which I told you last time, the Danger 14 Assessment Scale has statistically validated risk 15 factors for serious or lethal domestic violence. 16 Those risk factors exist whether we go forward, 17 with sitting with someone in acute setting and 18 assessing them right now, or if we look backward 19 and we look retrospectively about what factors may 20 have been present in a case that indicated 21 severity. That instrument is used in what we 22 call -- there's called Domestic Fatality Review</p>	<p style="text-align: right;">7527</p> <p>1 Q And the last of these Dr. Curry 2 referred to as the PCL-5. 3 Do you agree with her criticism of your 4 administration and interpretation of that? 5 A No. So the PCL-5 is a checklist of 6 symptoms of PTSD. It is, as she said it, is a 7 face value instrument, which means it is very 8 clear about how you can endorse this. But what 9 the person has to do is say, how disturbed am I by 10 these symptoms? 11 And when you have face value measures 12 with these other measures that have the built-in 13 sort of validity scales, you're sort of 14 controlling for that response bias error. You're 15 controlling for that individual to sort of 16 overexaggerate. But then, what you do with that 17 test, because we're not just administering them 18 like robots, is you go and you do a clinical 19 assessment, and that's what I did. I took what 20 she endorsed on that test, in January of 2021, and 21 I did a clinical assessment of those symptoms to 22 see if they meet criteria for PTSD. That is</p>

<p style="text-align: right;">7528</p> <p>1 something we do clinically and I do in my office 2 all the time. And, yes, she did meet PTSD from 3 that in January of 2021. 4 Q Thank you. 5 Now, Dr. Curry said you misinterpreted 6 her test results. 7 Do you agree with that? 8 A Yes. I agree that I misinterpreted – 9 I agree that I interpreted them that she 10 misinterpreted them. 11 Q Please explain that. 12 A Yeah. So I am also – you know, my 13 stance on the MMPI and how she interpreted it is, 14 I believe, wrong, and I think. 15 MR. DENNISON: Objection, Your Honor. 16 THE COURT: All right. 17 MR. DENNISON: That's the issue we just 18 addressed. 19 THE COURT: All right. 20 MS. BREDEHOFT: I don't. 21 THE COURT: If you want to approach. 22 (Sidebar.)</p>	<p style="text-align: right;">7530</p> <p>1 THE COURT: Overrule the objection. 2 MS. BREDEHOFT: Thank you. 3 A No, that is not correct. That is 4 often, actually, a myth, a misconception about 5 individuals who are struggling with PTSD or 6 trauma-based disorders, and I'm often called to 7 answer that and speak to that. You know, people 8 who are struggling with trauma and PTSD are very 9 strong, courageous, resilient people, even though 10 they're struggling. They get up, they have to go 11 to work and drop their kid off at school and go to 12 the market, even though they're struggling with 13 these symptoms. So I often talk about sort of 14 walking around with a 50-pound bag of flour on 15 their backs, just sort of trying to get through 16 the day, where sometimes that button is going to 17 press play and the trauma is going to start 18 activating in their head, and then they're going 19 to be having to think about it, and have 20 physiological reactions until they can find a way 21 to hit that pause and shut it off again. So they 22 still have, you know, impairments in other ways,</p>
<p style="text-align: right;">7529</p> <p>1 MS. BREDEHOFT: She explicitly said 2 that Dr. Hughes misinterpreted her test results. 3 THE COURT: Right. 4 MR. DENNISON: She did. 5 THE COURT: She answered that question, 6 but then she went further. 7 MR. DENNISON: Now she wants to go 8 further and talk about the borderline personality 9 issue. 10 MS. BREDEHOFT: I'll move on. 11 MR. DENNISON: Thank you. 12 (Open court.) 13 BY MS. BREDEHOFT: 14 Q Now, Dr. Hughes, Dr. Curry also 15 testified that a victim of PTSD has to effectively 16 be prone and unable to function at all. 17 Would you agree with that? 18 MR. DENNISON: Objection. Misstates 19 the evidence. 20 MS. BREDEHOFT: She said she couldn't 21 hike, they couldn't move, they couldn't function 22 in any way, shape, or form.</p>	<p style="text-align: right;">7531</p> <p>1 but they go about their lives. They're not 2 totally debilitated. 3 If you have someone in that high range, 4 the highest score, an 80 on the CAPS, Ms. Heard 5 had a 28, if you have someone in the higher range, 6 we have seen people who are, you know, severely 7 disabled because of it, but that's not the norm of 8 people who have this moderate PTSD. 9 Q And did you find functional impairment 10 with Amber? 11 A Yes, I did. 12 Q Now, Dr. Curry also said that it is not 13 within the scope of a psychologist to evaluate 14 domestic violence. 15 Do you agree with that? 16 A Of course I don't agree with that. 17 This is what I do for a living, day in and day 18 out, for 25 years. We are specifically trained to 19 understand the profound impacts that trauma has on 20 people's lives. That's what we do in the trauma 21 division of the American Psychological 22 Association, we disseminate that knowledge, and</p>

<p style="text-align: right;">7532</p> <p>1 domestic violence is one of those profound 2 traumas. Domestic violence is part of state 3 licensing boards, that you can't get licensed in 4 some states unless you take training on domestic 5 violence. You can't renew your license unless you 6 get training on domestic violence. 7 So people who have, you know, 8 specialized training in this area, it is, you 9 know, beholden upon them to accurately assess for 10 intimate partner violence and sexual violence. 11 And it more important to assess for the sort of 12 scientific understanding of what domestic violence 13 is. So you have to assess for the physical 14 violence, the psychological violence, the 15 surveillance, the economic, the emotional abuse, 16 and the sexual violence. That is not 17 gratuitous – 18 MR. DENNISON: Objection. Relevance. 19 THE COURT: All right. Next question. 20 Sustain the objection. 21 MS. BREDEHOFT: All right. 22 Q Dr. Curry suggested that you made a</p>	<p style="text-align: right;">7534</p> <p>1 THE COURT: If you want to ask that 2 question again. 3 MS. BREDEHOFT: Yeah, I probably should 4 do that. 5 Q You were qualified -- I've got to find 6 my note. You were qualified as an expert in 7 forensic psychology with a specialty in domestic 8 violence and in trauma, correct? 9 A Correct. 10 Q Okay. And that was in this case? 11 A That's correct. 12 Q Okay. Now, do you still hold the same 13 opinions that you gave the jury earlier? 14 A Yes, I do. 15 Q And do you still hold them within a 16 reasonable degree of psychological probability and 17 certainty? 18 A Yes, I do. 19 MS. BREDEHOFT: Thank you. 20 THE COURT: All right. 21 Cross-examination. 22 MR. DENNISON: Yes, Your Honor, but can</p>
<p style="text-align: right;">7533</p> <p>1 determination just based on personal opinion and 2 just on checklists and a couple of tests that you 3 misinterpreted. 4 Would you agree with that? 5 A I vehemently disagree with that. As I 6 stated to you, over 29 hours and 12 psychological 7 tests and reviewing a slew of documents in this 8 case, most importantly, therapy records and 9 interview, collateral interviews with therapists, 10 using all that data, that is what a solid forensic 11 methodological exam looks like. And then I made 12 my conclusions based on my clinical education, 13 knowledge, and training, to come up with a 14 professional expert opinion. 15 Q Okay. And just to remind -- to make 16 sure we're reminded here, you were qualified in 17 this court, in this case, as an expert in forensic 18 psychology and, specifically, in domestic violence 19 and in the -- now I just lost it. And in 20 violence, correct, and in trauma, correct? 21 MR. DENNISON: Objection, Your Honor. 22 Misstates the record.</p>	<p style="text-align: right;">7535</p> <p>1 we approach quickly? 2 THE COURT: Sure. 3 (Sidebar.) 4 MR. DENNISON: The witness suggested 5 that her 29 hours was somehow valuable here. I 6 was hopeful that I could ask whether she knew 7 whether Dr. Curry was limited in the total number 8 of hours she was able to meet with Ms. Heard. I 9 don't want to get into the details, but Dr. Curry 10 had a total of 12 hours and, you know, she's 11 comparing her 29 hours to her. We're talking 12 apples and oranges. 13 MS. BREDEHOFT: They asked for, in 14 fact, it was 14, they asked for 14, we said yes. 15 We agreed to the full amount they asked for. She 16 wasn't limited. If she had asked for 20, we 17 probably would have agreed to that, if she asked 18 for 29, we probably would have agreed to that. We 19 agreed to what was asked for. 20 THE COURT: I'm not going to allow it. 21 MS. BREDEHOFT: Thank you. 22 MR. DENNISON: Thank you.</p>

Transcript of Jury Trial - Day 24
Conducted on May 26, 2022

26 (7536 to
7539)

7536	7538
<p>1 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND 2 COUNTERCLAIM DEFENDANT 3 BY MR. DENNISON: 4 Q Good morning, Dr. Hughes. 5 A Good morning, Mr. Dennison. 6 Q The last time you were here, I believe 7 that you testified that you had diagnosed 8 Ms. Heard with PTSD before you gave the gold 9 standard CAPS-5 test? 10 A That's correct. 11 Q Right. And that diagnosis is actually 12 reflected in the first of the disclosures you put 13 forward in this case? 14 A I believe the first disclosure was 15 February 2021, and at that point, I had done 11 16 psychological tests, that's correct. 17 Q Right. And your disclosure reads 18 "Ms. Heard's responses on the PCL-5 supported 19 DSM-5 diagnosis of post-traumatic stress disorder 20 with an etiology of intimate partner violence she 21 experienced by a former partner." 22 Do you remember writing that?"</p>	<p>1 page. 2 MS. BREDEHOFT: Well, what is up is a 3 chart. 4 MR. DENNISON: I know, he had the wrong 5 thing up. 6 THE COURT: Now it's up. It's Danger 7 Assessment. 8 MR. DENNISON: Let me get him to the 9 right one. 10 THE COURT: Let's see the right one 11 first. 12 MR. DENNISON: May I approach the 13 witness and give her this? 14 THE COURT: Okay. Sure. 15 (Open court.) 16 THE WITNESS: Thank you. 17 MS. BREDEHOFT: I don't see this in my 18 documents either. 19 THE COURT: They're getting the right 20 one up. 21 MR. DENNISON: Yep, we've got it up. 22 Let's use 1312.</p>
7537	7539
<p>1 A That's correct. 2 Q Okay. You just testified that you need 3 to read the manual, right? 4 A Yes. 5 Q Okay. 6 MR. DENNISON: Can we put up 1311 as a 7 demonstrative? 8 THE COURT: Any objection to 1311? 9 MS. BREDEHOFT: I don't know what it 10 is, Your Honor. 11 THE COURT: Do you want to wait -- 12 MS. BREDEHOFT: May we approach? 13 THE COURT: Do you want to approach? 14 (Sidebar.). 15 MS. BREDEHOFT: I just don't know what 16 it is. 17 THE COURT: I assume something from the 18 manual. Just if I could guess, something from the 19 manual. 20 MR. DENNISON: Yeah. 21 MS. BREDEHOFT: Which page is that? 22 MR. DENNISON: We're only on the second</p>	<p>1 THE COURT: 1312. And that -- any 2 objection to that demonstrative? 3 MS. BREDEHOFT: No, Your Honor. 4 THE COURT: Okay. 1312 can be 5 published to the jury. 6 BY MR. DENNISON: 7 Q Dr. Hughes, do you recognize what the 8 National Center for PTSD is? 9 A What it is? 10 Q Yeah. 11 A Yes, I do. 12 Q And they publish the PTSD checklist for 13 DSM-5? 14 A That's correct. 15 Q What's been called the PCL-5? 16 A Correct. 17 Q And are you familiar with the document 18 that's on your screen? 19 A Yes. 20 Q What is it? 21 A It's the instruction manual to have 22 administered the PCL-5.</p>

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7540	7542
<p>1 Q Okay.</p> <p>2 MR. DENNISON: I would like to move for</p> <p>3 the admission of 1312.</p> <p>4 THE COURT: Any objection to 1312</p> <p>5 coming into evidence?</p> <p>6 MS. BREDEHOFT: No.</p> <p>7 THE COURT: All right. 1312 in</p> <p>8 evidence.</p> <p>9 MR. DENNISON: Can we go to the second</p> <p>10 page. Can we blow up the second paragraph on the</p> <p>11 right.</p> <p>12 Q The PCL-5 should not be used as a</p> <p>13 standalone diagnostic tool. When considering a</p> <p>14 diagnosis, the clinician will still need to use</p> <p>15 clinical interviewing skills and a recommended</p> <p>16 structured interview, e.g. the CAPS-5, to</p> <p>17 determine a diagnosis, correct? That's what the</p> <p>18 manual says?</p> <p>19 A This manual also says that this is a</p> <p>20 screening instrument, so when you do the clinical</p> <p>21 interview, you absolutely can determine a</p> <p>22 diagnosis –</p>	<p>1 May I approach?</p> <p>2 THE COURT: Yes, sir. Thank you. Any</p> <p>3 objection to 1309 as a demonstrative?</p> <p>4 MS. BREDEHOFT: May we approach?</p> <p>5 THE COURT: Okay.</p> <p>6 (Sidebar.)</p> <p>7 MS. BREDEHOFT: Can you tell me where</p> <p>8 this is at and what this is?</p> <p>9 MR. DENNISON: I can tell you, I'm</p> <p>10 almost positive she'll tell you, that's top of her</p> <p>11 CTS-2, the one that she administered to Amber</p> <p>12 Heard.</p> <p>13 MS. BREDEHOFT: The top of? The first</p> <p>14 page?</p> <p>15 MR. DENNISON: No, it's the</p> <p>16 instructions.</p> <p>17 MS. BREDEHOFT: Okay.</p> <p>18 THE COURT: No objection?</p> <p>19 MS. BREDEHOFT: No objection, Your</p> <p>20 Honor.</p> <p>21 (Open court.)</p> <p>22 THE COURT: It will be marked for</p>
7541	7543
<p>1 Q So the answer is yes, the manual says</p> <p>2 the PCL-5 --</p> <p>3 A Interviewing skills, with which I used.</p> <p>4 Q Let me finish my question.</p> <p>5 The PCL-5 should not be used as a</p> <p>6 standalone diagnostic tool, and they recommend</p> <p>7 using the CAPS-5 to determine a diagnosis,</p> <p>8 correct?</p> <p>9 A It does say that, yes.</p> <p>10 Q Yes. And you made your diagnosis</p> <p>11 before you did the CAPS-5?</p> <p>12 A I made my diagnosis during clinical</p> <p>13 interviewing and 11 other psychological tests that</p> <p>14 supported diagnosis of PTSD and symptomatology</p> <p>15 consistent with PTSD.</p> <p>16 Q Okay. You said that we should read the</p> <p>17 manual. Would you also agree with me that we need</p> <p>18 to read the directions on these tests?</p> <p>19 A Sure.</p> <p>20 Q Okay.</p> <p>21 MR. DENNISON: Tom, can you pull up</p> <p>22 1309 as a demonstrative.</p>	<p>1 identification as Plaintiff's 1309 and published</p> <p>2 to the jury as demonstrative.</p> <p>3 BY MR. DENNISON:</p> <p>4 Q Doctor, do you recognize the</p> <p>5 demonstrative that's in front of you?</p> <p>6 A Yes, but I didn't put the redlines on</p> <p>7 that.</p> <p>8 Q No, I did.</p> <p>9 A Yes, I know.</p> <p>10 Q Okay. So, this -- what do you</p> <p>11 recognize this as?</p> <p>12 A I recognize that we previously</p> <p>13 discussed this, and I told you that I oriented</p> <p>14 Ms. Heard to a different time frame because she</p> <p>15 was already out of the relationship.</p> <p>16 Q Okay. Maybe we should back it up a</p> <p>17 little. This is the CTS-2 that you administered</p> <p>18 as part of this battery of tests that you indicate</p> <p>19 you did in relationship to your diagnosis?</p> <p>20 A Right. This is the Conflict Tactic</p> <p>21 Scale 2.</p> <p>22 Q And you'll agree with me that this test</p>

<p>1 specifically asks, in front of every single 2 question, how often did this happen in the past 3 year? 4 A Correct. 5 Q Yeah, and -- 6 A And I oriented her to not limit herself 7 to the last year, to get an accurate assessment of 8 the violence and abuse that she experienced in the 9 relationship. 10 MR. DENNISON: Objection, Your Honor. 11 And move to strike. 12 THE COURT: All right. I'll move to 13 strike the last part of the answer -- I mean 14 strike the last part of the answer. Thank you. 15 Next question. 16 Q And you know that at the time that you 17 gave this test to Ms. Heard, she had been away 18 from Mr. Depp for far longer than a year, correct? 19 A Which is why I oriented her to a 20 different time frame -- 21 Q Yes or no, ma'am? 22 A -- in answering the questions.</p>	<p>7544</p>	<p>1 A I didn't give it to her, I filled it 2 out based on the data that was provided to me. 3 Q Oh, so you asked her the questions and 4 then you filled it in? 5 A It was somewhat collaborative. 6 Q Okay. 7 MR. DENNISON: Can we blow up the 8 second full paragraph. 9 Q It says "Using the calendar, please 10 mark the approximate dates during the past year 11 when you were abused by your partner or 12 ex-partner." 13 You didn't use any calendar, did you? 14 A I did not use a calendar because she 15 was already out of the relationship. As I said, 16 these are static risk factors, so they don't 17 change. So I oriented her to the time of the 18 relationship. 19 Q But it's fair to say that this 20 examination that you gave, specifically indicates 21 that it's -- that you were supposed to look over 22 the past year, and you --</p>	<p>7546</p>
<p>1 Q Doctor, yes or no? 2 A Of course. 3 Q You knew she was gone for more than a 4 year? 5 A Of course. 6 Q All right. Let's look at another one 7 of these. You talked about the Danger Assessment 8 Test. 9 A That's correct. 10 Q All right. 11 THE COURT: What number is this? 12 MR. DENNISON: 1310. 13 THE COURT: Plaintiff's 1310. 14 THE WITNESS: Thank you. 15 THE COURT: Any objection to 1310 as 16 demonstrative? 17 MS. BREDEHOFT: No, Your Honor. 18 THE COURT: Okay. You can publish to 19 the jury. 20 Q Dr. Hughes, this is a blank form, but 21 this is the Danger Assessment Test that you also 22 gave to Ms. Heard, correct?</p>	<p>7545</p>	<p>1 A That's one administration. No, that's 2 one administration. People use this instrument 3 for if you're in an acute situation, in a 4 relationship, trying to get a better assessment of 5 the current behaviors. We can use it 6 retrospectively, like I just stated, and in 7 homicides and looking back about what are the 8 serious risk factors that were in this 9 relationship. 10 Q I didn't ask you about anything other 11 than don't the instructions limit this test to the 12 previous year? 13 A You can give this test not only on the 14 previous year. 15 Q I'm asking you about the instructions. 16 A But I'm telling you how the test is 17 administered in clinical practice, in forensic 18 practice. 19 Q And opposing counsel can come up and 20 ask questions about. I'm asking you about the 21 instructions, and the instructions say look over 22 the past year?</p>	<p>7547</p>

<p>7548</p> <p>1 A On this, yes, that it says that. 2 Q You had actual knowledge, when you gave 3 the test, that Mr. Depp was gone way more than a 4 year before this test? 5 A That is correct. 6 Q Right. Let's look at more 7 instructions. 8 MR. DENNISON: Can we look at 1247, 9 which is already in evidence. 10 Q Dr. Hughes, you recognize this one, 11 too, right? 12 A Yes. 13 Q All right. This is the -- whatever 14 it's called, the CAPS-5? 15 A Correct. 16 MR. DENNISON: Can we go to the first 17 page. Let's blow up the instructions. 18 Q Standard administration and scoring of 19 the CAPS-5 are essential for producing reliable 20 and valid scores and diagnostic decisions. 21 Correct? 22 A Correct.</p>	<p>7550</p> <p>1 in a single blank on this form with respect to 2 frequency. Is the answer to that yes or no? 3 A I don't know what you mean "a single 4 blank." 5 Q All right. 6 MR. DENNISON: Let's page down. Let's 7 keep going. We'll stay at this page for a second. 8 Q This is the very first box you were 9 asked to fill in as to, I think, a fairly 10 fundamental question, right, what happened? 11 A We talked about this before, 12 Mr. Dennison, I had 88 pages of notes of what 13 happened. It would have been redundant to put it 14 there. 15 Q You know that you are obligated to 16 produce this test in a way that other people can 17 meaningfully review them, yes? 18 A The people in this case who are 19 meaningfully reviewing them, they have my 88 pages 20 of note. 21 Q But you chose to put absolutely nothing 22 in the box, the standardized box that said what</p>
<p>7549</p> <p>1 Q And you know you have to do this in a 2 standardized way because it is the first 3 instruction, correct? 4 A Correct. 5 MR. DENNISON: Can we go to the next 6 page. One more -- oh, wait, that's good. 7 Q This is a page on scoring, and we 8 talked about this last time. 9 A Yes. 10 Q You scored these tests by frequency and 11 intensity? 12 A Correct. 13 Q And you'll remember that in every 14 single instance that you were asked to fill in the 15 blank about frequency, you failed to do so, 16 correct? 17 A That's not correct. 18 Q Oh, you filled in any blank on this 19 form with respect to frequency? 20 A I filled in the frequency on the side 21 of the CAPS, where I am actually scoring the CAPS. 22 Q No, no, I'm asking whether you filled</p>	<p>7551</p> <p>1 happened? 2 A You don't have to put it in the box if 3 you have it somewhere else. 4 Q So this is not a standardized test? 5 A When it's a research instrument that is 6 used for research. If you're using it for a 7 clinical diagnostic purpose, no, you don't, if you 8 have that data elsewhere. 9 Q Okay. 10 MR. DENNISON: Let's go another page or 11 so. All right. 12 Q Let's go to another one. Let's look at 13 item 4B4. 14 And I asked you whether you filled in 15 the blank about frequency. And there's a blank in 16 many of these items that asks a number of times. 17 You didn't fill a single one of them 18 in, did you? 19 A Right. Because I filled them on the 20 right side of the instrument, where I am scoring 21 it. 22 Q And that is the way that you believe</p>

<p>1 that you followed the instructions of a 2 standardized test? 3 A Yes, correct. 4 MR. DENNISON: No further questions. 5 THE COURT: All right. Redirect. 6 MS. BREDEHOFT: Very briefly. 7 EXAMINATION BY COUNSEL FOR THE her 8 BY MS. BREDEHOFT: 9 Q You used the term "static risk factor." 10 What did you mean by that? 11 A Static risk factors are risk factors 12 that don't change. Maybe if you smoke cigarettes, 13 you may have a risk of lung cancer, right, that's 14 a factor that doesn't change. You can look 15 forward of someone smoking, you can look back of 16 someone smoking. So these lethality risk factors 17 are present whether you're evaluating them in the 18 last year or five years ago. 19 Q When you're trying to assess for trauma 20 related to the interpersonal violence that we 21 discussed, why is it important to get a time frame 22 in which the relationship was in existence?</p>	<p>7552</p>	<p>1 symptomatology that's fallen from it. 2 Q You said you had 88 pages of notes. 3 What were your 88 -- without going into the 4 specifics, can you just describe what was included 5 in the 88 pages of notes? 6 A In the 88 pages were many of the 7 documented incidents of intimate partner violence. 8 MR. DENNISON: Objection, Your Honor. 9 MS. BREDEHOFT: She's just describing. 10 That came up. He said you didn't fill those in 11 the boxes, she said it was in my 88 pages. I'm 12 just saying, what was in your 88 pages? I'm not 13 asking her to give each of the specific events. 14 She can describe the summary of it. 15 MR. DENNISON: Can we come up? 16 THE COURT: Okay. 17 (Sidebar.) 18 MR. DENNISON: I asked her whether she 19 filled in a box, and we're going to get in a 20 litany of -- 21 MS. BREDEHOFT: He opened the door. 22 MR. DENNISON: Are you kidding me?</p>	<p>7554</p>
<p>1 A Well, you want to see the amount of 2 trauma that the person experienced. The longer 3 that they're in a relationship, you have more 4 successive trauma, and one of things that we know 5 from the research is more trauma is not better, so 6 the more successive traumas that you have, the 7 greater likelihood that somebody is going to have 8 psychological consequences and symptomatology as a 9 result. 10 Q And therefore, you need to get it 11 within the relationship? 12 MR. DENNISON: Objection. Leading. 13 Q So how does that relate to needing to 14 get the time frame in the relationship? 15 A We need to understand the -- when you 16 try to evaluate the impact of something, you have 17 to understand what happened to the person, and 18 that's -- so the core and the basis of 19 trauma-informed care and of trauma diagnoses, you 20 have to understand the traumatic event and how it 21 transpired and how it played out for that 22 individual so that you can better assess for the</p>	<p>7553</p>	<p>1 THE COURT: She said she relied on her 2 notes, and she already testified to that, so I'll 3 sustain the objection. 4 MS. BREDEHOFT: All right. 5 (Open court.) 6 BY MS. BREDEHOFT: 7 Q What is the difference between clinical 8 scoring in clinical evaluation and research 9 evaluation with respect to the CAPS-5 and the 10 other tests? 11 MR. DENNISON: Objection. Compound. 12 THE COURT: Sustained. 13 MS. BREDEHOFT: Your Honor, when it's 14 compound, it's because it might be confusing to 15 the jury. 16 THE COURT: Sustained. 17 Next question. 18 Q Okay. Can you explain to the jury what 19 the difference is between clinical scoring and 20 evaluation on the test and research? 21 MR. DENNISON: Objection, Your Honor. 22 Compound.</p>	<p>7555</p>

Transcript of Jury Trial - Day 24
Conducted on May 26, 2022

31 (7556 to
7559)

7556	1 THE COURT: Overruled. Go ahead. 2 A Sure. The PCL and the CAPS-5 are 3 frequently used in research. And when they're 4 used in research, that means the document stands 5 alone. They don't have 88 pages of notes to help 6 understand the background of the trauma and what 7 the person has experienced. And why those boxes 8 may be relevant in research is because, you know, 9 back in the day, when I was a research assistant, 10 I had to input that into the computer, and then 11 they would maybe look at some of that data for the 12 research study. So that becomes very important in 13 research. 14 MS. BREDEHOFT: All right. Thank you. 15 I have no further questions. 16 THE COURT: Thank you, Dr. Hughes. You 17 can have a seat in the courtroom or you are free 18 to go. 19 Ladies and gentlemen, let's go ahead 20 and take our afternoon recess -- I mean our 21 morning recess, take our 15-minute recess. Do not 22 discuss the case with anybody, and don't do any	7558	1 THE COURT: Remaining time? For both. 2 For both? 3 MS. BREDEHOFT: Yes, please. 4 THE LAW CLERK: 31 minutes for the 5 defendant. And for plaintiff the plaintiff -- 6 THE COURT: How much time have they 7 used? 8 THE LAW CLERK: They've used 54 hours 9 and 49 minutes? 10 THE COURT: So they have about 11 six hours. 12 MR. CHEW: Going to be a long cross? 13 THE COURT: This is a free sidebar. 14 MS. BREDEHOFT: And then we rest. 15 THE COURT: While you're up here, after 16 you rest, I'm going to let the jury go home for 17 the day so they can come back in the morning at 18 9:00 for the closing arguments. I'm going to have 19 about an hour of housekeeping with the jury 20 instructions. I assume what I can do is after 21 they leave, I can take either the lunch breaks -- 22 I assume your clients don't want to be here for
7557	1 outside research, okay? 2 (Whereupon, the jury exited the 3 courtroom and the following proceedings took 4 place.) 5 THE COURT: All right. Why don't we 6 just come back at 11:05, then. 7 MS. BREDEHOFT: All right. 8 THE COURT: All right. 11:05. 9 THE BAILIFF: All rise. 10 (Recess taken from 10:44 a.m. to 11 11:05 a.m.) 12 THE BAILIFF: All rise. 13 Please be seated and come to order. 14 THE COURT: All right. Are we ready 15 for the jury? 16 MS. BREDEHOFT: Yes. 17 MR. ROTTENBORN: Oh, Your Honor. 18 MR. CHEW: Can we approach? 19 THE COURT: Yes, sure. 20 (Sidebar.) 21 MR. CHEW: We're just interested in the 22 remaining time.	7559	1 jury instructions. I'm going to the laptop and 2 going over the exhibits, and I want everybody to 3 look at the laptop, I want you to look at all the 4 exhibits. I want to make sure we get all the jury 5 instructions done. I will give you your copies of 6 the jury instructions in the order I'm going to 7 say them, so you can all prepare for your closing 8 arguments tonight, or this afternoon, sounds like. 9 MS. BREDEHOFT: We prefer to do it 10 before lunch. No, seriously. 11 THE COURT: We have to take some sort 12 of break so your clients can leave. 13 MS. VASQUEZ: Can we take a shorter 14 lunch, Your Honor? 15 THE COURT: 45 minutes. 16 MS. VASQUEZ: Yeah, 45 minutes. 17 THE COURT: 45 minutes lunch. 18 MR. CHEW: Will they be read to the 19 jury before closings? 20 THE COURT: Yes, yes. What I'm going 21 to do is, also, adapt some of the initial jury 22 instructions I gave the first day. I'm going to

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<p style="text-align: right;">7560</p> <p>1 give them some of those reminders, since it's been 2 so long since they heard it, just about the 3 note-taking, it's to be used as a reminder. I'm 4 going to add those notes to it. I'm going to tell 5 them that their names are sealed for a year, and 6 then I'll go into the jury instructions that we 7 agree upon today. 8 MR. CHEW: May we -- I'm not saying we 9 will, but may we reference the jury instructions 10 in the juror questionnaire, in the closing? 11 MS. VASQUEZ: Not the juror -- 12 MR. CHEW: The verdict form. 13 THE COURT: Oh, yeah. That's why I'm 14 going to give you copies of -- before you leave 15 today, you'll have the copies of the form I'm 16 going to give them, and you use however the jury 17 instructions you want to. I'm going to give the 18 jurors each their own copy of jury instructions 19 too. But you can reference any jury instruction. 20 MR. ROTTENBORN: Can we reference the 21 verdict form? 22 THE COURT: Yeah, if you want to</p>	<p style="text-align: right;">7562</p> <p>1 (Whereupon, the jury entered the 2 courtroom and the following proceedings took 3 place.) 4 THE COURT: All right. Thank you, 5 ladies and gentlemen. You may be seated. 6 All right. Your next witness. 7 MR. ROTTENBORN: Your Honor, defendant 8 calls Amber Heard. 9 THE COURT: All right. Ms. Heard, if 10 you would come to the stand, please. 11 THE WITNESS: Can I get my water? 12 THE COURT: Yes, ma'am. Water. 13 Thank you, ma'am. Just remind you, 14 you're still under oath, okay? 15 THE WITNESS: Of course, Your Honor. 16 Thank you. 17 THE COURT: Thank you. 18 All right. Your question. 19 AMBER LAURA HEARD, 20 having been previously sworn, was 21 examined and testified as follows: 22</p>
<p style="text-align: right;">7561</p> <p>1 reference the verdict form. 2 MR. ROTTENBORN: He said questionnaire, 3 so I wasn't sure. 4 THE COURT: You can reference the 5 verdict form because it's rather lengthy, as far 6 as that goes. I usually explain it to them too, 7 but this is rather lengthy, so if you want to talk 8 about it, then I won't, but it's up to you. 9 MR. ROTTENBORN: My only request is 10 if -- I assume Mr. Chew is going to make a motion 11 to strike after we rest. Could we -- 12 MR. CHEW: It's going to be very quick. 13 MR. ROTTENBORN: I respect Mr. Chew's 14 exploratory skills, but can we do it here? 15 THE COURT: He already said he'll do 16 the exact same thing you did right here. So after 17 I excuse the jury, we will approach at that time 18 and then we'll do it. Okay. 19 MS. VASQUEZ: Thank you. 20 (Open court.) 21 THE COURT: All right. We're ready for 22 the jury.</p>	<p style="text-align: right;">7563</p> <p>1 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND 2 COUNTERCLAIM PLAINTIFF 3 BY MR. ROTTENBORN: 4 Q Amber, just to orient you and the jury, 5 at this time, we're in rebuttal to your 6 counterclaim against Mr. Depp, so I'm going to 7 confine my questions to that, okay? 8 A All right. 9 Q How have you suffered publicly as a 10 result of the Depp/Waldman statements? 11 MS. VASQUEZ: Objection. Speculation. 12 THE COURT: Overruled. 13 A I am harassed, humiliated, threatened 14 every single day. Even just walking into this 15 courtroom, sitting here in front of the world, 16 having the worst parts of my life, things I have 17 lived through, used to humiliate me. People want 18 to kill me, and they tell me so every day. People 19 want to put my baby in the microwave, and they 20 tell me that. 21 Johnny threatened, promised, promised 22 me if I ever left him, he'd make me think of him</p>

<p style="text-align: right;">7564</p> <p>1 every single day that I lived. 2 MS. VASQUEZ: Objection, Your Honor. 3 Nonresponsive. 4 THE COURT: All right. I'll sustain 5 the objection as to that. If you want to ask the 6 question. 7 Q Amber, how did Mr. Depp's statements 8 and threats to you, that you were discussing, how 9 do those continue to manifest themselves today? 10 A In the harassment, in the humiliation, 11 the campaign against me that's echoed every single 12 day on social media, and now in front of cameras, 13 in this room. Every single day, I have to relive 14 the trauma. My hands shake, I wake up screaming. 15 I have to live with the trauma and the damage done 16 to me. My friends have to live with a set of 17 unspoken rules about how to not scare me -- 18 MS. VASQUEZ: Objection. Hearsay. 19 THE COURT: Yes, sir. 20 A Unspoken rules -- 21 MR. ROTTENBORN: It's not hearsay. 22 THE COURT: Overruled.</p>	<p style="text-align: right;">7566</p> <p>1 even though Johnny promised that I deserved this 2 and promised he'd do this, I don't deserve this. 3 All I want, the statements, the attacks to me, the 4 campaign, that Johnny has elicited million of 5 people to do on his behalf -- 6 MS. VASQUEZ: Objection, Your Honor. 7 Lack of foundation. Speculation. 8 A -- to do what he wants. 9 THE COURT: I'll sustain the objection. 10 Next question. 11 Q Amber, how have the Depp/Waldman 12 statements impacted your ability to do charitable 13 work? 14 A You know, I would -- the only reason 15 that people like Dr. Curry can sit up here on the 16 stand and say I'm high functioning, I do things, 17 like have hobbies and have interests -- 18 MS. VASQUEZ: Objection, Your Honor. 19 Nonresponsive. 20 MR. ROTTENBORN: Your Honor, Mr. Depp 21 gave long-winded responses yesterday. 22 THE COURT: Overruled.</p>
<p style="text-align: right;">7565</p> <p>1 Go ahead. 2 A -- about how to not touch me, not to 3 surprise me. My intimate partners have rules 4 about how they can deal with me, how they can 5 touch me. I have rules for doctors and medical 6 professionals I see, gynecologists I see. I live 7 my life with these sets of rules that I have to 8 follow, my friends have to follow, for me not to 9 have a panic attack or a triggering event where I 10 relive the trauma. Even if I'm training to do my 11 movie, for instance, if I'm training for Aquaman, 12 a combat scene, and a trigger happens, I have a 13 meltdown and have to deal with that. The crew I 14 work with have to deal with that because of the 15 damage I walk around with every single day from 16 what I've lived through. From what I've survived. 17 I'm not sitting in this courtroom snickering. I'm 18 not sitting in this courtroom laughing, smiling, 19 making snide jokes. I'm not. This is horrible. 20 This is painful, and this is humiliating for me, 21 as a human being, to go through. And perhaps it's 22 easy to forget that, but I'm a human being. And</p>	<p style="text-align: right;">7567</p> <p>1 A Is because I found a solution to that 2 pain. I wake up every morning with panic attacks 3 and trauma until I realize I could do something 4 with it. So to answer your question, Ben, it's I 5 was able to turn the things that I've lived 6 through, my pain, my life experiences into work, 7 into action, into providing a voice for other 8 people. I'm not a saint, I'm not trying to 9 present myself as one, as you all know, but I have 10 selfishly found relief in being able to use what 11 I've lived through to advocate for others, to 12 bring light to these issues, to give a voice to 13 people who don't have the voice and the platform 14 that I have. And while I would not wish this 15 situation on my worst enemy, if it gives a voice 16 to somebody that doesn't have it. But I now, as I 17 stand here today, can't have a career. I can't 18 even have people associate with me because of the 19 threats and the attacks that they have to endure. 20 MS. VASQUEZ: Objection. Nonresponse. 21 A -- and I can't even do charity work. 22 THE COURT: Sustain the objection.</p>

<p>1 Q Amber, other than the threats that 2 you've described, what other threats have you 3 endured since the Depp/Waldman statements were 4 made? 5 A I receive hundreds of death threats, 6 regularly, if not daily, thousands since this 7 trial has started. People mocking, mocking my 8 testimony about being assaulted. 9 MS. VASQUEZ: Objection. Relevance. 10 Nonresponsive. 11 THE COURT: Overruled. 12 Q You can continue. 13 A It's been agonizing. Agonizing, 14 painful, and it's humiliating, everything I have 15 had to go through. I hope no one has to go 16 through something like this. 17 I just want Johnny to leave me alone. 18 I just want him to leave me alone. I've said that 19 for years now, and I thought he would after 20 2000 -- 21 MS. VASQUEZ: Objection. 22 Nonresponsive.</p>	<p>7568</p> <p>1 (Sidebar.) 2 MS. VASQUEZ: Your Honor, my 3 cross-examination is not limited in scope to 4 what -- please let me finish, to what Ms. Heard 5 just testified about. It's my position that it 6 doesn't have to be. It is cross-examination on 7 the counterclaim, which includes the words like 8 abuse hoax, so I feel like I'm entitled, that I 9 did want to approach and let you know, before I 10 start getting countless objections. 11 MR. ROTTENBORN: I believe -- 12 THE COURT: It's to counterclaim. 13 MR. ROTTENBORN: I think 14 cross-examination has to be limited to my direct. 15 This is rebuttal, Your Honor. 16 THE COURT: I understand, but your 17 direct involved the counterclaim and damages in 18 the counterclaim, so she can go into the 19 counterclaim. 20 MR. ROTTENBORN: She's already had her 21 opportunity to cross her on the counterclaim. The 22 way the case is set up is they get to put on their</p>
<p>7569</p> <p>1 THE COURT: All right. I'll sustain 2 the objection. 3 Next question. 4 Q What do you hope to reclaim after this 5 is over? 6 A Protecting the secret that I did, for 7 as long as I did, has taken enough of my voice. I 8 mean, Johnny has taken enough of my voice. I have 9 the right to tell my story. I have the right to 10 say what happened to me. I have the right to my 11 voice and my name. He took it long enough. I 12 have a right, as an American, to talk about what 13 happened to me, to own my story and my truth. I 14 have that right. I hope to get my voice back. 15 It's all I want. And I said that from day one. 16 MR. ROTTENBORN: Thank you, Amber. I 17 don't have anything else. 18 THE COURT: All right. 19 Cross-examination. 20 MS. VASQUEZ: So, Your Honor, may we 21 approach very briefly? 22 THE COURT: Yes.</p>	<p>7571</p> <p>1 case-in-chief, we put on our defense to that and 2 our case-in-chief on the counterclaim. She's 3 already had a chance to cross-examine her on that. 4 This is why it's rebuttal. She shouldn't have a 5 chance to retread old ground that wasn't opened up 6 on this examination, she's already had that 7 chance. 8 MS. VASQUEZ: I disagree, Your Honor, 9 because my -- this is part of our defense to the 10 counterclaims. So to that end, I believe that I 11 should be entitled, in my -- 12 THE COURT: I'm trying to remember your 13 rebuttal yesterday of Mr. Depp. 14 MS. VASQUEZ: It was not limited in 15 scope. 16 MR. ROTTENBORN: Well, they opened the 17 door. They questioned extensively -- no, they 18 did. They went back through a lot, Australia. 19 What Ms. Vasquez just said is this is our defense 20 to the counterclaim. That was her cross, for 21 two days. That was the defense to the 22 counterclaim and their rebuttal. Now, this is</p>

<p style="text-align: right;">7572</p> <p>1 just our rebuttal. Just like Your Honor said, in 2 closings, you told me, at the pretrial conference, 3 when you get up in your last closing, it better be 4 really limited to that. Same thing. This has to 5 be limited to my direct examination, Your Honor. 6 MS. VASQUEZ: I disagree, Your Honor. 7 MR. ROTTENBORN: She had her chance in 8 direct. 9 THE COURT: I understand. Your 10 examination was damages. 11 MS. VASQUEZ: Right. 12 THE COURT: You agree. This is about 13 damages, how it's affected you. 14 MR. ROTTENBORN: Yeah. 15 THE COURT: It's all damages. 16 MS. VASQUEZ: Related to the 17 counterclaims. 18 THE COURT: If there's a relation to 19 the -- talking about we don't have those damages 20 because, you can get into that. 21 MR. ROTTENBORN: She can't get into -- 22 MS. VASQUEZ: Including abuse hoax.</p>	<p style="text-align: right;">7574</p> <p>1 THE COURT: No. It's their rebuttal. 2 MR. ROTTENBORN: It's my rebuttal case. 3 MS. VASQUEZ: I'm just saying my 4 examination -- 5 THE COURT: You have to tie the 6 rebuttal into the damages. You're saying this is 7 part of your damages, well, isn't it true about 8 this? 9 MS. VASQUEZ: Right. 10 THE COURT: This is actually the reason 11 there were damages. And might some of the other 12 evidence that came in. 13 MS. VASQUEZ: Right. 14 MR. ROTTENBORN: What she wants to do, 15 if she does, is to say you couldn't have suffered 16 damages because she didn't commit a hoax. And if 17 she's getting into the facts, that's not 18 appropriate. 19 MS. VASQUEZ: I disagree. 20 MR. ROTTENBORN: This is our 21 rebuttal -- see, she's confirming that's what she 22 wants to do. She's had her chance.</p>
<p style="text-align: right;">7573</p> <p>1 MR. ROTTENBORN: Can't get into 2 evidence of whether this is a hoax or not. She 3 had two days -- whatever, a day and a half of 4 cross-examination. Your Honor sustained, 5 throughout this whole trial, scope objections 6 during cross-examination, so scope is limited 7 to -- 8 MS. VASQUEZ: No. 9 THE COURT: Yes, let me understand. 10 MR. ROTTENBORN: She's had -- 11 THE COURT: Yeah, I understand. I'm 12 trying to figure out what the scope can be. She 13 said these are all the damages I had. I think 14 she's allowed so say, well, aren't your damages 15 actually related to? She can point to that. 16 MS. VASQUEZ: Right. 17 MR. ROTTENBORN: Fair. But if she's 18 going to say, here, let's play this recording of 19 you two, let's talk about what happened on the 20 island -- 21 MS. VASQUEZ: This is about our 22 rebuttal case.</p>	<p style="text-align: right;">7575</p> <p>1 MS. VASQUEZ: I disagree. 2 THE COURT: We can't do back. The 3 defense is right about that. 4 MS. VASQUEZ: How about my rebuttal 5 case that came at -- may I, please, just briefly, 6 Your Honor. So we put on a rebuttal case that 7 included new testimony to rebut Ms. Heard's 8 case-in-chief. I believe I can ask her if certain 9 testimony and evidence that came in, in rebuttal, 10 relates to her counterclaims, which include the 11 words "abuse hoax," includes the words "fake 12 sexual violence." This is her case. They're 13 interrelated. 14 THE COURT: Now, we're just in rebuttal 15 evidence. 16 MS. VASQUEZ: But it's related to the 17 counterclaims, Your Honor. I believe I can 18 cross-examine her on the counterclaim statements. 19 THE COURT: I understand that. But 20 this is based on rebuttal. It's only rebuttal to 21 her defense and damages right now. That's all. 22 They're rebutting -- in their case, they're</p>

<p style="text-align: right;">7576</p> <p>1 rebutting your case as far as damages. It's hard. 2 But it's their defense, so you put on evidence 3 that she was damaged by whatever else issues. 4 MS. VASQUEZ: Right. 5 THE COURT: And other occurrences, so 6 she can get into the other issues or other things 7 that happened that affected her damages and not 8 these statements. 9 MR. ROTTENBORN: They cannot? 10 THE COURT: They can't. 11 MR. ROTTENBORN: But what Camille is 12 saying is she wants to get into things like the 13 testimony from yesterday, Beverly Leonard or TMZ. 14 MS. VASQUEZ: Yes, because that relates 15 to damages. 16 MR. ROTTENBORN: It doesn't. 17 MS. VASQUEZ: Yes, it does. There are 18 stories out there -- 19 MR. ROTTENBORN: I let you finish. I'm 20 sorry. I shouldn't have addressed her. 21 This is rebuttal. They finished their 22 case yesterday. My view is, going into those</p>	<p style="text-align: right;">7578</p> <p>1 to more than just damages, which were objected to, 2 I didn't stop it, but she did testify to more than 3 that. She was saying that these statements -- 4 MS. VASQUEZ: And she said her 5 testimony in this trial, Your Honor, so she opened 6 it up. 7 MR. ROTTENBORN: And so -- I'm glad 8 we're up here because Ms. Vasquez is making clear 9 she wants to go into her testimony throughout the 10 whole trial. Ms. Heard testified on direct for a 11 day and a half, I don't know, and Ms. Vasquez got 12 to cross-examine her on all of that. 13 THE COURT: This is what we're going to 14 do, okay: You're going to limit it just to 15 whatever evidence from your rebuttal case. 16 MS. VASQUEZ: Understood. That's the 17 only thing I intend to. 18 THE COURT: We're not going to go back 19 and rehash anything that we did back before. 20 MS. VASQUEZ: Correct. Just in the 21 rebuttal case. 22 MR. ROTTENBORN: Even that, though,</p>
<p style="text-align: right;">7577</p> <p>1 things that they ended their case with that don't 2 relate to the counterclaims, those just relate to 3 smearing Ms. Heard, that's not appropriate for 4 neither side, at this point. It's certainly not 5 appropriate for her to go into. If they want to 6 go into, you weren't damaged -- 7 THE COURT: She did testify that these 8 statements are the reason that she was damaged. 9 MS. VASQUEZ: Right. 10 MR. ROTTENBORN: The counterclaim 11 statements. 12 THE COURT: The counterclaims 13 statements. So if they want to say that these 14 weren't true. 15 MS. VASQUEZ: Isn't it true that -- 16 right. Or, isn't it true that what damaged you 17 wasn't the counterclaim statements, it was Beverly 18 Leonard's testimony, it was, you know, the other 19 things that happened being publicized. 20 THE COURT: In the rebuttal, opening 21 the damages, and she did testify that I just want 22 Johnny to leave me alone. I mean, she did testify</p>	<p style="text-align: right;">7579</p> <p>1 Your Honor, they rested, so they rested -- 2 THE COURT: You put her on the stand. 3 MR. ROTTENBORN: I did, you're right. 4 But I didn't ask her about Seattle. That's 5 totally inappropriate for them to, based on my 6 questioning, that Ms. Vasquez gets to go ask her 7 about what Beverly Leonard testified to or what 8 Morgan Tremaine, the TMZ guy testified to. 9 THE COURT: That affects her damages. 10 MR. ROTTENBORN: No, it doesn't. 11 MS. VASQUEZ: Yes, it does. There's 12 stories out there. She just said -- 13 MR. ROTTENBORN: Something that 14 happened in 2009 is going to affect what happened 15 in 2020? We've already been down this road. 16 They've asked her those questions. 17 MS. VASQUEZ: Not since Ms. Leonard 18 testified. 19 MR. ROTTENBORN: She wants to ask her 20 about Seattle. You already -- you've already 21 very, very carefully limited -- 22 MS. VASQUEZ: I'm not going to talk</p>

Transcript of Jury Trial - Day 24
Conducted on May 26, 2022

37 (7580 to
7583)

7580	1 about a police officer or arrest. I would never 2 do that. 3 MR. ROTTENBORN: No. You prescribed 4 the questions she could ask, and she answered them 5 already. 6 THE COURT: Let's -- that's fair 7 enough. I think that's right about Seattle. 8 MS. VASQUEZ: Understood, Your Honor. 9 I will take that out. 10 THE COURT: So what else do you have in 11 your rebuttal case, TMZ, I assume? 12 MS. VASQUEZ: Yeah, TMZ, Hicksville. 13 THE COURT: That's fine. TMZ, yes. 14 MS. VASQUEZ: Hicksville. 15 MR. ROTTENBORN: Because of the one guy 16 saying that he -- 17 MS. VASQUEZ: But the damages in the 18 trailer -- 19 THE COURT: The damages in the trailer. 20 MS. VASQUEZ: Yes. 21 MR. ROTTENBORN: I mean, that's fine. 22 But I still think it's inappropriate --	7582	1 Internet. 2 MS. VASQUEZ: She did. 3 MR. ROTTENBORN: No. 4 THE COURT: She did bring up the 5 Internet. She talked about the testimony in this 6 case. She talked about damages from being in this 7 case. 8 MS. VASQUEZ: Your Honor, I think it's 9 fair game. 10 MR. ROTTENBORN: So the question, 11 May 21st, Your Honor, May 21st is so far 12 attenuated from what my limited -- and she's had 13 the chance to cross her. She put the two pictures 14 in front of Ms. Heard already. 15 MS. VASQUEZ: Not with the metadata. 16 And not after her expert testified that they were 17 different pictures. 18 THE COURT: I'm not going to allow the 19 pictures. I think you're right about that. 20 MR. ROTTENBORN: You're not going to? 21 THE COURT: I'm not going to allow the 22 pictures.
7581	1 MS. VASQUEZ: Kate Moss. The stair 2 story that has been publicized all over the world. 3 MR. ROTTENBORN: That's -- we finished 4 that, Your Honor. She testified it was a rumor, 5 Kate Moss got on the stand and said that he didn't 6 push her down the stairs. 7 THE COURT: I'll allow that. 8 Go ahead. 9 MS. VASQUEZ: Thank you, Your Honor. 10 May 21, so the photographs that her 11 expert today -- May 21, the photographs that were 12 taken at the exact same time, at the exact same 13 second. 14 MR. ROTTENBORN: She asked her -- 15 MS. VASQUEZ: Hold on, please. Taken 16 at the same exact same time, at the exact same 17 second. She said that she only turned on the 18 vanity light. I feel I'm entitled to ask her 19 about that. This is exactly why the Internet, 20 according to Mr. Depp, is questioning her 21 testimony. 22 THE COURT: She did bring up the	7583	1 MS. VASQUEZ: So no pictures that 2 Mr. Neumeister -- 3 THE COURT: No. 4 MS. VASQUEZ: There's a discrepancy, 5 Your Honor, she testified the same photograph 6 relates to two different incidents. 7 MR. ROTTENBORN: She did not. 8 MS. VASQUEZ: Yes, she did. There's a 9 picture of a wine bottle inside one of the 10 penthouses, actually -- she previously testified 11 it actually related to the May 21 incident. When 12 she's on the stand, she tells Ms. Bredehoft, in 13 redirect, that it's the same photo from a 14 different incident. 15 MR. ROTTENBORN: She did not. 16 MS. VASQUEZ: Yes, she did, and I'll 17 show it to Ms. Heard -- Your Honor. 18 MR. ROTTENBORN: She didn't. 19 MS. VASQUEZ: There are reasons that 20 the Internet, if you want to call them sleuths, 21 bots, I don't care what you call them, people on 22 Internet and social media that she claims have

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38 (7584 to
7587)

<p style="text-align: right;">7584</p> <p>1 damaged her career at the direction of Ms. Depp, 2 there's a reason. It's because there's 3 inconsistencies with her stories. 4 THE COURT: She did bring up the social 5 media. 6 MR. ROTTENBORN: She what? 7 MS. VASQUEZ: She did bring up the 8 social media. 9 MR. ROTTENBORN: What are the 10 boundaries, though? Then Ms. Vasquez gets to show 11 stuff that's all going to be hearsay? She didn't 12 bring it up in hearsay. She just referenced the 13 threats that she got. That's very different than 14 Ms. Vasquez having these people who are paid -- 15 MS. VASQUEZ: Harassment, threats, 16 calling her a liar. 17 MR. ROTTENBORN: So what is Ms. Vasquez 18 proposed to do, show her these Internet sleuths? 19 MS. VASQUEZ: No, of course not. Just 20 the discrepancies in her stories, Your Honor, that 21 I submit, Your Honor, that I submit is actually 22 what's caused the damage to her career. It's</p>	<p style="text-align: right;">7586</p> <p>1 false, by people who haven't heard any of the 2 evidence in this case. 3 THE COURT: Then why did she bring up? 4 She did. 5 So anything that's tied to damages, 6 we're not going to go back to 2009. Anything 7 that's tied to damages. 8 MS. VASQUEZ: Right. I'm not going to 9 talk about the -- 10 THE COURT: I'm not going to allow her 11 to do it. 12 MR. ROTTENBORN: I just think we have a 13 disagreement on what's damages, because 14 Ms. Vasquez appears to be wanting to question her 15 about the whole case. 16 MS. VASQUEZ: No, I have a few topics 17 that were only raised in our rebuttal case. 18 THE COURT: Just raised on the 19 rebuttal. 20 MS. VASQUEZ: My entire examination is 21 just based on our rebuttal case. 22 THE COURT: We're not going to do the</p>
<p style="text-align: right;">7585</p> <p>1 not -- and her PTSD. It's not the Waldman 2 statements. 3 THE COURT: She talked about PTSD also. 4 MS. VASQUEZ: Right. It's not the 5 Waldman statements, it's her discrepancies in her 6 stories that people are calling her out on. 7 MR. ROTTENBORN: She's trying to use 8 this as an end run to get in what you've asked the 9 jury not to check for the last six weeks, which I 10 know, I'm sure -- 11 THE COURT: She said it. 12 MR. ROTTENBORN: She said she got 13 threats -- 14 MS. VASQUEZ: She said a lot more than 15 that. She said "my testimony in this case." 16 MR. ROTTENBORN: It does not open the 17 door to -- 18 THE COURT: It opens quite a bit, 19 Mr. Rottenborn. 20 MR. ROTTENBORN: Okay. But it doesn't 21 open it to just an unfettered right to say all of 22 these things that are out there that are just</p>	<p style="text-align: right;">7587</p> <p>1 police officer. 2 MS. VASQUEZ: I'm not going to go to 3 Beverly Leonard. 4 Am I allowed to go into Kate Moss? I'm 5 sorry, I lost track when I was -- and the reason, 6 Your Honor, is because Mr. Depp testified 7 yesterday that he told Ms. Heard about this 8 incident. 9 THE COURT: I'll allow that. I think I 10 already did allow that. 11 MR. ROTTENBORN: Thank you. 12 MS. VASQUEZ: TMZ. 13 THE COURT: TMZ, we're doing. 14 MS. VASQUEZ: I'm not going to do the 15 Bryan Neumeister and the pictures. 16 May 21, the fact and that -- and that 17 ties into TMZ, that her publicist was there -- 18 THE COURT: That's fine. 19 MS. VASQUEZ: -- at the courthouse. 20 The wine picture, like I said, that notes that 21 discrepancy. 22 THE COURT: All right.</p>

7588	7590
1 MS. VASQUEZ: And just the people that	1 world multiple times, right?
2 testified in rebuttal. I have a brief line of	2 A I didn't lie about anything I've been
3 questioning, ten questions, if that.	3 here to say.
4 MR. ROTTENBORN: Do you want to repeat	4 Q You sat here and told this jury that
5 who those are? Hicksville.	5 the events in Hicksville started with Mr. Depp
6 MS. VASQUEZ: I'm not going to talk	6 getting really upset about a woman leaning on you;
7 about Ms. Leonard.	7 is that correct?
8 MR. ROTTENBORN: Hicksville, TMZ. No	8 A Yes, that's effectively what happened,
9 issues.	9 yeah.
10 THE COURT: Experts.	10 Q You testified that he actually grabbed
11 MS. VASQUEZ: I'm not talking about	11 that woman's wrist and twisted it, right?
12 Bryan Neumeister, at your direction.	12 A And told her that he could,
13 THE COURT: All right.	13 effectively, break her wrist by saying he knew how
14 MS. VASQUEZ: Okay. I had one	14 many pounds of pressure -- or asking her how many
15 question, this went viral, Your Honor, Isaac	15 pounds of pressure it took to break a human wrist.
16 Baruch, testifying and crying and weeping about	16 Q But your own witness, your former best
17 what Ms. Heard did to him and did to Mr. Depp. I	17 friend, Rocky Pennington, she didn't corroborate
18 think that's fair game.	18 that, did she?
19 MR. ROTTENBORN: That's five weeks ago.	19 A I'm not sure what part of that night
20 THE COURT: I'll allow that. Damages	20 she saw. There were a lot of people there.
21 issue. Okay. I don't know how much time you have	21 Q She didn't testify that Mr. Depp
22 left, Mr. Rottenborn. You had 23 when you came up	22 grabbed anyone's wrist in Hicksville?
7589	7591
1 here.	1 A Again, I don't know what Rocky saw.
2 MS. VASQUEZ: We're splitting this time	2 There were a lot of people there that night.
3 equally.	3 Q You testified that once you brought
4 MR. ROTTENBORN: I will just say, for	4 Mr. Depp back to your trailer, he trashed it,
5 the record, I think they rested their case. I	5 correct?
6 think it's inappropriate to go beyond what this	6 A That is correct.
7 direct was, but maybe I'll have a couple minutes.	7 Q And the manager of the Hicksville
8 THE COURT: I'll find out, and Sammy	8 trailer park was furious that Johnny had wrecked
9 will email you.	9 the whole thing.
10 MR. ROTTENBORN: Okay.	10 Do you remember that testimony?
11 MS. VASQUEZ: Thank you very much, Your	11 A That's correct.
12 Honor.	12 Q Well, we heard from that manager of the
13 THE COURT: Okay.	13 Hicksville trailer park, Morgan Night, on Monday,
14 (Open court.)	14 didn't we?
15 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND	15 A I'm not sure who that guy was or if he
16 COUNTERCLAIM DEFENDANT	16 had any involvement in this. I know a lot of
17 BY MS. VASQUEZ:	17 people have come out of the woodwork to be
18 Q Ms. Heard, you just testified that this	18 involved.
19 case has been very hard for you, so let's talk	19 Q So you're accusing Mr. Night of
20 about that and why.	20 testifying and committing perjury?
21 A All right.	21 A I'm not accusing anyone. I just don't
22 Q Your lies have been exposed to the	22 recognize that man.

7592	1 Q You heard Mr. Night testify that it was 2 actually you who was upset with Mr. Depp spending 3 time away from him; isn't that correct? 4 A How would he know? He wasn't there. 5 Q You heard Mr. Night testify that it was 6 actually you who was yelling at Mr. Depp? 7 A Again, I've heard a lot of people say a 8 lot of things to be involved in the Johnny Depp 9 show, but he wasn't there. He doesn't know. And 10 he certainly doesn't know what happened behind 11 closed doors, like most people. 12 Q So you're calling Mr. Night a liar? 13 A I'm saying he wasn't there, and what he 14 testified to doesn't match what I know happened. 15 But I don't fault him. He wasn't there, so how 16 would he know? 17 Q He testified he was there, Ms. Heard. 18 Did you hear that? 19 A That's his testimony, yes. 20 Q So you're calling him a liar? 21 A I'm just saying he wasn't there. 22 Q You heard Mr. Night testify that the	7594	1 MS. VASQUEZ: And the security guard 2 testimony, Your Honor? 3 THE COURT: I'll allow it. 4 Go ahead. 5 Q Mr. Night also testified that he 6 charged Mr. Depp only \$62 for the light fixture. 7 You heard that, correct? 8 A I did. 9 Q. In Hicksville, you were the only one 10 that was jealous because Mr. Depp was spending 11 time with other people; isn't that correct, 12 Ms. Heard? 13 A That isn't correct. 14 Q In Hicksville, you were the one who was. 15 upset that Mr. Depp wasn't giving you enough 16 attention? 17 A Incorrect again. 18 Q Ms. Heard, you told this jury that you 19 had no idea the press was going to be at the 20 courthouse when you got your TRO on May 27th, 21 2016. 22 Do you remember that testimony?
7593	1 trailer wasn't trashed, and that's why you're 2 calling him a liar? 3 A He testified that a light fixture was 4 broken, similar to the way that Johnny's -- 5 Q Yes. Other than the light fixture, 6 that was the only thing that was broken -- 7 A -- employees testified to the closet 8 being rearranged and things like that. 9 Q -- right, Ms. Heard? Ms. Heard, the 10 only thing that was broken in the trailer, 11 according to Mr. Night, was a light fixture, yes 12 or no? 13 A I realize that he summed it up by 14 saying a light fixture was broken, just the way 15 his security guard summed up him trashing my 16 closet as -- 17 MS. VASQUEZ: Your Honor, I'm going to 18 move to strike everything after he summed it up, 19 that it was a light fixture, as nonresponsive. 20 MR. ROTTENBORN: She answered the 21 question. 22 THE COURT: Overruled.	7595	1 A I said I did not have anything to do 2 with it, yes. 3 Q No. My question, again, you told this 4 jury that you had no idea that the press was going 5 to be outside, after you got the ex parte TRO on 6 May 27th, 2016. 7 Do you remember that testimony? 8 A I apologize; I must have misunderstood, 9 Ms. Vasquez. I actually had no idea whether they 10 were going to be there or not. When I walked into 11 the courtroom that day, it was completely quiet, 12 still, empty. Even though I had given Johnny's 13 team notice that I was filing the TRO, we had -- 14 MS. VASQUEZ: Objection, Your Honor. 15 This is nonresponsive. 16 A -- no reason to believe that the press 17 knew. 18 MS. VASQUEZ: Move to strike. And, 19 Your Honor, I would also ask that you instruct the 20 witness to, please, stop talking once I lodge an 21 objection. 22 MR. ROTTENBORN: Your Honor, she's

<p>7596</p> <p>1 trying to answer the question as best she can, and 2 Ms. Vasquez is misrepresenting to her what she 3 testified to. 4 THE COURT: I'll instruct [sic] the 5 last part as nonresponsive. 6 If you could just answer the questions 7 asked, okay, thank you, Ms. Heard. 8 Q In fact, you testified that you were 9 "shocked" when you saw press when you were leaving 10 the courthouse, yes? 11 A Yes. 12 Q You weren't shocked at all, though, 13 were you? 14 A Incorrect. It was -- 15 Q You knew the press would be at the 16 courthouse, right, Ms. Heard? 17 A No. 18 Q Well, you did bring your publicist to 19 the courthouse with you on May 27th, 2016, didn't 20 you? 21 A I sure did. I'm a public figure. I 22 brought my publicist in case it blew up. In case.</p>	<p>7598</p> <p>1 A I remember him saying that. 2 Q That information must have come from 3 your team, right, Ms. Heard? 4 A Absolutely not. Why would I want that? 5 What actual survivor of domestic violence wants 6 that? 7 Q Now, the video of Mr. Depp beating up 8 some kitchen cabinets, you admit that you took 9 that video, correct? 10 A Yes, I did. 11 Q And you acknowledged that the video was 12 released online the day before you were deposed in 13 connection with your divorce from Mr. Depp in 14 August of 2016, right? 15 A I believe it was, yes. 16 Q But you testified that you had 17 absolutely nothing to do with the video's release, 18 right? 19 A Absolutely not. 20 Q And you testified that you learned 21 about it when you landed after flying into LA. 22 Do you remember that testimony?</p>
<p>7597</p> <p>1 Q You actually had alerted TMZ that you 2 would be filing a TRO against Mr. Depp, that very 3 day, didn't you? 4 A No, I did not. 5 Q The one day you didn't bother to wear 6 makeup to cover up the mark on your face? 7 A I did not call TMZ or any other news 8 source or paparazzi source. No one. I never did 9 that. 10 Q We heard testimony from former TMZ 11 employee Morgan Tremaine yesterday, correct? 12 A Did I hear his testimony? 13 Q Yes. 14 A Yes, I was here. 15 Q And you heard Mr. Tremaine's testimony 16 that he knew to dispatch the paparazzi to the 17 courthouse on May 27th, right? 18 A I heard him say that he knew that, yes. 19 Q And that he dispatched paparazzi to the 20 courthouse to capture a picture of an alleged 21 bruise on the right side of your face. 22 Do you remember him saying that?</p>	<p>7599</p> <p>1 A Upon touchdown is when I was alerted to 2 the video's existence online. 3 Q You heard Mr. Tremaine testify about 4 this video, as well, yesterday, didn't you? 5 A Yes, I did. 6 Q And you heard Mr. Tremaine testify that 7 TMZ received the cabinet video the same day you 8 landed at LAX, yes? 9 A I don't know if that -- I don't know if 10 that's what his testimony was, I'm sorry. 11 Q You heard Mr. Tremaine testify that the 12 cabinet video was posted 15 minutes after TMZ 13 received it, yes? 14 A That's what I heard him say. 15 Q And that this could only have been 16 possible if the video was received directly from 17 the source, yes? 18 A I heard him say that. I don't know if 19 that's true or if that's possible. Because it 20 didn't come from me. I was flying. 21 Q You heard Mr. Tremaine testify -- 22 A I knew that was incorrect, is what I</p>

<p>1 mean to say.</p> <p>2 Q Another liar on the stand?</p> <p>3 A I just know that that's incorrect.</p> <p>4 Q Right. And you heard Mr. Tremaine</p> <p>5 testify that TMZ owns the copyright to the cabinet</p> <p>6 video, right?</p> <p>7 A That's news to me.</p> <p>8 Q The cabinet video you filmed of your</p> <p>9 then husband, yes?</p> <p>10 A The copyright ownership of that is news</p> <p>11 to me. I learned that yesterday.</p> <p>12 Q It's the cabinet video that you</p> <p>13 captured of your then husband, yes?</p> <p>14 A That is correct. I did capture that</p> <p>15 video, and, yes, that was my husband.</p> <p>16 Q The cabinet video, the same cabinet</p> <p>17 video that was released the night before you were</p> <p>18 deposed in your divorce, yes?</p> <p>19 A That's correct.</p> <p>20 Q You must have also heard Mr. Tremaine</p> <p>21 testify that the version of the cabinet video that</p> <p>22 TMZ received was incomplete compared to the video</p>	<p>7600</p> <p>7602</p> <p>1 video, where you can be seen smirking -- I know</p> <p>2 you testified earlier that you haven't been</p> <p>3 smirking in this trial, but you sure were caught</p> <p>4 on camera smirking in that video --</p> <p>5 A I disagree with that.</p> <p>6 Q Was also not included in the TMZ video?</p> <p>7 A Everybody can watch that video and you</p> <p>8 can determine whether you think it's funny to me</p> <p>9 or not.</p> <p>10 Q That's because the video came from you,</p> <p>11 right, Ms. Heard?</p> <p>12 A It did not. It did not come to me -- I</p> <p>13 mean come from me.</p> <p>14 Q Ms. Heard, you edited out the portions</p> <p>15 that made you look bad before sending it to TMZ.</p> <p>16 A You are very wrong about that.</p> <p>17 Q So you didn't do that?</p> <p>18 A If I wanted to leak information, I</p> <p>19 could have done it in a more effective way, a lot</p> <p>20 sooner, and a lot more. I really did not leak</p> <p>21 this evidence. If I wanted to leak it, I could</p> <p>22 have done a lot more with it.</p>
<p>7601</p> <p>1 the jury saw in this trial.</p> <p>2 Did you hear that?</p> <p>3 A The video that the -- that you have</p> <p>4 seen is complete.</p> <p>5 Q Right. But the one TMZ got, the day</p> <p>6 before your deposition in the divorce, was</p> <p>7 incomplete?</p> <p>8 A I don't know. I haven't seen it.</p> <p>9 Q He testified that the beginning portion</p> <p>10 of the video, where you set up the camera, that</p> <p>11 wasn't included in the video TMZ received?</p> <p>12 A I don't know what video TMZ received.</p> <p>13 Q I'm talking about Mr. Tremaine's</p> <p>14 testimony, Ms. Heard. Let's just focus on</p> <p>15 Mr. Tremaine.</p> <p>16 A You're asking me to repeat his</p> <p>17 testimony?</p> <p>18 Q No, I'm asking you if recall hearing</p> <p>19 him say those words to this jury, under oath?</p> <p>20 A Yes, I heard his testimony. We all</p> <p>21 did.</p> <p>22 Q And he testified that the end on the</p>	<p>7603</p> <p>1 Q I thought you testified earlier in this</p> <p>2 trial that you didn't know how to leak things?</p> <p>3 A I don't.</p> <p>4 Q Right. You edited that video before</p> <p>5 you gave it to TMZ so that only Mr. Depp would</p> <p>6 look bad, yes?</p> <p>7 A That's absurd.</p> <p>8 Q Right in the middle of your divorce</p> <p>9 proceedings?</p> <p>10 A Again, you're very wrong.</p> <p>11 Q I would like to show you a picture</p> <p>12 that's already admitted into evidence.</p> <p>13 MS. VASQUEZ: It's Defendant's</p> <p>14 Exhibit 799.</p> <p>15 Q This is you at the courthouse on</p> <p>16 May 27th, 2016, when you got your domestic</p> <p>17 violence restraining order against Mr. Depp,</p> <p>18 right?</p> <p>19 A It is.</p> <p>20 Q And next to you is a woman named Jody</p> <p>21 Gottlieb, right?</p> <p>22 A Yes.</p>

7604	1 Q Jody Gottlieb is your publicist? 2 A And dear friend. 3 Q Now, I would like to show you what's 4 been marked as Plaintiff's Exhibit 1316. 5 This is a picture of you and your 6 friend Rocky Pennington, right? 7 A That is correct. 8 MS. VASQUEZ: Your Honor, I would like 9 to move to admit this photograph. 10 THE COURT: Any objection to 1316? 11 MR. ROTTENBORN: No, Your Honor. 12 THE COURT: All right. 1316 in 13 evidence. You can publish to the jury. 14 Q This is a picture of you on May 28th, 15 2016, right, Ms. Heard? 16 A I don't remember when this was taken. 17 Q This is the day after you obtained the 18 domestic violence restraining order against 19 Mr. Depp, right? 20 A I have no idea when this image was 21 taken. I did not take it. 22 Q There's no bruise on your face in this	7606	1 MS. VASQUEZ: Your Honor, I'm going to 2 move to admit and publish the article with 3 everything but the headline and date and the photo 4 redacted. 5 MR. ROTTENBORN: Objection, Your Honor. 6 That's inconsistent from the way you've treated 7 all of these. 8 THE COURT: I'll sustain the objection. 9 All right. Next question. 10 MS. VASQUEZ: Let's take a look at 11 picture Plaintiff's Exhibit 1317. 12 Q This is also a picture of you and 13 Ms. Pennington on May 28th, 2016; isn't it? 14 A I don't know when this photo was taken, 15 but it looks like the same outing as the picture 16 prior. 17 MS. VASQUEZ: Your Honor, I'm going to 18 move to admit and publish Plaintiff's 19 Exhibit 1317. 20 THE COURT: Any objection? 21 MR. ROTTENBORN: No, Your Honor. 22 THE COURT: 1317 in evidence. You can
7605	1 picture, is there? 2 A Again, I don't know when this was 3 taken, and, also, I'm outside. I was obviously 4 wearing makeup. I have no idea when this was 5 taken, so I have no idea if I can -- 6 Q Let's refresh your recollection. Let's 7 refresh your recollection about when this picture 8 was taken. 9 MS. VASQUEZ: Can you please pull up 10 Plaintiff's Exhibit 1315, just for the witness. 11 Q This is an article dated May 30th, 12 2016, right, Ms. Heard? 13 A That's what it says, yes. 14 Q And this article contains the same 15 photograph of you and Ms. Pennington we were just 16 looking at, yes? 17 A Yes, I see that. 18 Q And the article's entitled "Amber Heard 19 smiles as she puts arm around friend one day after 20 getting restraining order against Johnny Depp." 21 Is that what the title says? 22 A I know that's what the title says, yes.	7607	1 publish. 2 Q There's no bruise on your face in this 3 picture either, right? 4 A I disagree. And if it is taken when 5 you represent it was taken, then, obviously, 6 there's a bruise on my face. It's covered by 7 makeup, as per usual. 8 MS. VASQUEZ: Let's zoom out of that 9 picture for a moment, please. Thanks, Tom. 10 Q That's Josh Drew in this picture, 11 right? 12 A Yes, that's correct. 13 Q And Ms. Pennington -- 14 A That's correct. 15 Q -- is in there too? 16 A That's correct. 17 Q Ms. Pennington submitted a sworn 18 statement on your behalf in support of your 19 domestic violence restraining order, didn't she? 20 A I believe she did, yes. 21 Q Mr. Drew also submitted a statement in 22 support of your domestic violence restraining

<p>1 order? 2 A I believe they both did, yes, uh-huh. 3 Q Ms. Heard, I would like to show you 4 Defendant's Exhibit 512. 5 MS. VASQUEZ: Which is already in 6 evidence. 7 Q You've seen this photograph before, 8 right? 9 A I have. 10 Q On the second day of your direct 11 testimony, you testified that this was taken in 12 the downstairs of the main apartment on 13 December 15th, 2015. 14 Do you recall that testimony? 15 A Yes, I believe so. 16 Q So it's your testimony that Defendant's 17 Exhibit 512 reflects damage to penthouse 5 that 18 occurred during the December 15th, 2015 incident, 19 yes? 20 A I'm not quite sure from what incident 21 this is when I see this photo in a vacuum, without 22 context.</p>	<p>7608</p>	<p>1 Q Okay. Now, I'd like you to turn to 2 page 4603. Starting at line 12. 4603. Starting 3 at line 12 and going on to page 4604, line 4. 4 A Okay. 5 Q And do you see that you testified that 6 Defendant's Exhibit 512, which is on the screen -- 7 A Yes. 8 Q -- is a picture of the downstairs of 9 the main apartment? 10 A That's correct. 11 Q And the main apartment is penthouse 5, 12 in the Eastern Columbia Building, right? 13 A No, the -- well, depends on -- the main 14 apartment's penthouse 3, generally, when we say 15 main apartment. 16 Q Penthouse 5 was where you had your 17 closet? 18 A The downstairs is kind of -- like had 19 some of my painting studio set up and a reception 20 area. Upstairs was the closet. Mezzanine and 21 office was in between. 22 Q So it's your testimony that Defendant's</p>	<p>7610</p>
<p>1 Q Let's give you that context. 2 MS. VASQUEZ: Can we, please -- if I 3 could have day 16 trial testimony. 4 Your Honor, may we approach? 5 THE COURT: All right. Thank you. 6 THE WITNESS: Thank you. 7 Q Could you, please, turn, first, to 8 page 4585. Specifically, starting on line 16, 9 where it says "Let's talk about December 15th, 10 2015." 11 A You said 458 -- oh, I'm on 4485. 12 Sorry. You said 4585? 13 Q 4585. 14 A Pardon. 15 Q Line 16. Line 16, where it says "Let's 16 talk about December 15th, 2015." 17 Do you see that? 18 A Yes. 19 Q Okay. And then do you see that your 20 testimony about December 15th, 2015, follows? 21 A Let's see. It's just the first line or 22 two. Yes.</p>	<p>7609</p>	<p>1 Exhibit 512 reflects damage to the penthouse, 2 penthouse 5, that occurred during the 3 December 15th, 2015 incident, right? 4 A I'm just not sure from which incident 5 this is a picture of, since I'm only looking at a 6 partial floor. 7 Q Even though your counsel was asking you 8 questions about December 15, 2015, and then 9 admitted this picture into evidence -- 10 A Again -- 11 Q -- in relation to that incident? 12 A Sorry, go ahead. 13 Q In relation to that incident, on 14 December 15, 2015. This exhibit, Defendant's 15 Exhibit, you are the defendant, Number 512 was 16 admitted into evidence in this court. You 17 testified that this was a result of damage that 18 occurred on December 15th, 2015, yes or no? 19 A I just need to orient myself because 20 I'm just looking at a picture of a partial picture 21 of a floor. 22 Q No, Ms. Heard, you didn't just look at</p>	<p>7611</p>

<p style="text-align: right;">7612</p> <p>1 a picture. You looked at your testimony. 2 A You pointed me toward the page and then 3 asked me a question. I haven't actually reviewed 4 it. I don't know if this was submitted in 5 relation to that incident. 6 Q Let's pull up -- 7 MS. VASQUEZ: Let's actually leave up 8 Defendant's 512 and, please, pull up Defendant's 9 Exhibit 725, which is already in evidence. 10 THE COURT: Thank you. 11 MS. VASQUEZ: In redacted form, Your 12 Honor. 13 THE COURT: Thank you. You can 14 publish. 15 MS. VASQUEZ: Side by side. 16 Q You've seen this photograph as well, 17 right? 18 A I have. 19 Q On the third day of your direct 20 testimony, you testified that this photograph 21 reflected spilled wine in penthouse 5 on May 21st, 22 2016, didn't you?</p>	<p style="text-align: right;">7614</p> <p>1 THE COURT: Yes, ma'am. Thank you. 2 THE WITNESS: Thank you. 3 Q Let's turn to page 4750, in day 17 4 transcript. 5 A Sorry, can you repeat that? 6 Q 4750. Specifically, line 16. 7 Do you see where Ms. Bredehoft asked 8 you to describe for the jury what took place on 9 May 21st, 2016? 10 A I see that. 11 Q And do you see that your testimony is 12 reflected about May 21, 2016? 13 A Yes. 14 Q That follows? 15 A Yes. 16 Q Now, let's turn to page 4804, at 17 line 14. 4804, starting at line 14. 18 A Yes. 19 Q Through 4805, line 4. 20 A Going to what line? 21 Q Line 4 at 4805. 22 Do you see that you're testifying that</p>
<p style="text-align: right;">7613</p> <p>1 A Again, I don't know because I'm looking 2 at a partial picture of a floor, so unless you 3 remove the metadata you've covered up, we could, 4 then, tell. 5 MS. VASQUEZ: I didn't cover it up, 6 Your Honor -- 7 A Could we unredact it, so we can get 8 context? 9 THE COURT: That's how it's in 10 evidence. 11 Q That's how it's in evidence. 12 A The metadata next to it -- 13 Q Ms. Heard, Ms. Heard. There's no 14 question pending, and I would appreciate it if you 15 wouldn't be making argument to the jury. 16 A Sorry, I thought you had asked me about 17 it. 18 Q No, I didn't ask you about anything. 19 Let's look at your direct testimony 20 from the third day. 21 MS. VASQUEZ: Your Honor, may I 22 approach?</p>	<p style="text-align: right;">7615</p> <p>1 Defendant's Exhibit 725, which is reflected on the 2 right side, reflects spilled wine on the floor in 3 penthouse 5? 4 A That's correct. 5 Q And Defendant's Exhibit 512 and 725 6 seem to be different versions of the same picture, 7 don't they? 8 A That's correct. 9 Q Okay. So which is it? Which one was 10 taken on December 15th, 2015 or May 21st, 2016? 11 A If you remove the redacted metadata, 12 you can find out. It's right there. 13 Q Or if you're telling the truth, you 14 would know. 15 A Recognize a portion of spilled wine on 16 a floor, and I'm supposed to know, off the top of 17 my head, when you've lived through five years of 18 this stuff? I don't think so. That's not how 19 that works. 20 Q Okay. 21 MS. VASQUEZ: Thank you, Tom. 22 Q Ms. Heard, at the beginning of your</p>

Transcript of Jury Trial - Day 24
Conducted on May 26, 2022

46 (7616 to
7619)

7616	1 cross-examination last week -- 2 MR. ROTTENBORN: Your Honor, may we 3 approach? 4 THE COURT: Yes. 5 (Sidebar.) 6 MR. ROTTENBORN: The snickering from 7 the gallery is extremely distracting -- 8 MS. VASQUEZ: I actually agree with 9 Mr. Rottenborn. That's inappropriate. 10 MR. ROTTENBORN: There's someone 11 sitting on aisle, I believe it's my side -- 12 THE COURT: Do you know who it is? 13 MR. ROTTENBORN: I think it's the 14 blonde lady in the third row. And just generally 15 speaking, it's -- 16 MS. VASQUEZ: I agree with 17 Mr. Rottenborn. 18 THE COURT: I'm going to admonish them. 19 MR. ROTTENBORN: We can agree on that. 20 MS. VASQUEZ: Yeah, look at us, getting 21 along. 22 THE COURT: What I'll do is admonish	7618	1 where you told Mr. Depp to tell the jury, tell the 2 judge, tell the world that he is a victim of 3 domestic abuse. 4 Do you remember that? 5 A That's correct. 6 Q And you testified you found it hard to 7 believe that Mr. Depp would tell the world that 8 he's a victim of domestic abuse, didn't you? 9 A I said I find it hard to believe that 10 he would do that knowing that he, himself, had 11 beat me up for five years. 12 Q But he has told the world that he's 13 your victim of domestic abuse, hasn't he? 14 A Well, he started to say that only 15 recently. He didn't make that claim up until very 16 recently. So when we signed our divorce agreement 17 and we signed a statement saying that neither 18 party had ever said false claims for financial 19 gain, it was relevant and important to me because 20 I was the only one making the accusations, I was 21 the only one making those claims. He wasn't doing 22 that at the time, and he signed his name to it.
7617	1 the gallery. 2 MS. VASQUEZ: Do you want to skip back? 3 A sight to be seen. 4 THE COURT: What I'll do is I'll 5 admonish the gallery right now, and tell them if I 6 hear another word, I'll just clear the gallery for 7 the rest of the testimony. 8 MS. VASQUEZ: I have only, like, 9 five minutes left, Your Honor. 10 THE COURT: That will take care of it. 11 (Open court.) 12 THE COURT: Ladies and gentlemen in the 13 gallery, I would ask there be no words, no 14 phrases, no words, no sounds at all coming from 15 you. If I hear one more sound, I will clear the 16 gallery, and we will continue this testimony 17 without anybody in the courtroom. Understood? 18 Good. 19 All right. Your next question. 20 BY MS. VASQUEZ: 21 Q Ms. Heard, at the beginning of your 22 cross-examination last week, I showed you an audio	7619	1 Q You didn't expect as many people to 2 show up and testify on his behalf that did, did 3 you? 4 A Incorrect. 5 Q When you told this jury, under oath, 6 that you never assaulted -- actually, strike that. 7 MS. VASQUEZ: Sorry, Your Honor. 8 Q When you told this jury, under oath, 9 that you punched Mr. Depp because you thought of 10 Mr. Depp pushing Kate Moss down the stairs, you 11 didn't expect Ms. Moss to agree to testify that 12 that never happened, did you? 13 A Incorrect. I know how many people will 14 come out of the woodwork to be in support of 15 Johnny -- 16 Q So you're saying that Ms. Moss -- 17 A -- just like everyone in this courtroom 18 has come to do that. 19 Q Needs to come out of the woodwork to 20 testify for Mr. Depp? 21 A Everybody who was around in the '90s 22 and the early -- knew that rumor. I had heard

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<p style="text-align: right;">7620</p> <p>1 that rumor from multiple people. Of course that's 2 what flashed through my head when my violent 3 husband not only swung for me, but all the sudden, 4 swung for my sister. Of course I thought of that. 5 I didn't expect her to show up or not expect her 6 to show up. It didn't matter. It doesn't change 7 what I believed at the time when we were on the 8 stairs and I thought he was going to kill my 9 sister by pushing her down the stairs. 10 Q .You told this jury, under oath, that 11 Mr. Depp was aggressive and trashed a trailer in 12 Hicksville. You didn't expect the manager of the 13 Hicksville property, Morgan Night, to come forward 14 and testify that that wasn't true, did you? 15 A Incorrect. I've already been through 16 trials with this man. I know how many will come 17 out in support of him. 18 Q When you told this jury, under oath, 19 that you had no idea that the paparazzi would be 20 at the courthouse on May 27th, 2016, you didn't 21 expect a TMZ employee to show up to testify that 22 TMZ had been alerted that you would be at the</p>	<p style="text-align: right;">7622</p> <p>1 Q You didn't expect Ben King, the house 2 manager in Australia, to show up from England. He 3 flew from England to testify that Mr. Depp's 4 fingertip was found exactly where he said it would 5 be, did you? 6 A I have never heard Johnny testify to 7 knowing where his finger was or really, frankly, 8 making a claim that he knew where it was when it 9 was found. I've never heard Johnny claim that. 10 Johnny has never actually said that. 11 Q In other words, Ms. Heard -- 12 A I think the jury -- 13 Q Ms. Heard, there's no question pending. 14 You didn't expect Keenan White, 15 Mr. Depp's longtime sound technician, to show up 16 and testify that Mr. Depp is not being fed lines 17 through his earpieces, but, instead, music, did 18 you? 19 A Not that it matters much, but of 20 course, of course I did. I know how his employees 21 treat him. I know how his team treats him. Of 22 course I expected that.</p>
<p style="text-align: right;">7621</p> <p>1 courthouse and knew exactly what side of your face 2 to take a picture of, did you? 3 A I know how many people will come out 4 and say whatever for him. That's his power. 5 That's why I wrote the op-ed. I was speaking to 6 that phenomenon. How many people will come out in 7 support of him and will fall to his power. He is 8 a very powerful man, and people love currying 9 favor with powerful man. 10 Q Currying favor and risking jail time 11 for committing perjury? 12 A Excuse me? I didn't hear your 13 question. 14 Q You didn't hear my question? 15 A Ms. Vasquez, if you don't mind, please, 16 just repeat the question. I didn't hear you. 17 Q Curry favor and commit perjury in this 18 courtroom? 19 A I have seen people do this. 20 Q For a powerful man? 21 A I have seen people do this time and 22 time again. That's why I wrote the op-ed.</p>	<p style="text-align: right;">7623</p> <p>1 Q So you probably expected Mr. Isaac 2 Baruch to come and testify for Mr. Depp, right? 3 A I'm not sure I thought about that. 4 Q You didn't expect Mr. Baruch to weep, 5 to weep for Mr. Depp after what you put him 6 through, and so many others, with your lies, did 7 you? 8 A I relate to -- I relate to Isaac 9 because he and I are the only ones who cried on 10 the stand. 11 MS. VASQUEZ: No further questions, 12 Your Honor. Nothing further. 13 THE COURT: All right. Redirect. 14 MR. ROTTENBORN: Thank you, Your Honor. 15 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND 16 COUNTERCLAIM PLAINTIFF 17 BY MR. ROTTENBORN: 18 Q Ms. Heard, if Mr. Baruch felt misled, 19 who misled him? 20 A Johnny. And I don't blame him. I 21 don't blame him for crying. This is horrible. 22 Q Ms. Vasquez has suggested that you</p>

<p>7624</p> <p>1 faked bruises on your face. 2 Is that true? 3 A Absolutely not. I didn't need to. 4 Q Did you ever fake an injury caused by 5 Mr. Depp? 6 A No. 7 Q Is any of the evidence of your injuries 8 that has been put to the jury in this trial fake? 9 A No. Absolutely not. 10 Q And to the extent that there may be 11 some confusion over when a picture of spilled wine 12 was taken, why might that be? 13 MS. VASQUEZ: Objection. Lack of 14 foundation. 15 THE COURT: Overruled. 16 A Because there's so many incidents of 17 violence, there are so -- there's so many 18 pictures. There's so much evidence. Most people 19 don't have this kind of evidence for years. 20 Five years. And when I was saying that to Johnny 21 on the phone in that recording, I was saying for 22 years, this has been going on, and I have</p>	<p>7626</p> <p>1 Q How did the threats that Mr. Depp made 2 against you individually, years ago, resemble what 3 you have endured as a result of the Depp/Waldman 4 statements? 5 MS. VASQUEZ: Beyond the scope of 6 cross, Your Honor. 7 THE COURT: Overruled. 8 A Johnny promised me, promised me, he 9 would ruin me. That he would ruin my career, he'd 10 take my life from me. Death was the only way out, 11 and if I got out, this is what he'd do to me. 12 He'd make me think of him every single day. He 13 promised me global humiliation, you saw those 14 texts. He -- what he couldn't do, the work of one 15 individual, meaning Johnny, when he was inviting a 16 disgruntled employee over for a spot of purple to 17 fix my flabby ass up, that revenge that he sought, 18 back then, was just what he could do as an 19 individual. Calling a studio to get me fired. 20 Trying to block -- 21 MS. VASQUEZ: Objection, Your Honor. 22 Lack of foundation. Speculation. Hearsay.</p>
<p>7625</p> <p>1 pictures. We have texts, we have everything. You 2 normally don't get this amount of evidence. 3 That's what I was pointing out to Johnny. I would 4 be crazy to try to challenge this in this way. 5 It's crazy. It's easy to not know the context of 6 a picture of spilled wine because there are so 7 many more important details, pictures, and, also, 8 so much I didn't photograph, so much I didn't have 9 the presence. 10 MS. VASQUEZ: Objection. 11 Nonresponsive. 12 THE COURT: All right. I'll sustain 13 the objection. 14 Next question. 15 Q Did Mr. Depp abuse you physically? 16 A Yes. 17 Q Verbally? 18 A Yes. 19 Q Emotionally? 20 A Yes. 21 Q Psychologically? 22 A Yes.</p>	<p>7627</p> <p>1 THE COURT: I'll sustain as to 2 nonresponsive. 3 Q Ms. Heard, how did those things that 4 you testified to, that Mr. Depp did, how do those 5 resemble what happened after the Depp/Waldman 6 counterclaim statements were made? 7 A Those are -- 8 MS. VASQUEZ: Objection, Your Honor. 9 Lack of foundation. 10 THE COURT: Overruled. 11 MR. ROTTENBORN: Thank you, Your Honor. 12 A Those are just an echo of what I'm 13 living through today. It's what I'm living in 14 right now. What you see in this courtroom is an 15 echo. This courtroom and the other courtroom he 16 dragged me into to do this same thing again. 17 That's just an echo of the violence and the abuse 18 that I suffered within our relationship. The 19 campaigns to have me fired, the blocking me to try 20 to ruin my career. The threats he's made to 21 humiliate me globally. All being lived out in 22 real time in front of you, ladies and gentlemen,</p>

<p style="text-align: right;">7628</p> <p>1 for the past six weeks, and for the whole world, 2 since there are cameras here. 3 MR. ROTTENBORN: No further questions. 4 Thank you very much, Amber. 5 THE COURT: Ms. Heard, you can have a 6 seat next to your attorneys. 7 If I could have the attorneys approach. 8 (Sidebar.) 9 MR. ROTTENBORN: Your Honor, I will 10 just say, for the record, that is an example of 11 the types of things out there that I know both 12 sides have endured. Someone has been calling my 13 phone nonstop for the last 15 minutes. 14 MS. BREDEHOFT: Me as well. And 15 Rottenborn is calling me, and I'm calling me. And 16 now I have a message that they've locked my system 17 because of these calls. The excessiveness of 18 these calls. Just in the last 20 minutes. 19 MR. ROTTENBORN: Right now. 20 THE COURT: I only brought you up here 21 for motion to strike. 22 MR. ROTTENBORN: I know.</p>	<p style="text-align: right;">7630</p> <p>1 I'll just renew the arguments that I made in 2 opposition. And the only thing that I'll add is 3 there's no requirement that Mr. Depp have actually 4 seen the statements, it's that Mr. Waldman was 5 acting as his agent, and we believe there's 6 sufficient facts for which a jury can determine 7 that. 8 THE COURT: I'll deny the motion to 9 strike for the reasons the Court previously 10 stated. 11 MS. VASQUEZ: Thank you, Your Honor. 12 THE COURT: So maybe after I excuse the 13 jury, we'll take a recess, I guess. So, 12:50? 14 MS. VASQUEZ: Okay. Thank you, Your 15 Honor. 16 MR. CHEW: Thank you, Your Honor. Very 17 much. 18 (Open court.) 19 THE COURT: All right. Your next 20 witness. 21 MS. BREDEHOFT: Your Honor, the 22 counterclaimant, Amber Heard, rests.</p>
<p style="text-align: right;">7629</p> <p>1 MS. BREDEHOFT: Did you want me to 2 rest, though? 3 MR. ROTTENBORN: After this. 4 THE COURT: Let me do the motion to 5 strike, and then I can rest, and then I'll release 6 the jury. Can we do it that way? 7 MR. CHEW: I've reconsidered. I think 8 I've got to go -- I would -- sorry. 9 At the risk of taxing the Court's 10 patience, Mr. Depp renews his motion to strike the 11 counterclaims. And anti-SLAPP, understanding the 12 Court's view of that, for the reasons stated in 13 the papers and in oral argument, which we 14 incorporate by reference, just note, very quickly, 15 since the last motion to strike, Mr. Depp has 16 confirmed that he never saw any of the three 17 counterclaim statements until he was served with 18 the counterclaims, so that's procedural change. 19 So, we would note that and renew our motion to 20 strike, Your Honor. 21 THE COURT: All right. 22 MR. ROTTENBORN: As Your Honor knows,</p>	<p style="text-align: right;">7631</p> <p>1 THE COURT: All right. Thank you, 2 ma'am. 3 All right. Ladies and gentlemen, you 4 have heard all the evidence you're going to hear 5 in this matter. What I propose doing is to go 6 ahead and give you the rest of the afternoon off, 7 so you can have a good restful afternoon and 8 evening, and we will do closing arguments tomorrow 9 morning at 9:00 a.m., and then the case will be 10 submitted to you for deliberations. Just to give 11 you a little logistics of how that will go, 12 tomorrow, I won't give you a time limit as far as 13 how long you can deliberate in the afternoon into 14 the evening. I will tell you -- within reason. I 15 will tell you I do not serve dinner, so keep that 16 in mind. You will not be deliberating on Saturday 17 or Sunday or Monday, because Monday is a holiday. 18 I would like to have you back here Tuesday 19 morning, at least by 9:00. If you want to come 20 earlier, that's up to you. You can decide, as a 21 group, if you want to come earlier than 9:00, but 22 you have to be here at least by 9:00 to resume</p>

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50 (7632 to
7635)

7632	1 your deliberations again. And, again, on Tuesday 2 night, and if you have to go to Wednesday or 3 Thursday, that the time -- when you take your 4 breaks, is up to you, as long as you take them 5 together, as far as not having any deliberations 6 unless all of the jurors are in the room at the 7 same time. When you take your lunch is up to you. 8 And then, again, in the evening, within reason, 9 I'll let you go as long as you'd like to go, okay? 10 So, have a good evening and we'll see you tomorrow 11 morning. Do not discuss the case with anybody, 12 don't do any outside research. 13 (Whereupon, the jury exited the 14 courtroom and the following proceedings took 15 place.) 16 THE COURT: All right. We'll go ahead 17 and take a modified lunch recess, just until 18 12:50. We'll come back at 12:50. We just have a 19 few jury instructions left we have to do. Make 20 sure we get the verdict form taken care of. I 21 want you to review the laptop we have mocked up, 22 and make sure everybody agrees what's on it. And,	7634	1 received from both of you. I guess it's corrupted 2 on both of them, and nobody seems to be able to do 3 anything about it. 4 MS. VASQUEZ: Right. 5 THE COURT: So I think it might just be 6 that it's in evidence; however, it's not going 7 back to the jury because it's corrupted. 8 Does everyone agree with that? 9 MS. VASQUEZ: Yes, your Honor. Thank 10 you. It's just an Eastern Columbia Building 11 video, so that's fine. 12 THE COURT: It's corrupt. 13 MS. BREDEHOFT: Your Honor, I do have 14 more things I need to bring up. 15 THE COURT: Okay. Do you have more 16 exhibits to give? Good. Let's get Jamie here. 17 All right. So these -- you want to get 18 your list, Jamie, to make sure... 19 THE CLERK: Go ahead. 20 THE COURT: All right. It's 21 Defendant's 393, 821? 22 THE CLERK: Yeah.
7633	1 also, I want you to look through all your exhibits 2 and make sure we're on the same page. Before you 3 leave, I'll make sure you have copies of the jury 4 instructions in the order that I'm going to read 5 them, and you should be able to prepare for your 6 closing arguments tomorrow, okay? I'll see you at 7 12:50, then. 8 THE BAILIFF: All rise. 9 (Recess taken from 12:48 p.m. to 10 12:51 p.m.) 11 THE BAILIFF: All rise. 12 Please be seated and come to order. 13 THE COURT: All right. Okay. Let's go 14 ahead and start with jury instructions since 15 they're almost all done. That would be helpful. 16 MR. CRAWFORD: Okay. 17 THE COURT: Okay. I already have them 18 in a potential order, but let's go ahead and go 19 through them. 20 One thing I'll do for the record first, 21 Plaintiff's 287, which is the same as 22 Defendant's 780T, is a corrupted file that we	7635	1 THE COURT: 857. 2 THE CLERK: Yeah. 3 THE COURT: 857A. 4 THE CLERK: Yes. 5 THE COURT: 883, 1859. 6 THE CLERK: Yes. 7 THE COURT: 1905. 8 THE CLERK: Yes. 9 THE COURT: Make sure that's nothing; 10 it's the second page of that. 11 1050. 12 THE CLERK: Yes. 13 THE COURT: This seems to be a longer 14 one. Hold on. 15 And I think that is it, correct? All 16 right. Are you missing any other exhibits? 17 MS. MEYERS: Your Honor, if I may 18 approach -- 19 THE COURT: Yes, you have something? 20 Okay. 21 MS. MEYERS: -- we have some from 22 today.

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51 (7636 to
7639)

<p>7636</p> <p>1 THE COURT: Let's go ahead and get 2 those. 3 All right. So these were the two -- 4 well, all right. So we have -- okay. I think 5 this one's theirs. All right. So I have 6 Plaintiff's Exhibit 1316 and 1317. 7 THE CLERK: I still need 1301. 8 THE COURT: 1301? Does anybody have 9 1301, Plaintiff's 1301? 10 THE CLERK: It was an Instagram post. 11 THE COURT: An Instagram post? 12 MS. VASQUEZ: We'll get it, Your Honor. 13 THE CLERK: And then 711A and 711B from 14 today. 15 THE COURT: 711A and 711B, the one 16 without the metadata -- the one with the metadata 17 showing. It was the same pictures, but it showed 18 the metadata. 19 MS. MEYERS: I believe that was 712A 20 and 712 -- and 713A. 21 THE COURT: Yes, 7 -- 22 THE CLERK: I don't have those.</p>	<p>7638</p> <p>1 here until we have every piece of evidence with 2 Jamie and everybody's reviewed it so we don't have 3 to review that tomorrow and waste time with that, 4 okay? 5 All right. So now I think we can do 6 jury instructions, correct? All right. Let me 7 just go over the ones that we had a few issues 8 with. 9 At the first one I'm going to go over 10 is the self-defense. There's two: That would be 11 Number 28 and 29, correct? And I took those under 12 advisement. 13 Do you still have an objection to the 14 self-defense? All right. So what evidence do we 15 have in trial that would allow to have this -- 16 these two jury instructions? 17 MR. CRAWFORD: Sure, Your Honor. So I 18 think the evidence -- there's evidence in the 19 record showing that Mr. Waldman was Mr. Depp's 20 agent, that, you know, he was retained in 21 connection with the U.K. litigation and with this 22 litigation. There's evidence that he engaged with</p>
<p>7637</p> <p>1 THE COURT: We just don't have them, 2 712 and 713A. 3 MS. MEYERS: Understood. Okay. 4 THE COURT: Can I get them now? Trying 5 to get all the exhibits together right now so we 6 have them all together so we can review them. 7 THE CLERK: And then the other one 8 is -- 120D is not in evidence but was on their 9 list as in evidence. 10 THE COURT: 120D, as in David? 11 THE CLERK: Yes. 12 THE COURT: So 120D was listed as -- 13 you had it as in evidence, but we do not have it 14 in evidence. 15 MS. VASQUEZ: We'll just confirm, Your 16 Honor. 17 THE COURT: All right. Is that all the 18 pieces of evidence? 19 THE CLERK: Yes. 20 THE COURT: Excellent. That's good. 21 Okay. So we're very close to getting 22 all that. I just want to -- I don't want to leave</p>	<p>7639</p> <p>1 third parties in that capacity, that he met with 2 the Daily Mail with Mr. Depp, and that he believed 3 Mr. Depp's version of events. 4 And so I think all of that, I think, is 5 relevant evidence to a self-defense, that 6 Mr. Waldman made those statements in self-defense 7 on behalf of Mr. Depp. 8 THE COURT: So you're saying if agency 9 is found? 10 MR. CRAWFORD: If the agency is found. 11 MR. ROTTENBORN: We believe they're 12 inappropriate, Your Honor. First of all, we have 13 not been able to locate case law, but -- 14 THE COURT: We found one from 18 -- 15 what was it? 18... 16 THE LAW CLERK: '87. 17 MR. ROTTENBORN: That would have 18 been -- 19 THE COURT: 1887. 20 MR. ROTTENBORN: And I know I had seen 21 one a while ago -- 22 THE COURT: They said it was a</p>

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52 (7640 to
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<p style="text-align: right;">7640</p> <p>1 reversible error if you didn't give the 2 self-defense one, so I was... 3 MR. ROTTENBORN: Well, I know we had -- 4 I had taken a look on that a while back. I 5 think -- but I don't have a case cite for you. I 6 think it's a question of law as to whether it 7 applies. So at a minimum, I think we should 8 figure that out, I guess. But the reason we don't 9 think it should apply is these were statements 10 that are made -- that were made by Mr. Waldman in 11 2020. I guess it was before Ms. Heard's 12 counterclaim, so if he's saying that he's -- 13 THE COURT: It goes to the op-ed, I 14 think. 15 MR. ROTTENBORN: Understood. So if 16 he's saying it's -- this lawsuit was a statement 17 in response to the op-ed. Statements that were 18 made a year and a half later by Mr. Waldman, and 19 it doesn't -- again, Your Honor, the keywords are 20 "fairly and reasonably." So obviously both sides 21 are going to argue defamatory implication and what 22 did the op-ed really mean, and did it say these</p>	<p style="text-align: right;">7642</p> <p>1 THE COURT: Okay. 2 MR. ROTTENBORN: Mr. Depp's opportunity 3 for a fair and reasonable response, well, we don't 4 believe it was either, but he had the opportunity 5 to file a lawsuit in this court. 6 THE COURT: Right. 7 MR. ROTTENBORN: To have Mr. Waldman be 8 his attack dog and to say anything Mr. Waldman 9 then says as his attack dog is somehow fair and 10 reasonable and entitled to the privilege is 11 inappropriate. And I do think that before Your 12 Honor gives it, we need to confirm whether it's a 13 question of law. 14 THE COURT: Okay. 15 MR. CRAWFORD: Your Honor, 16 Mr. Rottenborn noted that this lawsuit was a 17 response to the op-ed, but I think there could be 18 multiple statements in response to the op-ed. So 19 I don't -- I think that's not dispositive of 20 anything, and the statements were clearly a direct 21 response to Ms. Heard's allegations on their face, 22 and whether those -- whether that response was</p>
<p style="text-align: right;">7641</p> <p>1 things. 2 But saying, even under their theory, 3 "Two years ago I became a public figure 4 representing domestic abuse," to say that, then, 5 it's fair for Mr. Waldman, a year and a half 6 later, to make public statements that Amber and 7 her friends roughed up the place and spilled a 8 little wine, you know, all the things he said in 9 those statements, that's not fairly and 10 reasonably. 11 Ms. Heard responded fairly and 12 reasonably to Mr. Depp's case through her 13 counterclaim. The parties can speak to each other 14 in the courtroom here, but saying if someone makes 15 a statement in an op-ed, that then you can go and 16 launch -- do whatever you want for two years, say 17 whatever you want, and obviously there's only 18 three statements that comprise the counterclaim, 19 but as the evidence has shown, it was part of a 20 pattern by Mr. Waldman. It was -- I mean, it's 21 the opposite of proportionate. It's the opposite 22 of fair and reasonable response.</p>	<p style="text-align: right;">7643</p> <p>1 fair and reasonable is a jury question. 2 THE COURT: I don't -- what do you say 3 is the matter of law? The privilege of 4 self-defense is a matter of law? 5 MR. ROTTENBORN: I think it could be 6 whether it applies. 7 THE COURT: Okay. Well, I think -- I 8 don't think it's a matter of law. I think it's 9 whether or not if there is any evidence that a 10 jury could find it being protective speech. Not 11 the weight of the evidence, but if there is any 12 evidence. And I don't think it's my role to weigh 13 that evidence as far as how long it was made 14 afterwards. 15 MR. ROTTENBORN: I think it is, Your 16 Honor. I mean, it can't be the case that any time 17 there's an alleged -- this is why this doesn't 18 come up often, because this just isn't given. If 19 it were appropriate here, every time there's a 20 defamation case, this would be an instruction, 21 even the person who's the defendant in the case. 22 So all I said, I was responding to something that</p>

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<p>1 was said before. 2 THE COURT: So all your evidence that 3 you say goes to the jury are just the statements, 4 that's why this should be given? That he made the 5 statements, that's the only evidence? 6 MR. CRAWFORD: Well, I think I -- 7 THE COURT: You gave me evidence of 8 agency, but that's just agency. Do you have any 9 evidence of self-defense, that this was -- that he 10 actually said these statements because of what she 11 said? 12 MR. CRAWFORD: Well, I think there's 13 circumstantial evidence, at least, that he was -- 14 so it's agency. He's an attorney who was retained 15 in connection with this litigation or the U.K. 16 litigation. 17 THE COURT: That doesn't automatically 18 give you self-defense though, a privilege of 19 self-defense. 20 MR. ROTTENBORN: And that's what I'm 21 saying. 22 THE COURT: You have to make them -- I</p>	<p>7644</p> <p>1 to be false. There was extensive evidence in the 2 record on that, in fact, I think. 3 MR. ROTTENBORN: That he was responding 4 to -- so if it's not the op-ed, then we're really 5 in murky ground. If he says, "Well, I was 6 responding to what she said in 2016," that's -- 7 THE COURT: Well, what Mr. Muniz is 8 saying is that you take it as a separate case. 9 You take it as a separate case, their claim and 10 then your counterclaim. So your counterclaim is a 11 separate standalone case, right? 12 MR. ROTTENBORN: Okay. 13 THE COURT: So the standalone case 14 doesn't -- your claim doesn't deal with the op-ed, 15 so they're saying, "In defense of your case, 16 that's why this comes in." 17 MR. ROTTENBORN: But he couldn't have 18 made a -- he couldn't have made the statements in 19 defense on our case because these are the bases 20 for our case. So what -- he had to have been -- 21 what was he responding to if it wasn't the op-ed? 22 And if it's not the op-ed, then we're really in</p>
<p>7645</p> <p>1 have to have some evidence that the statements 2 were made in response to the direct accusations of 3 Ms. Heard. I just -- some evidence. 4 MR. CRAWFORD: On their face, they 5 appear to be a direct response. 6 THE COURT: Not the statements 7 themselves, but any other evidence? Were the 8 statement fairly rose in response to Ms. Heard's 9 accusation? Did anybody testify that they -- that 10 he made these statements in response to her op-ed? 11 MR. ROTTENBORN: No. 12 MR. CRAWFORD: Not that I'm aware of, 13 Your Honor. 14 THE COURT: All right. 15 MR. MONIZ: Your Honor, just one small 16 point there. There's no requirement that it be in 17 response to the op-ed in particular. The question 18 for self-defense to apply is simply whether it's 19 made in response to an allegation against 20 Mr. Depp, and Mr. Waldman's evidence is clear, I 21 think, that he was responding to allegations 22 against Mr. Depp and he believed those allegations</p>	<p>7646</p> <p>1 murky ground because there's not -- plus, Your 2 Honor, a couple points: There was no -- to your 3 point, there's been no testimony he made these in 4 self-defense to anything. 5 Two, that the defense doesn't apply, 6 and this is -- 7 THE COURT: Well. 8 MR. ROTTENBORN: It doesn't -- this is 9 in the Haycox case, 1958. It doesn't apply if we 10 prove malice, so it has to be made in good faith 11 and without malice. So it's co -- I can bring the 12 case up, if you want, Your Honor. So if -- the 13 malice inquiry incorporates this. This is the, 14 let's see, 200 Va. 212, Haycox versus Willcox 15 Dunn, and it looks like on page 8 -- sorry, 231 -- 16 they're discussing a Massachusetts case, and -- 17 that says, "Statements made in an honest endeavor 18 to vindicate one's character or to protect one's 19 interest are usually regarded as qualifiedly 20 privileged, even though they are false, if they 21 are made in good faith and without malice." 22 So the malice inquiry takes care of</p>

<p style="text-align: right;">7648</p> <p>1 this. And in addition, I don't think I need to 2 remind the Court, but for the record, you know, 3 Mr. Waldman was not allowed to answer any 4 questions about this. So to say, "Well, he could 5 have been making it in defense of something," they 6 can have allowed him to answer questions and get 7 that answer on the record. They can't say, "Well, 8 he could have been making it in defense of 9 something now." 10 THE COURT: And when I say -- just 11 looking at your cases, you're claiming these 12 alleged defamation -- the three we have, 13 allegations, what they're saying in response, that 14 they made them because of something she said that 15 maybe is not the op-ed. 16 MR. ROTTENBORN: Then there's no 17 evidence of what that is. She responded -- she 18 was sued. She said the op -- she said -- 2016 is 19 when she made her -- 20 THE COURT: Uh-huh. 21 MR. ROTTENBORN: And 2018, she has the 22 op-ed that have, you know, a couple words that</p>	<p style="text-align: right;">7650</p> <p>1 are out there, and there's jury from which -- 2 there's evidence, excuse me -- from which the jury 3 could find that Mr. Waldman was acting in defense 4 of Mr. Depp. 5 THE COURT: No, acting in defense 6 against Ms. Heard's accusations. So what are 7 Ms. Heard's accusations that would be defense that 8 are in evidence? 9 MR. MONIZ: Your Honor, at the outlead, 10 there's been extensive evidence of the accusations 11 against Mr. Depp going back to 2016. For example, 12 the Dan Wootton article that they raised in 13 evidence prior to the op-ed, which included the 14 word "wife beater" and was essentially, you 15 know -- 16 THE COURT: But it has to be -- 17 MR. ROTTENBORN: That's not Ms. Heard's 18 statements. 19 THE COURT: -- Ms. Heard's statements, 20 right. 21 MR. MONIZ: I don't believe that's 22 correct, Your Honor. It doesn't have to be --</p>
<p style="text-align: right;">7649</p> <p>1 they're trying to turn into what we've just seen 2 for the last six weeks. And then she responded to 3 the lawsuit. 4 THE COURT: Okay. 5 MR. ROTTENBORN: So it can't be the 6 case that by trying to defend yourself in a 7 lawsuit that was brought against you -- if it's 8 not the op-ed, then it's got to be her statements 9 in the lawsuit, that somehow trying to defend 10 yourself through judicially immune statements in a 11 lawsuit entitles someone else to go out and say 12 whatever they want and then try to veil themselves 13 in the privilege. 14 MR. MONIZ: Counsel for Ms. Heard made 15 a point of making clear that there was extensive 16 allegations about Mr. Depp circulating. They 17 repeatedly brought up the U.K. action, which was, 18 in fact, the context in which I believe these 19 statements were made, based on the dates. It was 20 very close in time to the U.K. action. They 21 brought up the Dan Wootton article. These 22 allegations date back to 2016. These allegations</p>	<p style="text-align: right;">7651</p> <p>1 THE COURT: Against Ms. Heard's 2 accusations, it is. It is correct. 3 MR. ROTTENBORN: That would be crazy, 4 Your Honor. They get a jury instruction because 5 he was responding -- 6 THE COURT: I understand. 7 MR. MONIZ: Again, the number of 8 allegations made by Ms. Heard, it's been very well 9 documented in this case. You have the op-ed, and 10 it doesn't have to be just -- it doesn't have to 11 be any one particular allegation, but you have the 12 op-ed; you have the People magazine article; you 13 have the republication of her statements through 14 the wife beater and the Dan Wootton article; you 15 have the fact that she was giving testimony in the 16 U.K. action about these issues. 17 THE COURT: Well, then would you agree 18 that actual malice, you don't get the self-defense 19 if there's actual malice in his statements? If 20 the jury finds actual malice, then you don't 21 get -- 22 MR. MONIZ: If the jury finds actual</p>

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55 (7652 to
7655)

7652	<p>1 malice --</p> <p>2 THE COURT: Then it's not protected</p> <p>3 speech.</p> <p>4 MR. MONIZ: -- that may obviate the</p> <p>5 privilege, but that doesn't mean that the</p> <p>6 privilege is not applicable or valid.</p> <p>7 THE COURT: The only way you can find</p> <p>8 in this case is if there is actual malice. This</p> <p>9 goes back to their defense, SLAPP defense as well.</p> <p>10 The only way they find defamatory statements in</p> <p>11 this case is if there's actual malice, and that's</p> <p>12 unique to this case; I understand that. But so if</p> <p>13 they find actual malice, defamatory statements,</p> <p>14 you don't have protected speech privilege.</p> <p>15 MR. ROTTENBORN: And if there's no</p> <p>16 actual malice, they win.</p> <p>17 THE COURT: Yes, correct. The same</p> <p>18 with this -- that's why we're not giving a jury</p> <p>19 instruction on the SLAPP defense, because there's</p> <p>20 no basis for it.</p> <p>21 MR. ROTTENBORN: Right.</p> <p>22 MR. MONIZ: I mean, if the instruction</p>	7654	<p>1 constitutes a republication."</p> <p>2 And you just would rather have just the</p> <p>3 three sentences as yours for republication; is</p> <p>4 that correct?</p> <p>5 MR. CRAWFORD: Correct, Your Honor.</p> <p>6 THE COURT: You must find that -- you</p> <p>7 want to add that into it? I'm not sure. I'm just</p> <p>8 not sure how I'm reading it.</p> <p>9 MR. ROTTENBORN: I think, I think, and</p> <p>10 I don't mean to put words in their mouth. I think</p> <p>11 we want the whole thing at the top.</p> <p>12 THE COURT: Right.</p> <p>13 MR. ROTTENBORN: And they just want the</p> <p>14 one sentence at the bottom.</p> <p>15 THE COURT: Okay.</p> <p>16 MR. CRAWFORD: That's correct.</p> <p>17 THE COURT: That's correct?</p> <p>18 MR. ROTTENBORN: And, Your Honor, we</p> <p>19 talked about not going backwards. We went over</p> <p>20 this --</p> <p>21 THE COURT: No, I understand.</p> <p>22 MR. ROTTENBORN: We went over this on</p>
7653	<p>1 is not being given on the understanding that it's</p> <p>2 essentially moot --</p> <p>3 THE COURT: I agree. I think that's</p> <p>4 what happened with the SLAPP defense as well. We</p> <p>5 found out -- after we went down that legal road,</p> <p>6 we found out that was moot as well. Okay. So do</p> <p>7 you want me to deny you or withdraw it? I'll do</p> <p>8 either one.</p> <p>9 MR. MONIZ: If you don't mind denying,</p> <p>10 Your Honor.</p> <p>11 THE COURT: Okay. That's fine. I'll</p> <p>12 deny.</p> <p>13 That's Instruction 28 and 29. Okay.</p> <p>14 Put that in the "Deny" stack.</p> <p>15 All right. Next one I have is the</p> <p>16 republication one. Okay. So I see -- both of</p> <p>17 them -- dueling paragraphs for the republication.</p> <p>18 MR. ROTTENBORN: I can speak to this,</p> <p>19 Your Honor.</p> <p>20 THE COURT: Yes, sir. And I understand</p> <p>21 last time we spoke, that you had -- "You must</p> <p>22 determine whether any content that was added</p>	7655	<p>1 Friday. Your Honor said that -- on page 92 of the</p> <p>2 transcript, "I don't have a problem with the</p> <p>3 republished jury instruction; I just think it has</p> <p>4 to be accurate with adding the language," and that</p> <p>5 language was on page 89. You said, "But you also</p> <p>6 have to say that adding content to it may</p> <p>7 establish republication." So that's what we did</p> <p>8 in the sentence that starts with "Merely linking."</p> <p>9 THE COURT: Right.</p> <p>10 MR. ROTTENBORN: It did say, "Merely</p> <p>11 linking to article does not amount to</p> <p>12 republication." And then we added, directly from</p> <p>13 the transcript, "But adding content to it may</p> <p>14 establish republication." So now they've -- now</p> <p>15 they're going backwards. They just want you to</p> <p>16 strike the whole thing except the first sentence,</p> <p>17 and that's different from Your Honor's ruling on</p> <p>18 Friday and also doesn't fully capture --</p> <p>19 THE COURT: No. It doesn't capture the</p> <p>20 whole legal argument.</p> <p>21 MR. CRAWFORD: If I may just make our</p> <p>22 argument for the record here, Your Honor --</p>

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<p>1 THE COURT: I thought you did on 2 Friday, but if you want to do it again, that's 3 fine. 4 MR. CRAWFORD: Okay. Just very 5 quickly, so I think the issue with republication 6 is whether it reaches a new audience, which is 7 what you -- 8 THE COURT: And that's there. 9 MR. CRAWFORD: Well, it's included in 10 their instruction, and that is basically the full 11 extent of our proposed instruction. And we 12 believe it should be limited to that. 13 THE COURT: Okay. 14 MR. CRAWFORD: Lokhova is a case that 15 they've repeatedly cited in support of this 16 republication issue, and that's a case where there 17 was a defamatory New York Times article that was 18 hyperlinked in a more recent New York Times 19 article, and the court said that that's not 20 directed at a new audience; it's the same party 21 tweeting to the same audience, so there's no 22 republication.</p>	<p>7656</p> <p>1 constitute republication. You must determine 2 whether any added content was intended to reach a 3 new audience. If you find it was intended to 4 reach a new audience, it constitutes a 5 republication." I could say it in that -- add 6 that to the end of that paragraph. 7 MR. CRAWFORD: I think that's fine if 8 that's the Court's inclination. 9 THE COURT: Do you have any objection 10 to that? 11 MR. ROTTENBORN: I'm just -- I'm 12 thinking. Sorry. I'm -- 13 THE COURT: Okay. 14 MR. ROTTENBORN: -- a little slow on 15 the uptake. 16 MS. MEYERS: Can you read it one more 17 time? 18 MR. ROTTENBORN: Yeah. 19 THE COURT: Sure. Okay. Let's see. 20 All right. Let me see if I can incorporate it 21 into it. Okay. So "Merely linking to an 22 article does not amount to republication, but</p>
<p>7657</p> <p>1 And that's not the case here where 2 Ms. Heard has retweeted a Washington Post article 3 so that, you know, Ms. Heard's article -- 4 Ms. Heard's audience on Twitter is different than 5 The Washington Post, and so that's -- 6 THE COURT: But if it's -- but if she 7 just retweeted a hyperlink, that's different. But 8 in this context, and that's why I took the motion 9 to strike under advisement, once I got it, there 10 was more content to it. And that's why I'm 11 putting it in jury instruction because it is 12 accurate that a hyperlink alone is not enough to 13 reach a new audience. 14 But what I'm willing to -- what I think 15 would also add to it, though, is after "You must 16 determine whether any content that was added 17 constitutes republication," and -- let's see -- I 18 would say, then, "You must determine whether any 19 added content republished the op-ed to a new 20 audience." 21 I could say it that way, or I could 22 say, "but adding content to a linked article may</p>	<p>7659</p> <p>1 adding content to a linked article may constitute 2 republication. You must determine whether any 3 added content was intended to reach a new 4 audience. If you find it was intended to reach a 5 new audience, it constitutes a republication." 6 MR. ROTTENBORN: I think we would 7 prefer just to say just that first sentence, 8 "Merely linking to an article does not amount to 9 republication, but adding content to a linked 10 article may establish republication." 11 THE COURT: Well, that's what you 12 already had, isn't it? 13 MR. ROTTENBORN: No. Because we had 14 the "You must determine whether any content that 15 was added constitutes a republication." I think 16 it would be better to just delete the last two 17 sentences than to add the sentence at the end. 18 MR. CRAWFORD: Your Honor, I think -- I 19 want to note I don't think that adding content is 20 a requirement for republication, and we found in a 21 number of cases that when somebody repeats a 22 defamatory statement, that they're as liable as</p>

<p style="text-align: right;">7660</p> <p>1 the original defamer. 2 THE COURT: We're not going backwards. 3 So either it's his language or my language. What 4 do you want? 5 MR. CRAWFORD: I prefer the Court's 6 language. 7 THE COURT: All right. Then we're 8 going to put my court; that's fine. 9 MR. ROTTENBORN: Do you want us to do 10 the revisions? Because if you do it, we may just 11 get it one more time from you. We're happy to. 12 Or... 13 THE COURT: Sammy, can you do it? 14 You gave them to him in Word format? 15 MR. ROTTENBORN: We did. 16 THE COURT: All right. Can you do 17 that? Here. 18 MR. ROTTENBORN: The other thing I 19 would note is I think the word "retransmitted" in 20 the second line is misspelled. 21 THE COURT: In the second line? Okay. 22 All right. We'll take care of that. "But adding</p>	<p style="text-align: right;">7662</p> <p>1 Number two, the op-ed was all Amber's 2 statements. So the whole thing is her -- 3 THE COURT: I understand that. 4 MR. ROTTENBORN: -- words. The 5 counterclaim statements were Mr. Waldman's quotes 6 in another article that we don't believe -- you 7 know, that's not in evidence. There's no point 8 arguing about that other than you just have these 9 one, you know, one or two sentences from 10 Mr. Waldman. So we believe that the jury's going 11 to be confused if we give their instruction and 12 say, "We cannot read it as a whole, so, therefore, 13 we can't, you know, we can't follow the jury 14 instruction." 15 THE COURT: Okay. I can see your point 16 with that. Yes, sir. 17 MR. CRAWFORD: I don't think there's 18 anything in the -- I mean, there's a lot of 19 instructions here. I don't think there's anything 20 that would indicate they can't find the liability 21 if they're not able to take statements in their 22 proper context, in the context of the entire</p>
<p style="text-align: right;">7661</p> <p>1 content" -- just do it. 2 All right. Takes care of that one. 3 Next one is, I think, Instruction FF, defamatory 4 meaning. Consider the publication as a whole. 5 And we have dueling answers here. I have -- 6 defendant just has "op-ed" in it. The plaintiff 7 just has "is plain," which, I mean, it does say 8 that you -- it means you may not seize any word, 9 phrase, or image. So it would appear that -- so 10 it could apply to both of them in that context. 11 MR. ROTTENBORN: The problem, Your 12 Honor, is that we believe that because the 13 counterclaim statements that the jury will be 14 presented with are redacted, so the statements are 15 in isolation, that there's a risk that as they're 16 phrasing it, the jury may read the phrase, "You 17 must read the statements in context as a whole," 18 to say, "Well, we can't do that. So, therefore, 19 there's no liability." 20 Because it's impossible to read those 21 statements in the context of the whole piece. And 22 so, so that's number one.</p>	<p style="text-align: right;">7663</p> <p>1 article. Just thought it would be more 2 appropriately phrased to be mutual, as opposed to 3 obviously applying only to one party. 4 THE COURT: Well, because yours says, 5 "You must read the statements," which is true, but 6 you also can take the content -- "in the context 7 as a whole," but theirs, you can take that context 8 to the op-ed as a whole, which is accurate. 9 What you could do, if you want, I could 10 keep the op-ed at the top for their claim, and 11 then for your claim, we can -- "In determining 12 whether any of those statements attributed to 13 Mr. Waldman are false and defamatory, you must 14 read the statements," I could keep that in there 15 as a second paragraph. That way you -- that way 16 they can't just pull out -- which is -- because 17 it's accurate law also that they can't pull out 18 the word "hoax" and say, "Okay. This whole 19 statement." 20 MR. CRAWFORD: Agreed. 21 THE COURT: Okay? 22 MR. CRAWFORD: That's fine. Thanks.</p>

<p style="text-align: right;">7664</p> <p>1 MR. MONIZ: That's fine in concept. I 2 guess -- 3 THE COURT: In concept? 4 MR. MONIZ: -- I would ask, if Your 5 Honor does that, to add a clause saying, 6 "Disregarding any redactions on..." 7 THE COURT: Well, it says, "the 8 statements themselves." Statements -- in theirs, 9 "You must read the statements in context as a 10 whole." 11 MR. MONIZ: Right. So I think, I mean, 12 could we say, "In determining whether any of 13 Mr. Waldman's statements," whatever, "are false 14 and defamatory, you must read the text of those 15 statements as a whole"? "The text of those 16 statements in context as a whole," or something. 17 THE COURT: That's kind of -- "You must 18 read the statement in context as a whole," I think 19 that's -- 20 MR. MONIZ: "You must read" -- can we 21 say, "You must read those statements in context as 22 a whole"?</p>	<p style="text-align: right;">7666</p> <p>1 MR. ROTTENBORN: Which? Oh, 32. 2 THE COURT: I'm sorry. It's Depp 32. 3 MR. ROTTENBORN: Okay. 4 THE COURT: It's a new instruction. 5 MR. ROTTENBORN: Oh, yeah. Right, 6 right, right. This is the one at the end. This 7 is the new one. 8 THE COURT: Do you have any objection? 9 MR. ROTTENBORN: We do, yeah. 10 THE COURT: Okay. 11 MR. ROTTENBORN: The objection, Your 12 Honor, is that the objections made by counsel 13 during the course of trial, we have no problem 14 with something on that. But instructions -- what 15 they're trying to do is to direct the jury how 16 to -- what inference to draw from Mr. Waldman's 17 instructions not to answer. And -- 18 THE COURT: Well, the only legal 19 inference they can draw, they can't draw any 20 inferences from that. 21 MR. ROTTENBORN: Exactly and that's my 22 point is the --</p>
<p style="text-align: right;">7665</p> <p>1 THE COURT: "You must read those 2 statements in context" -- 3 MR. MONIZ: I just don't want them to 4 think that it's impossible for them to -- 5 THE COURT: Any problem with putting 6 "those" instead of "the" -- 7 MR. ROTTENBORN: I don't think we have 8 a problem with that, Your Honor. 9 THE COURT: Okay. "In determining 10 whether any statements attributed to Mr. Waldman 11 are false and defamatory, you must read those 12 statements in context as whole. This means you 13 may not seize on any one word, phrase, or image or 14 consider only one particular statement, phrase, or 15 passage in isolation." 16 Does that sound correct? 17 MR. CRAWFORD: Yes. 18 THE COURT: All right. We'll add that 19 as a second paragraph, keep Sammy busy. All 20 right. That takes care of that. 21 All right. The next one I have is the 22 objections to assertions of privilege.</p>	<p style="text-align: right;">7667</p> <p>1 THE COURT: Well, that's what this 2 says. "You may not draw any inferences from the 3 fact that an objection was made." 4 MR. ROTTENBORN: Yeah. But saying, 5 "Sometimes attorneys stated objections during the 6 course of this trial and instructed a witness" -- 7 no. 8 THE COURT: Right. 9 MR. ROTTENBORN: "And instructed a 10 witness not to answer a question. Objections and 11 instructions to witnesses are not evidence, and 12 you may not consider them in reaching your 13 verdict, nor are you to draw any" -- 14 So why do they need to be told this? I 15 mean, I think this is -- I think this risks 16 confuse -- 17 THE COURT: Because, well, because, to 18 be fair, the depositions, you wanted to keep in 19 all those objections when usually we take them 20 out, but you wanted to keep them in. So I want to 21 make sure the jury doesn't have any improper 22 inferences from leaving those objections in. You</p>

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59 (7668 to
7671)

<p style="text-align: right;">7668</p> <p>1 wanted to leave them in to show that "Hey, I asked 2 the questions; they were answered." Fine. But 3 you can't infer from that "Oh, well, they're 4 hiding something, then," or -- it's 5 attorney-client. 6 MR. ROTTENBORN: Understood. I mean, 7 just like you can't infer when someone takes the 8 Fifth in a criminal case, I get that. 9 THE COURT: Yeah. Which I would give 10 an instruction for. 11 MR. ROTTENBORN: Of course. I know. I 12 understand that. But I think that the -- I think 13 that the jury is entitled to draw their own 14 conclusions and -- not inferences. They're not 15 entitled to infer anything from that, but I just 16 think that this risks confusing the jury and 17 getting them to -- getting the jury to think -- if 18 they stand up in closing and say, "They haven't 19 presented any evidence that Mr. Waldman was doing 20 this," then that's using this instruction as a 21 sword. 22 If they get up there and say, "They</p>	<p style="text-align: right;">7670</p> <p>1 prejudicial if they're allowed in closing to say 2 that we haven't presented evidence of anything 3 about the parameters of Mr. Waldman and Depp's 4 relationship. That's -- 5 MR. MONIZ: That doesn't follow from 6 this instruction. 7 MR. ROTTENBORN: It does. 8 MR. MONIZ: This instruction is simply 9 saying that the jury is not to draw any 10 inferences from the objections and instructions 11 asserted by counsel. They can consider the 12 evidence. They can consider whether evidence was 13 presented or not. The instructions and objections 14 are irrelevant to that question. 15 MR. ROTTENBORN: No. 16 THE COURT: All right. I understand 17 your objections, but it is an accurate phrasing of 18 the law, and I want to make sure that the 19 inferences aren't taken against an attorney-client 20 privilege. 21 MR. ROTTENBORN: Okay. Can you deny 22 over our objection?</p>
<p style="text-align: right;">7669</p> <p>1 haven't" -- do you understand what I'm saying? 2 "They haven't proven that Mr. Waldman was acting 3 as his attorney. They haven't proven that 4 Mr. Waldman was authorized to make the 5 statements," and then they rely on this to hide 6 behind that and we're not allowed -- I'm not 7 saying that we will, but I'm not going to say, 8 "You heard him instruct him not to answer, and 9 that's -- you should infer that he was acting as 10 his agent." 11 I know I'm not going to say that, but 12 if they're going to argue in closing the converse 13 of that, then that's not -- that's prejudicial, 14 and that's -- makes this inappropriate. 15 THE COURT: All right. Yes, sir. 16 MR. MONIZ: Your Honor, this is just an 17 accurate statement of law. They chose to play 18 about 30 minutes of Mr. Waldman being instructed 19 not to answer. Without this instruction, that's 20 prejudicial. 21 THE COURT: All right. 22 MR. ROTTENBORN: And it would also be</p>	<p style="text-align: right;">7671</p> <p>1 THE COURT: You got it. I mean, no, I 2 can grant it over your objection. 3 MR. ROTTENBORN: Sorry. I meant grant. 4 THE COURT: Okay. 5 MR. ROTTENBORN: Yeah, sorry. Can we 6 get some direction for the arguments that they're 7 allowed to make on closing on that, Your Honor? 8 Because I don't think that's appropriate for them 9 to point to a lack of evidence when they didn't 10 allow Mr. Waldman to testify. 11 MR. MONIZ: Pointing out the 12 instructions are not evidence. It's not to say -- 13 there's no connection here between these issues, 14 Your Honor. 15 THE COURT: No, I'm not going to do 16 that. 17 So we're going to do Depp 32. I just 18 need to clean up the top part of it. All right. 19 Over objection, it will be offered. 20 All right. Then I have Instruction JJ, 21 which is the model. 22 MR. ROTTENBORN: Right.</p>

<p style="text-align: right;">7672</p> <p>1 THE COURT: So why would I not give the 2 model? 3 MR. ROTTENBORN: We believe you should. 4 I think the only -- looks like the only 5 substantial difference is that they, rather than 6 saying Ms. -- as it's written, it says, "clear and 7 convincing evidence that Mr. Waldman's 8 statements." It's confusing and misleading to 9 say, "If you found by clear and convincing 10 evidence that Mr. Waldman's statements were made 11 by Mr. Depp." We already have a principal agent 12 instruction. 13 THE COURT: Right. If they find 14 principal or agent, I mean, that would be the only 15 basis for it. 16 MR. ROTTENBORN: Right. 17 MR. MONIZ: First of all, Your Honor, 18 if liability is entirely vicarious, which I think 19 is the position of the counterclaim plaintiff in 20 this case, I don't think there's any evidence of 21 direct liability. If liability is entirely 22 vicarious, then I don't think there's a basis for</p>	<p style="text-align: right;">7674</p> <p>1 knowledge." I'd be okay with that. 2 THE COURT: Is that okay? 3 MR. MONIZ: I think we would retain our 4 objection on that on the basis previously 5 asserted, Your Honor. And then what's the other? 6 I'm sorry. Could I have counsel's language again 7 one more time. 8 THE COURT: Sure. 9 MR. ROTTENBORN: Yeah. "If you have 10 found by clear and convincing evidence that 11 Mr. Waldman, while acting as an agent for 12 Mr. Depp, made the statements with knowledge that 13 they were false or so recklessly" -- I think it's 14 "so reckless," so there's a typo there. Sorry. 15 We'd be okay with that. 16 MR. MONIZ: Yeah. I mean, we do 17 maintain the same objection, Your Honor, that 18 principal liability -- and we do have case law for 19 that proposition. 20 THE COURT: Overrule that objection. 21 We'll go ahead and -- can you type that up real 22 quick for me --</p>
<p style="text-align: right;">7673</p> <p>1 a punitive damages instruction at all against 2 Mr. Depp because vicarious liability generally 3 doesn't result in punitive damages as to the 4 principal. Punitive damages are only applied 5 where the person against which punitive damages 6 are being assessed actually engaged in conduct, 7 that it was wrongful. And that's not the way 8 they've pled and sought to prove their case. I 9 think that's the first -- 10 THE COURT: So their crux? Okay. So 11 they're saying you're not entitled to a punitive 12 damages instruction. 13 MR. ROTTENBORN: Well, I disagree with 14 that. There's no case law that they've cited in 15 here on that. And I think that's going backwards, 16 that that's an argument that we've -- 17 THE COURT: Okay. 18 MR. ROTTENBORN: Your Honor, and I just 19 think -- "that Mr. Waldman's statements were made 20 by Mr. Depp," I mean, I'd be okay with something 21 that said, "that Mr. Waldman, while acting as an 22 agent for Mr. Depp, made statements with</p>	<p style="text-align: right;">7675</p> <p>1 MR. ROTTENBORN: Sure. 2 THE COURT: -- and get that to me? If 3 you email it to Sammy, we can print it out. 4 MR. ROTTENBORN: Yep. 5 THE COURT: Okay. You're in charge of 6 that one. All right. That's fine. 7 I think that was it, correct, as far 8 as... 9 MR. ROTTENBORN: I think it was, other 10 than the verdict form. 11 THE COURT: Perfect. Let's go to the 12 verdict form. We'll get this -- do you have the 13 other ones for me yet, Sammy? You still working 14 on them? 15 MR. MONIZ: Typing it up. 16 THE COURT: If you can, print those 17 out. 18 All right. Let me get the verdict 19 form. All right. I think for the verdict form, 20 it was just the first page; am I correct with 21 that? 22 MR. ROTTENBORN: And the punitive</p>

<p>7676</p> <p>1 damages. 2 THE COURT: Well, the punitive damages 3 you don't have a response, right? Do we have... 4 MR. ROTTENBORN: I think it was just 5 that there was just a comment that we got from 6 them that we changed. 7 THE COURT: All right. I think it was 8 in 1A. The statement was about Mr. Depp. I think 9 the plaintiff wanted that out because we already 10 had the statement has a defamatory implication 11 about Mr. Depp, and the defamatory implication was 12 designed and intended by Ms. Heard, which I think 13 is... 14 MR. ROTTENBORN: If you look at the -- 15 it needs to track the finding instruction, which 16 is jury instruction C on page 4 of the jury 17 instructions. 18 THE COURT: Okay. 19 MR. ROTTENBORN: And that's what the 20 verdict form does. 21 THE COURT: Okay. Let me take a look. 22 And that was C? Okay.</p>	<p>7678</p> <p>1 go, correct? 2 MR. ROTTENBORN: No. Well, I'm sorry. 3 Did they -- did you withdraw the -- did they 4 withdraw the punitive damages? Okay. Fine. 5 THE COURT: So we're good with the 6 verdict forms, what I have as the verdict forms, 7 correct? 8 MR. MONIZ: Your Honor, I think yes, 9 but I do just want to make sure. I understand we 10 don't go back, but I just want to make sure 11 that -- for the record, we do maintain that the 12 verdict form should state that the defamatory 13 implication was false and not that the statement 14 was false. Because under the Pendleton case, that 15 can -- a facially true statement can still have a 16 false defamatory implication. 17 THE COURT: And we had that on the 18 record on Friday, but thanks for putting it in 19 again. It's fine. All right. So the verdict 20 forms are good. So we'll keep the verdict forms. 21 Did you print out the other? 22 THE LAW CLERK: I didn't.</p>
<p>7677</p> <p>1 MR. ROTTENBORN: Yeah. 2 THE COURT: Okay. 3 MR. ROTTENBORN: So the way it's been 4 written tracks the finding instruction. 5 THE COURT: All right. Tracks the 6 finding instruction. 7 MR. CRAWFORD: Yeah. We don't have a 8 strong objection here, Your Honor. I thought it 9 was maybe cumulative, but... 10 THE COURT: It does match the finding 11 instruction, which would be clearer to the jury. 12 We'll keep that in. 13 MR. CRAWFORD: That's fine. 14 THE COURT: And then the punitive? 15 MR. ROTTENBORN: And so, that would 16 carry through to all of that. 17 THE COURT: Oh, you're through all 18 those? 19 MR. CRAWFORD: We'll withdraw that, 20 Your Honor. Their preposed language is fine. 21 THE COURT: All right. So the verdict 22 forms as written, are the verdict forms good to</p>	<p>7679</p> <p>1 THE COURT: No, you can print it out. 2 That's how. Yeah. 3 So which ones are we missing, then? 4 We're missing the jury instructions. You're 5 working on two of them, right? 6 THE LAW CLERK: I have 32 and FF, 7 right. 8 THE COURT: 32 and FF? And you have 9 one jury instruction for me, right? 10 MR. ROTTENBORN: Yes. They're editing 11 it right now. It's JJ. 12 THE COURT: Okay. JJ is coming in. 13 And did you do the other one yet, or 14 no? 15 Could you guys do, Michelle, or -- 16 could you -- on Depp 32, could you take off 17 "disputed" and send that to us, too? 18 MR. ROTTENBORN: Yes. 19 THE COURT: Thank you. And that would 20 just leave us -- we'll get those two printed out, 21 and then I'll tell you the order that I'm going to 22 do them. While I'm doing that, I do have the</p>

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62 (7680 to
7683)

<p style="text-align: right;">7680</p> <p>1 laptop if both sides would like to look at the 2 jury evidence on these. They're going to -- let's 3 stay up here at the bench, but all we did was we 4 put two files on here. 5 There's no password for it as soon as 6 you open it up -- it doesn't have any Internet, 7 and there's just two files. One's Plaintiff, 8 one's Defendant. They just click on those two, 9 and then they can watch all the audio and the 10 video, okay? So if you want to, take a look and 11 make sure. It's been downloaded to everything 12 that we put on our website, which is all the 13 evidence. We didn't receive any new evidence 14 today for audio or video files, so it's everything 15 on there. 16 But if you want to take a look to make 17 sure that everything is there, you can do that. 18 Also all the tangible exhibits, Jamie will have, 19 except we need to get those others ones so we 20 can -- oh, you have them? Perfect. 21 MS. MEYERS: Yes. If I may approach, I 22 have 1301.</p>	<p style="text-align: right;">7682</p> <p>1 THE LAW CLERK: They should be. I will 2 check. 3 MS. MEYERS: Yes. So I believe you 4 should actually have those in unredacted form from 5 defendant's. 6 THE COURT: All right. Defendant's... 7 We have a few binders down here. Hold 8 on. 9 MS. MEYERS: Yes. I think they would 10 be in the binders; that's correct. 11 THE CLERK: 711? 12 THE COURT: 712 and 713. All right. 13 We'll take a look at those. 14 MR. NADELHAFT: Your Honor. 15 THE COURT: Yes? 16 MR. NADELHAFT: So I can give you a 17 copy. I wasn't able -- I was going to make a 18 proffer for the one -- for a whole bunch that -- 19 THE COURT: Do you want to go ahead and 20 make a proffer now? 21 MR. NADELHAFT: Yeah. But it included 22 712 and 713, so I can give you copies of that.</p>
<p style="text-align: right;">7681</p> <p>1 THE COURT: Okay. 2 MS. MEYERS: And then, Your Honor, I 3 just would like some clarification. 4 THE COURT: Sure. 5 MS. MEYERS: I understand that 6 Exhibit -- Defendant's Exhibit 712 and Defendant's 7 Exhibit 713 were initially moved into evidence in 8 redacted format. 9 THE COURT: Correct. 10 MS. MEYERS: Today we offered them and 11 put them in in unredacted form, so that's the -- 12 THE COURT: 712A and -- 13 MS. MEYERS: And then -- 14 THE COURT: -- 713A? 15 MS. MEYERS: -- 713A. 16 THE COURT: Yeah. 17 MS. MEYERS: I believe Your Honor 18 should already have those in unredacted form, I 19 believe. That's how they were provided to you. 20 THE COURT: Oh, they're in the binders 21 down here? 22 MS. MEYERS: I believe so. I will --</p>	<p style="text-align: right;">7683</p> <p>1 THE COURT: Oh, you can? That would 2 make Jamie happy. She's just down here, digging 3 through binders. 4 MR. NADELHAFT: Yeah. Well, I can give 5 you copies of that right now. 6 THE COURT: Okay. Perfect. All right. 7 Now we have those in evidence. Okay. All right. 8 So are we missing any more from over here? Or did 9 you find about the one you thought was in 10 evidence? 11 MS. MEYERS: So, Your Honor, 12 Defendant -- I believe -- oh, excuse me. It's 13 Plaintiff's Exhibit 120D, I believe, actually 14 Sammy and I had a number of back-and-forths about 15 this exhibit. I believe that defendant's counsel 16 provided a redacted version of that exhibit -- 17 MR. NADELHAFT: Yeah. 18 MS. MEYERS: -- to the court, but based 19 off our reading of the transcript, that exhibit 20 was not actually offered into evidence. 21 THE COURT: Okay. So it's not 22 evidence, then?</p>

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63 (7684 to
7687)

7684	1 MR. NADELHAFT: It's not in evidence, 2 Your Honor. I thought -- and I believe I emailed 3 it to Sammy last week. 4 THE COURT: You've got to take 5 "disputed" off. 6 MR. NADELHAFT: But if you don't have 7 it, I'm happy to bring it tomorrow. But it's not 8 in evidence. So it wouldn't go back to the jury 9 anyway. 10 THE COURT: Okay. All right. So I 11 just want to make sure because it was checked off 12 on somebody's list that it was in evidence, and I 13 just wanted to make sure. I don't know. 14 MR. NADELHAFT: I think it is not. 15 THE COURT: But it's not. We're good. 16 MS. MEYERS: And then I heard that 17 Exhibit 711A and B, I'm not sure -- 18 THE COURT: Yeah. I think it's 712 and 19 713. 20 MS. MEYERS: Okay. 21 THE COURT: So we're good. 22 MS. MEYERS: All right.	7686	1 THE COURT: Okay. Did you take the 2 "disputed" off the top? 3 MS. McCAFFERTY: I did. 4 THE COURT: Thank you. All right. Let 5 me just get this printed. 6 Could somebody -- could you print me 7 out another one of AA. There's a mark on this 8 one. Or at least email it to -- just email that 9 one to Sammy. Something in the paper just doesn't 10 look right. 11 MR. ROTTENBORN: Your Honor, will we be 12 getting just a paper, a paper printout, or an 13 electronic copy from the Court? 14 THE COURT: All I have is a paper 15 printout. 16 MR. ROTTENBORN: Okay. So we can scan 17 it? 18 THE COURT: You can scan it. If you 19 want to do it electronic, that's fine. 20 MR. ROTTENBORN: And then will these be 21 posted on the -- 22 THE COURT: Not until after I give
7685	1 THE COURT: So, Jamie, are we missing 2 anything else? 3 Sammy, did you print out the ones that 4 they sent you too? The email. 5 Did you email Sammy the -- 6 MS. McCAFFERTY: He's just 7 double-checking right now. 8 THE COURT: Oh, okay. Okay. We'll get 9 that in a second. Let me just put these in order. 10 I've got that one without a dispute on it. 11 You want to go ahead and print that 12 out? Just print two copies so we can share them. 13 The one Sammy printed off on republication, I'm 14 going to give you copies to make sure they're 15 right, okay? 16 MS. McCAFFERTY: Yes. And you should 17 receive in your email soon FF, JJ, 32. 18 THE COURT: Okay. 19 So if you could, print those out too, 20 Sammy. Let's print those out. 21 So you're sending FF also? 22 MS. McCAFFERTY: Uh-huh.	7687	1 them. 2 MR. ROTTENBORN: Not until after. 3 Okay. Wasn't sure. And they're read before 4 closing? 5 THE COURT: They're read before 6 closings. 7 All right. Thank you. 8 If you want to, take a look at that 9 instruction and make sure it looks okay before I 10 add it to the stack? You have the actual malice 11 one? 12 MR. ROTTENBORN: Yes. 13 THE COURT: Okay. Oh, never mind. 14 Jamie already gave it to me. Sorry, Jamie. 15 MR. ROTTENBORN: Your Honor, was it -- 16 THE COURT: Is there -- 17 MR. ROTTENBORN: No, I think it's fine. 18 Does the Court want to leave the, you know, "Heard 19 C Depp 7" sort of things in there? 20 THE COURT: No. 21 MR. ROTTENBORN: Because, like, 22 otherwise we could --

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64 (7688 to
7691)

<p>7688</p> <p>1 THE COURT: Heard C -- oh, no. Well, 2 the numbers at the top can stay. I just don't 3 want it to say "disputed." 4 MR. ROTTENBORN: I don't think any of 5 them say "disputed." 6 THE COURT: Okay. No. The numbers, I 7 tell the jury to disregard the numbers in the 8 heading. 9 MR. ROTTENBORN: Okay. That's fine. 10 THE COURT: That's better for the 11 record if we keep it that way. 12 Okay. So any -- oh, you're still 13 reading the publication. Okay. 14 MR. ROTTENBORN: Your Honor, can we 15 get -- sorry to bother Sammy. Can we get one more 16 printout of the actual malice instruction. 17 THE COURT: Sure. 18 MR. ROTTENBORN: Thank you. 19 THE COURT: Jamie, can we get another 20 actual malice. 21 MR. ROTTENBORN: AA. 22 THE COURT: All right. Any objection</p>	<p>7690</p> <p>1 Ms. Heard. Do you have any objection to us 2 playing video depositions, portions of -- 3 THE COURT: If it's not in evidence, it 4 doesn't get -- 5 MS. VASQUEZ: No, of course. Just 6 what's in evidence. 7 THE COURT: There's no video 8 depositions in evidence. 9 MS. VASQUEZ: Oh, I see what you mean. 10 Okay. So -- 11 THE COURT: The only thing that can be 12 played to them is what is in evidence. 13 MS. VASQUEZ: But they're testimony. 14 It's witness testimony. 15 THE COURT: Well, yeah. But that would 16 be like -- but depositions are witness testimony 17 that you have during trial. That doesn't go back 18 to the jury as evidence. And deposition -- video 19 depositions are the same. That would give more 20 weight to video depositions than witness 21 testimony. 22 MS. VASQUEZ: Well, so my question is</p>
<p>7689</p> <p>1 to the republication, then, as typed? 2 MR. CRAWFORD: No, Your Honor. 3 THE COURT: Okay. We'll put that in 4 there as well. 5 MR. ROTTENBORN: Hold on. 6 THE COURT: Is there a typo? 7 MR. ROTTENBORN: Nope. It's okay. 8 THE COURT: It's okay? 9 MR. ROTTENBORN: Yep. 10 THE COURT: All right. 11 MS. VASQUEZ: Your Honor, I just have a 12 very quick question regarding closing arguments, 13 if we may. 14 THE COURT: Okay. Sure. 15 MS. VASQUEZ: Does the Court have any 16 objection to us playing very small clips of -- 17 THE COURT: As long as they're in 18 evidence, you can play anything, show any picture. 19 MS. VASQUEZ: Well, that's my question. 20 THE COURT: Okay. 21 MS. VASQUEZ: So obviously depositions 22 were by video, many witnesses, especially</p>	<p>7691</p> <p>1 it's a follow-up question to that. Obviously this 2 trial was televised, so there are videos of 3 witnesses testifying. So -- 4 THE COURT: No. None of that comes in. 5 MS. VASQUEZ: Okay. 6 THE COURT: No. The four walls of this 7 courtroom is what the jury decides the case in, 8 period. 9 MS. VASQUEZ: Okay. 10 MS. BREDEHOFT: And just so we don't 11 have a problem tomorrow also, we can't put in 12 front of the jury written deposition or trial 13 testimony? 14 THE COURT: That's correct. That's 15 correct. Only things that are in evidence. 16 MS. VASQUEZ: Understood, Your Honor. 17 MS. BREDEHOFT: But you can show 18 pictures in evidence. You can show video that's 19 in evidence. 20 MS. VASQUEZ: Or audio that's in 21 evidence? 22 THE COURT: Or audio that's in</p>

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65 (7692 to
7695)

7692	1 evidence. All that's fair game. 2 MR. ROTTENBORN: No display of written 3 transcripts either. 4 THE COURT: No written transcripts. 5 Just only items in evidence. And -- 6 MR. ROTTENBORN: No, I was -- I'm on 7 the same page. 8 THE COURT: Okay. I just want to make 9 sure. 10 MS. VASQUEZ: Thank you, Your Honor, 11 for the clarification. 12 THE COURT: And you have two hours, 13 right? Two hours each, and you -- two people over 14 here and two people over there, is that what's 15 going to happen? 16 MS. BREDEHOFT: Yes, Your Honor. We're 17 going to split our closing, and then only one of 18 us will do the rebuttal. 19 THE COURT: Okay. And that has to just 20 be on the rebuttal case, correct? 21 MS. BREDEHOFT: Right. 22 THE COURT: We had that down, right?	7694	1 hours. They get two hours. 2 THE COURT: Total. 3 MR. CHEW: Is it fine if it's not 4 exactly one hour for each? 5 THE COURT: That doesn't matter to me, 6 no. 7 MR. CHEW: That's up to us? Okay. 8 THE COURT: As long as your time is 9 just two hours, it doesn't matter how much anybody 10 does. 11 MR. CHEW: Thank you, Your Honor. 12 THE COURT: Okay? 13 MR. ROTTENBORN: If you wanted to 14 shorten that to about 15 minutes apiece -- 15 THE COURT: I would want to shorten it 16 to two minutes, but, you know, that's not my take. 17 I gave you two hour. I thought that was 18 good. 19 MS. BREDEHOFT: We got pretty efficient 20 at the end of it. 21 THE COURT: Yeah. That's amazing how 22 that happens, yeah. It's kind of like the physics
7693	1 We've gone through that a few times. 2 MR. ROTTENBORN: Understood. 3 THE COURT: Mr. Chew, do you have 4 something on that? 5 MR. CHEW: Yes. I just wanted to make 6 sure we're all on the same page. So plaintiff 7 goes first? 8 THE COURT: Correct. 9 MR. CHEW: Then the 10 defendant/counterclaim plaintiff? 11 THE COURT: Right. They do their 12 defense to your claim, and also they do their 13 offense to their claim. 14 MR. CHEW: And then plaintiff? 15 THE COURT: Plaintiff gets to do their 16 defense to their claim and their rebuttal. 17 MR. CHEW: And they respond only with 18 respect to the rebuttal. 19 THE COURT: Rebuttal to their 20 counterclaim only. 21 MR. CHEW: To the counterclaim. And so 22 it goes one, two, one, two, and plaintiff gets two	7695	1 of, you know, you make a circle, and then people 2 will fill that circle. That's how that happens. 3 I made a circle. 4 Okay. So let me just go ahead and read 5 into the record the order that I'm going to give 6 the jury instructions. I'll also read into the 7 record the instructions that were denied, and I 8 will read the instructions that were withdrawn, 9 just so we have a complete record, okay? 10 All right. Here we go. For the jury 11 instructions, I'll read them in the following 12 order: Number Heard I; Number 3; Number 10; 1; B, 13 as in "boy"; C, as in "Charlie"; D, as in "delta"; 14 E, as in "echo"; F; G; H; 12; 13; Y; FF; AA; BB; 15 DD, that's "David David," DD; TT; CCC; 20; Z, as 16 in "zebra;" T; U; V, as in "Victor"; K; L; 5; 6; 17 7; 32; 8; 9; 16; II; 30; KK; and JJ. 18 All right. Those are the ones that 19 will be read to the jury, in that order. 20 Okay. The ones that were denied was 21 instruction 22; 23; 24; CC; NN, both as in 22 "Nancy"; OO; PP; RR; SS, S as in "Sam," SS; 28;

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66 (7696 to
7699)

7696	1 and 29 are the ones that were denied. 2 The ones that were withdrawn, for the 3 record, was instruction A; 2; 4; 11; 14; 15; 17; 4 19; 21; 25; 26; 27; X, as in "X-ray"; 31; W; EE; 5 GG; QQ; DDD; Q; 18; J; M; N; O; P; R; S; HH; LL; 6 UU; VV; WW; XX; YY; ZZ; AAA; and BBB. 7 All right. So we will -- I will get 8 you copies now. I'll get you hard copies of the 9 jury instructions I'm going to read, in that 10 order, so you'll have copies when you leave here, 11 okay? And I'll give you copies of the verdict 12 form as well, and you can have those while you 13 prepare for your closing arguments. 14 Other than that, if you could, come up 15 to see Jamie after I leave the bench, just to make 16 sure you go through the exhibits and everybody 17 okay the exhibits so we don't have to do that 18 tomorrow. And also if you can, have a look at the 19 laptop with Sammy, just to make sure all your 20 exhibits are there that are going to go back to 21 the jury, okay? 22 MR. ROTTENBORN: Your Honor, one quick	7698	1 THE COURT: Just try to keep it clean. 2 MR. ROTTENBORN: -- more paraphrasing 3 of witnesses or anything like that. 4 THE COURT: Okay. That sounds fine 5 with everybody. Just does anybody -- 6 MR. ROTTENBORN: That's fine with me. 7 THE COURT: That's a good question 8 though. Are you going to have a PowerPoint? 9 MR. ROTTENBORN: Probably, with 10 evidence. 11 THE COURT: Okay. Did you want me to 12 have the big screen up as well for the PowerPoint? 13 MR. ROTTENBORN: I think so. Yeah. I 14 think that would be great. 15 THE COURT: Okay. 16 MS. VASQUEZ: Thank you, Your Honor. 17 Yes. 18 THE COURT: Okay. Good. We'll do that 19 as well. 20 MR. ROTTENBORN: And starts at 9? 21 THE COURT: Starts at 9. Closings 22 start at 9.
7697	1 question about closing -- 2 THE COURT: Okay. 3 MR. ROTTENBORN: -- to make sure we 4 don't have any issues tomorrow. 5 THE COURT: Sure. 6 MR. ROTTENBORN: Understand the jury 7 only sees evidence -- 8 THE COURT: Yes. 9 MR. ROTTENBORN: -- that they've seen 10 in the trial. If there's -- if that evidence is 11 displayed through, like, a PowerPoint or whatever, 12 are -- like, are headings allowed? Or do you not 13 want the jury to see any written texts or anything 14 other than just evidence? 15 THE COURT: I mean, I've seen 16 PowerPoints in cases before, in med mals where 17 they have their -- other items up there, but I 18 think in this particular case, I'd rather just 19 have no writing and just have your arguments 20 orally. 21 MR. ROTTENBORN: That's fine. I wanted 22 to -- yeah -- make sure that there wasn't --	7699	1 MS. BREDEHOFT: Your Honor, 2 Mr. Nadelhaft has a proffer still on some things. 3 THE COURT: Yeah. 4 MS. BREDEHOFT: Do you want to do that 5 now, before we -- 6 THE COURT: Sure. Everybody wants to 7 hear your proffer. 8 MS. VASQUEZ: Also Ms. Meyers' at the 9 end of Mr. Nadelhaft's. 10 THE COURT: All right. They have one 11 too. So go ahead. 12 MR. NADELHAFT: This will be shorter -- 13 THE COURT: If you could, just get to 14 the microphone so I can hear you better. Or the 15 court reporter can hear you better. 16 MR. NADELHAFT: This will be shorter 17 than the other day. 18 THE COURT: Oh, good. 19 MR. NADELHAFT: Okay. This is for 20 metadata. May 16th and May 17, 2022, the 21 defendant attempted to introduce into evidence 22 photographs from May 21st, 2016, that included

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67 (7700 to
7703)

<p style="text-align: right;">7700</p> <p>1 metadata on the photographs. Ms. Heard testified 2 that the metadata was included on the photos by 3 pressing a button on her phone. The metadata 4 demonstrated the pictures were taken on 5 December 21st, 2016, along with the times they 6 were taken. The exhibits were Defendant's 7 Exhibits 700 through 726 and our Exhibits A 8 through AA of the proffer. Tabs N and O of the 9 proffer are now blank, as Defendant's 712 and 713 10 were admitted with the metadata on May 26th, 2022. 11 Mr. Depp objected to the metadata on 12 the documents, stating that the metadata was 13 hearsay and there was no foundation for the 14 hearsay. The Court sustained the objection on the 15 ground that the metadata was hearsay and that 16 there was no foundation and admitted the exhibits 17 but redacted the metadata. 18 And then separately, we have a proffer 19 for Stephen Deuters. On May 20th, 2022, Ms. Heard 20 moved to designate certain portions of the 21 deposition testimony for trial of Stephen Deuters, 22 who was Mr. Depp's personal assistant, Mr. Deuters</p>	<p style="text-align: right;">7702</p> <p>1 Mr. Depp's employee, sending text messages to 2 Ms. Heard was not within the scope of the 3 employment. The Court denied the motion to admit 4 the text message in testimony, finding that 5 Mr. Deuters was not acting as Mr. Depp's agent 6 when he sent the text message. 7 And I'll provide -- I have copies to 8 provide. 9 THE COURT: All right. Fine. We can 10 add it to the list. We have a box for you. All 11 right. Add that. 12 MR. NADELHAFT: Oh, sorry, Your Honor. 13 THE COURT: I think he has more. 14 MR. NADELHAFT: And this is the other 15 one. 16 THE COURT: All right. We'll make them 17 part of the record. Thank you, sir. All right. 18 Yes, Ms. Meyers. 19 MS. MEYERS: Thank you, Your Honor. On 20 May 25th, 2022, plaintiff intended to call Dr. Kim 21 Collins as an expert witness in forensic 22 pathology. Defendants objected on the basis that</p>
<p style="text-align: right;">7701</p> <p>1 testified that he was on the Boston flight and sat 2 in a seat facing Ms. Heard and Mr. Depp. He 3 further testified that the day after the flight, 4 Mr. Depp told him he wanted to "smooth whatever 5 issue" existed with Ms. Heard. Mr. Depp asked 6 Mr. Deuters to "write a text" to Ms. Heard and to 7 say "whatever she needs to hear." Mr. Deuters 8 then sent a text message to Ms. Heard about 9 Mr. Depp stating, "When I told him he kicked you, 10 he cried." 11 The testimony is contained in Exhibit A 12 and Mr. Deuters' deposition. Ms. Heard moved to 13 admit the text message into evidence arguing it 14 was not hearsay under Rule 2:803 which provides 15 for the admission of statements of a party 16 opponent and its agents. Ms. Heard argued 17 Mr. Deuters was acting as Mr. Depp's agent when he 18 sent the text, and the text message was therefore 19 not hearsay. The text message is Exhibit B to the 20 proffer. 21 Mr. Depp objected to the text message 22 as hearsay, arguing that although Mr. Deuters was</p>	<p style="text-align: right;">7703</p> <p>1 Dr. Collins had not been designated as a defensive 2 witness and was designated only to rebut 3 Dr. Jordan, which was defendant's forensic 4 pathologist who had not been put up at this trial. 5 Dr. Collins intended to testify as to 6 whether Ms. Heard's descriptions of violence and 7 injuries allegedly sustained by Mr. Depp were 8 consistent with the photographic evidence at issue 9 in this trial. 10 She also, for incidents where there was 11 no photographic evidence, she would have testified 12 as to what injuries she would have expected to see 13 based off of the violence Ms. Heard testify to. 14 And finally, she would have testified 15 as to her opinion as to the cause of -- or as to 16 Mr. Depp's finger injury and what she observed 17 consistent -- which was similar to what 18 Dr. Gilbert testified to today. 19 THE COURT: All right. Thank you. Any 20 other proffers? Okay. All right. So just don't 21 leave here until you check the laptop and you 22 check all your evidence and make sure we get your</p>

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68 (7704 to
7707)

<p style="text-align: right;">7704</p> <p>1 check box on that and everybody's happy with it, 2 okay? Anything else for the Court? 3 MS. VASQUEZ: No. Thank you. 4 THE COURT: Really? 5 MR. CHEW: Thank you. 6 MS. MEYERS: Thank you very much. 7 THE COURT: Thank you. Okay. 8 MR. CRAWFORD: Thank you, Your Honor. 9 THE COURT: All right. We'll see you 10 in the morning. 11 THE BAILIFF: All rise. 12 (Whereupon, the trial was recessed at 13 1:56 p.m. to reconvene at 9:00 a.m., Friday, May 14 27, 2022.) 15 16 17 18 19 20 21 22</p>	
<p style="text-align: right;">7705</p> <p>1 CERTIFICATE OF SHORTHAND REPORTER 2 I, JUDITH E. BELLINGER, RPR, CRR, the 3 court reporter before whom the foregoing hearing 4 was taken, do hereby certify that the foregoing 5 excerpt transcript is a true and correct record of 6 the proceedings; that said proceedings were taken 7 by me stenographically and thereafter reduced to 8 typewriting under my direction; and that I am 9 neither counsel for, related to, nor employed by 10 any of the parties to this case and have no 11 interest, financial or otherwise, in its outcome. 12 IN WITNESS WHEREOF, I have hereunto set 13 my hand and affixed my notarial seal this 27th day 14 of May, 2022. 15 My Commission Expires: September 30, 2024 16 17 <i>Judith E. Bellinger</i> 18 _____ 19 NOTARY PUBLIC IN AND FOR 20 THE COMMONWEALTH OF VIRGINIA 21 22</p>	