

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

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2020 SEP -4 PM 2:40

JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

JOHN C. DEPP, II,
Plaintiff and Counter-Defendant,

v.

AMBER LAURA HEARD,
Defendant and Counter-Plaintiff.

Civil Action No.: CL-2019-0002911

**DEFENDANT AMBER LAURA HEARD'S
MOTION FOR SANCTIONS AND MOTIONS IN LIMINE**

Defendant Amber Laura Heard, by counsel, hereby moves this Court for an Order holding Plaintiff, John C. Depp, II, in contempt of the two Orders entered by this Court on August 10, 2020 related to Plaintiff's discovery obligations, and awarding sanctions against Plaintiff and in favor of Defendant Amber Laura Heard.

Defendant further moves this Court for an order *in limine* to exclude certain evidence from the trial of this matter, and specifically asks that this Court enter an Order ordering that:

- 1) Plaintiff's damages are limited to the scope of his discovery produced as of August 16, 2020;
- 2) All testimony, evidence or references to allegations and/or charges against Amber Laura Heard, none of which resulted in conviction are excluded from the trial of this matter;
- 3) All testimony, evidence or references to the amount of Ms. Heard's charitable donations are excluded from the trial of this matter; and
- 4) All testimony, evidence or references to claims by Third Parties of alleged hearsay statements by Paige Heard, Ms. Heard's deceased mother, are excluded from the trial of this matter.

The grounds for this Motion are set forth in the accompanying Memorandum.

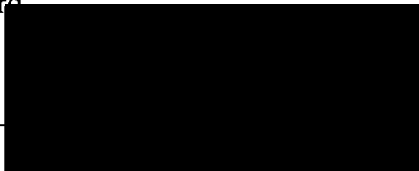
CERTIFICATE UNDER RULE 4:12(A)(2)

Pursuant to Va. Sup. Ct. R's 4:1(b)(8) and 4:15(b), Defendant, by counsel, certifies that she has conferred with counsel for Plaintiff in an effort to resolve the issues addressed in this Motion prior to placing this on the docket, including sending a detailed email and conducting a nearly three hour meet and confer by phone on August 28, 2020. **Att. 1.**

September 4, 2020

Respectfully submitted,

Amber L. Heard

By Counsel: 

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*Counsel to Defendant and Counter-Plaintiff,
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CERTIFICATE OF SERVICE

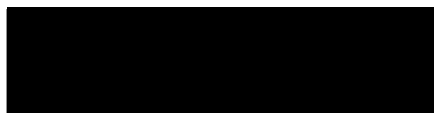
I certify that on this 4th day of September 2020, a copy of the foregoing was served by email, by agreement of the parties, addressed as follows:

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*Counsel for Plaintiff and Counter-Defendant,
John C. Depp, II*


Elaine Charlson Bredehoff

David Murphy

From: Elaine Bredehoft
Sent: Thursday, August 27, 2020 12:17 PM
To: Chew, Benjamin G.; Adam Nadelhaft; brottenborn@woodsrogers.com; Joshua Treece
Cc: Vasquez, Camille M.; Crawford, Andrew C.; David Murphy; Michelle Bredehoft
Subject: OUTSTANDING ISSUES AND MEET AND CONFER TOPICS

Ben: I am following up on our topics for the meet and confer and other outstanding topics, and am continuing the email chain from that set for continuity and easy reference for all.

DEPP'S DEPOSITION/MOTION FOR CONTINUANCE

First, can you please address the email below on asking for the information we requested in connection with Plaintiff's Motion for Continuance of the Trial? Since so much appears to relate to this, the sooner you can provide that information the better. By separate email I have been asking you for information on Mr. Depp's locations and ability to move up his deposition and appear in either our Virginia or California offices, with appropriate safeguards. We eagerly await this response as well.

OUTSTANDING DISCOVERY – MULTIPLE REQUESTS PLAINTIFF AGREED TO PRODUCE BUT HAS NOT, OTHERS UNCERTAIN IF WITHHOLDING BASED ON OBJECTIONS, REMAINING REQUESTS IN DISPUTE FOR MEET AND CONFER

Second, your delay in providing responsive documents to the Fourth, Fifth, Sixth and Seventh sets of RFPs is, frankly, alarming, and is causing significant prejudice to us. Chief Judge White told you on Friday you are not allowed to produce your responsive documents on a "rolling basis," but you must follow the Rules and produce within the 21 days, and only what you do not possess until later, can you supplement, and then you must supplement quickly. It has been nearly a week since Chief Judge White admonished on this issue, yet we have still not received ONE DOCUMENT responsive to any of the FOUR sets of RFPs, which were served and due as follows:

- 4th: Served July 2, 2020 (due July 23, 2020) – Plaintiff has stated he will produce documents responsive to 1-2, 4-5, 7-9, 11-13 and 15
- 5th: Served July 10, 2020 (due July 21, 2020) – Objections were late and therefore waived. In addition, Plaintiff has stated he will produce documents responsive to 7, 16
- 6th: Served July 17, 2020 (due August 7, 2020) – Plaintiff has stated he will produce documents responsive to 8 & 10 (as earlier modified), 11,13,14,16-22
- 7th: Served July 24, 2020 (due August 14, 2020) – Objections were late and therefore waived. In addition, Plaintiff has stated he will produce documents responsive 2, 4, 10

Given the extensive delays in producing even ONE DOCUMENT responsive to any of these sets, I would like to include the Consent Order that Ms. Heard does not have to produce any documents responsive to Plaintiff's 3rd RFPs until the exact number of days after the 21 days that Plaintiff finally produces all the documents Plaintiff has already agreed to produce. Please let me know: 1) when Plaintiff plans to produce those documents already stated that Plaintiff will produce; 2) if there are any documents in those requests that Plaintiff is withholding (the language "subject to" the objections is in all of your responses, so we need to know if you are withholding so we can raise that in the Meet and Confer and with the Court; and 3) whether you will agree that Ms. Heard will have the same amount of time after the 21 days that Plaintiff has taken on producing the responsive documents.

In addition to needing to know if we have to go through requests Plaintiff has agreed to produce "subject to" objections, because Plaintiff is withholding documents, we have the remaining Requests not mentioned above to discuss tomorrow. If you have any suggestions for narrowing beforehand, please let me know and we will review and consider.

MOTIONS IN LIMINE/SANCTIONS/CONSENT ORDERS

As discussed below, we would like to obtain some early rulings from the Court to narrow significantly deposition inquiries, and resolve some issues early.

CONSENT ORDER RE FEES AND COSTS PROCEDURES UNDER RULE 3:25(D): You indicated you would be making it mutual. I pointed out that you do not have a basis for attorneys' fees and costs under the Defamation claim. Absent that, there is no reason for you to make it mutual. If you have authority to the contrary, I am happy to review and agree to mutuality. Otherwise, I would ask that you agree to the Consent Order as is.

MOTIONS IN LIMINE/SANCTIONS:

Based on the Supplementation, we would like you to agree through Consent Order that Mr. Depp will be limited to presenting any testimony or evidence outside his supplemented responses. Alternatively, we would move for sanctions/to compel on this and are looking at the issue on the documents we believe you were required to produce and did not.

Also, you were to supplement with names and all contact information on the individuals with knowledge. Given the list you provided of who you now want to subpoena, you have clearly not supplemented with all of the information you possess.

Further on Motions in Limine to narrow areas of inquiry (subject to further, and we have invited you as well):

Children's Hospital/ACLU information on donations
Tasha Van Ree – arrest/allegations
Savannah McMillen – Homeland Security letter and any surrounding issues
Australian dog – claims of falsifying affidavits or asking anyone to lie
Elon Musk/James Franco/Others – affairs, Tesla vehicle, fertility eggs, anything else unrelated to the claims
Hearsay efforts on Paige Heard (now deceased)

**DEPOSITION SCHEDULING/DEPP/WALDMAN, OTHERS ALREADY NOTICED OR
SUBPOENAED/DOCUMENTS SUBPOENAED:**

In addition to Mr. Depp's deposition still being scheduled for our offices October 5-9 (and my inquiries and efforts to work with you on this), we have issued a number of deposition notices and subpoenas. Before issuing them, we asked for your input. You have served some subpoenas on dates that conflict with our subpoenas. You have also objected to Waldman's deposition. Let's talk about the legal grounds for your refusal to produce him, so we can get that on the docket as well. He is significantly named in the Counterclaim and obviously possesses a great deal of unprivileged information relevant to the claims and defenses in this case.

We expect to have more people we will be deposing. We need to hammer these down first, and talk about availability and protocol, and then we can work from there.

With respect to the documents subpoenaed, there are a number of pending motions to quash. It may be beneficial to see if we can set up some process to resolve these in Fairfax for consistency.

BRIEFING SCHEDULE:

I asked you for the issues so we can have a sense of what is needed by way of page limitations and time. Since you have not responded, and your pleadings are due on Monday, I suggest we defer this one until we have your pleadings and an opportunity to review.

Please let me know anything further you wish to discuss and any progress we can make on the above topics. Thank you for your anticipated cooperation. Elaine

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