

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY, VIRGINIA

JOHN C. DEPP, II

Plaintiff,

v.

AMBER LAURA HEARD,

Defendant.

Civil Action No.: CL-2019-0002911

FILED
MOTIONS DOCKET
2019 SEP -6 AM 10: 07
JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

**PLAINTIFF’S OPPOSITION TO DEFENDANTS
MOTION FOR PROTECTIVE ORDER**

Plaintiff John C. Depp, II hereby opposes Defendant Amber Laura Heard’s Motion for Entry of a Protective Order (“Defendant’s Motion”).

As set forth below, the Court should deny Defendant’s Motion because Ms. Heard has not met her burden of establishing that good cause exists to enter a Protective Order, nor could she. Indeed, it would be grossly unfair to allow Ms. Heard – who has already disseminated to the media and the public as much defamatory material about her former husband as she could concoct – to now hide the objective facts that reveal her falsehoods behind an artificial wall of confidentiality.

Moreover, Mr. Depp is suing Ms. Heard for objectively disprovable lies that she and a few of her confederates and representatives have told about Mr. Depp *in the media*. The Protective Order Ms. Heard now seeks would perversely allow all these false and damaging public statements to stand uncorrected. Only the truth can restore the incalculable damage that Ms. Heard has inflicted on Mr. Depp.

A Protective Order would also cause administrative burden and be impractical and unavailing, with the trial only a few months away in any event, when everything will be public.

Mr. Depp, whose reputation has suffered severe harm from these false claims, should have the right to the restorative transparency of the truth that Ms. Heard seeks to hide. Even as Ms. Heard and her representatives continue their onslaught of false and defamatory statements about Mr. Depp in the media, it is clear that Ms. Heard's reaction to the avalanche of testimonial and other evidence Mr. Depp has produced is to seek to simply hide future discovery.

Background

Mr. Depp and Ms. Heard were married for only fifteen months, and the two had no children together. Mr. Depp has two children from a longstanding relationship with Vanessa Paradis, with whom he remains close. Prior to his marriage to Ms. Heard, no one had ever accused Mr. Depp of domestic violence. By contrast, Ms. Heard was arrested in a Washington State airport, and spent the night in jail, for domestic violence against her former partner/wife witnessed by a police officer.

As soon as the ink dried on the divorce decree, Ms. Heard began to engage in a relentless media campaign against her former husband, continuing the hoax that she began when she appeared in court May 27, 2016 with an apparently, suddenly "bruised" face, which she claimed (despite damning eyewitness testimony and video footage to the contrary) was caused in an incident six days prior, which she and her publicist then amplified a few days later on the cover of *People* magazine. Now that discovery has started, Ms. Heard wants everything about the matter hidden from the public for as long as possible. This matter clearly warrants transparency.

ARGUMENT

I. Ms. Heard Failed to Make the Requisite Showing of Good Cause

Rule 4:1(c) of the Supreme Court of Virginia provides that the Court may enter a protective order only "for good cause shown" or when "justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense." "[T]he party

moving for the protective order...bears the burden of establishing the requisite good cause.” *Jarrell v. Kroger Ltd. P’ship 1*, No. 2:14CV57, 2014 WL 12770216, at *3 (E.D. Va. July 17, 2014). To meet this burden, the moving party must “demonstrat[e] that “specific prejudice or harm will result if no protective order is granted.”” *Id.* Accordingly, Virginia courts have concluded that “the issuance of a protective order requires both an allegation of significant harm and a demonstration of good cause.” *See World Mission Soc’y Church of God v. Colon*, 85 Va. Cir. 134 (2012).¹

Applying this authority, the Court should *deny* Defendant’s Motion because Ms. Heard makes no showing whatsoever of good cause, offering only the conclusory assertion that the need for a protective order here “is undeniable and clearly appropriate.” Defendant’s Motion, ¶ 3. Ms. Heard’s bare assertion does not suffice, as it is axiomatic that “[s]imply providing conclusory or speculative statements about the need for a protective order and the harm that would be suffered without one is insufficient.” *Jarrell v. Kroger Ltd. P’ship 1*, No. 2:14CV57, 2014 WL 12770216, at *3 (E.D. Va. July 17, 2014). Although she has not yet made the assertion, being embarrassed by the factual evisceration of one’s lies would not meet the standard. *See also Perreault v. The Free Lance-Star, et al.*, 276 Va. 375 (2008), which militates towards denying Defendant’s Motion. In *Perreault*, the Supreme Court of Virginia affirmed the circuit court’s discussion to disallow certain wrongful death settlements to be filed under seal, finding that the petitioner/appellant did not overcome the strong presumption in favor of public access to court filings. *Id.*

II. The Court Should Not Allow Ms. Heard to Use Confidentiality as Both a Sword and a Shield

¹ Because Virginia’s Rule 4:1(c) and FRCP are similar, Virginia courts have looked to the Federal rule for guidance. *See id.*

The confidentiality clauses in the parties' divorce degree *explicitly* barred Ms. Heard, Mr. Depp, and their respective agents and attorneys from disclosing *any* information about their marriage, a prohibition Ms. Heard has *repeatedly* violated since November 2016, falsely accusing Mr. Depp of abuse in an apparent effort to promote her acting career and masquerade as an "abuse survivor" while damaging the reputation of her former husband. Yet the facts, including Ms. Heard's own, unsealed deposition admissions from her prior testimony, show Mr. Depp to be the actual victim of serious violence and other abuse at the hands of Ms. Heard.

Ms. Heard's serial media attacks culminated (but did not end) in the Op-Ed Ms. Heard published in the *Washington Post* in December 2018, the subject of this defamation action. Ms. Heard gratuitously attached to her failed motion to dismiss (for *improper venue*) a lengthy declaration appending hundreds of pages of fraudulent materials unrelated to the venue issue and calculated to further defame and prejudice the public against Mr. Depp. Simultaneous with Ms. Heard's filing of those materials, her California counsel publicly accused Mr. Depp of "despicable conduct" in the media. *See Exhibit A.*

In this context, it would be unfair to allow Ms. Heard, having used publicity of her hoax as a sword against Mr. Depp for years to destroy his reputation while burnishing hers, to now use a protective order as a shield against disclosures of materials which will undo all the damage her false publicity has done. Per Judge Ellis, the fact that disclosure might cause her *some* annoyance or embarrassment is insufficient. *See U.S. ex rel. Davis v. Prine*, 753 F. Supp. 2d 561 (E.D. Va. 2010). Here Ms. Heard has made no showing or even proffer of what discovery might merit confidential treatment. "Simply providing 'conclusory or speculative statements about the need for a protective order and the harm which would be suffered without one is insufficient'" *Jarrell v. Kroger L&L P'ship 1*, No. 2:14CV57, 2014 WL 12770216, at 3 (E.D. Va. July 17,

2014). It is hard to imagine such a proffer in light of Ms. Heard's, her friends and even her lawyers' prior media and other purported "disclosures" concerning Mr. Depp and even her recent public allegations on Capitol Hill. *See Exhibit B.*² Nor does Ms. Heard have standing to seek a protective order on behalf of unspecified non-party witnesses: "A party may not ask for an order to protect the rights of another party or a witness if that party or witness does not claim protection for itself, but a party may seek an order if the party believes its own interest is jeopardized by discovery sought from a third person." *See Va. Prac. Civil Discovery § 2:43.*

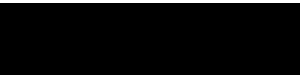
Having publicly defamed Mr. Depp, violated the confidentiality clauses in the divorce decree, hurled unsealed, perjurious and cherry-picked deposition testimony from the prior divorce case into the media, and filed in the public record of this case a demonstrably false and salacious declaration, Ms. Heard can hardly claim entitlement to the cloak of confidentiality, much less that an entitlement that outweighs the strong presumption in favor of public access to court filings, and considering the significant logistical burden on the Clerk's Office a Protective Order would entail here.

III. In the Alternative, the Court Should Enter a More Limited Protective Order

To the extent the Court is nevertheless inclined to enter some type of Protective Order, Mr. Depp respectfully requests that it be limited only to the Parties' redaction of their and others' personal identifiers (*e.g.*, addresses, contact information, or social security numbers, bank account numbers), and exclude non-party witnesses from its application.

² Presumably this trip caused Ms. Heard to pass through the Commonwealth of Virginia, where she claimed she had never traveled. Declaration, ¶ 56.

Respectfully submitted,


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Dated: September 6, 2019

Amber Heard Has Filed New Allegations That Johnny Depp Abused Her During Drug-Fueled Rages

"We called that version of Johnny, 'the Monster,'" Heard says in new court documents.

By Amber Jamieson

Posted on April 12, 2019, at 5:40 p.m. ET



BuzzFeed News

Amber Heard Has Filed New Allegations That Johnny

Actors Amber Heard and Johnny Depp on Jan. 9, 2016, in Culver City, California.

Jason Merritt / Getty Images

Amber Heard has filed new allegations against her ex-husband Johnny Depp, saying in court documents that he choked, hit, and

head-butted her during violent drug-fueled rages.

The 32-year-old *Aquaman* actor said Depp abused alcohol and drugs — both illegal and prescription — during their relationship and became a "totally different person, often delusional and violent," including threatening to kill her, according to documents filed in Virginia's Fairfax Circuit Court on Thursday and first reported by Page Six.

"We called that version of Johnny, 'the Monster,'" she said.

After consuming eight MDMA tablets in Australia in 2015, Depp choked Heard and then slammed her into a countertop, Heard says. Depp also accidentally cut off the tip of his fingertip on broken glass in the aftermath, and then wrote messages on a mirror in blood using his severed finger, the court documents state.



Facial injuries Heard said she suffered when Depp attacked her.

Amber Heard

Heard outlined the new allegations of abuse in a motion asking to dismiss the defamation lawsuit that Depp, 55, filed against her over an op-ed published in the Washington Post. In it, she wrote about being a public survivor of abuse, although Depp is not named.

In May 2016, a week after filing for divorce from the *Pirates of the Caribbean* star, Heard obtained a restraining order against Depp, alleging physical abuse.

During their divorce proceedings in 2018, Heard accused Depp of hitting her in the face with a cellphone and pulling her hair. He

said in a counterclaim that she punched him in the face, twice. The abuse allegations were later dropped.

But the court documents filed on Thursday outline new accusations and reveal the extent of Depp's alleged behavior and addiction problems.

"Since their divorce, Mr. Depp has continued to publicly harass Ms. Heard, and attempted to gaslight the world by denying his abuse," Eric George, Heard's lawyer, said in a statement. "It is long past time for Mr. Depp's despicable conduct to end. Today, we presented to the court irrefutable evidence of Mr. Depp's abuse. It is regrettable that it will take a judge to finally end the persistent harassment of Ms. Heard by Mr. Depp, but Ms. Heard will take whatever action is necessary to vindicate the truth."

Representatives for Depp did not immediately respond to BuzzFeed News' request for comment.

In March 2013, Depp tried to set fire to a painting given to Heard by a former love interest, and later hit her in the face, leaving her with a bleeding lip, the court documents state.

Heard also says that Depp got drunk on a private plane in May 2014 and started throwing things at her because he was angry about a romantic scene she filmed with actor James Franco for the 2015 film *The Adderall Diaries*.

"Instead of reacting to his behavior, I simply moved seats," Heard states in the court documents. "That didn't stop him. He provocatively pushed a chair at me as I walked by, yelled at me, and taunted me by yelling out the name 'James Franco.'"

"At some point, I stood up, and Johnny kicked me in the back, causing me to fall over. Johnny threw his boot at me while I was on the ground."

Depp allegedly wrote an apology text message — Depp appeared as "Steve" in her phone as a privacy measure — after the plane incident, saying that his "illness somehow crept up and grabbed" him.

No Service

3:22 PM



< Messages (101)

Steve

Details

May 28, 2014, 10:02 AM

Once again, I find myself in a place of shame and regret. Of course, I am sorry. I really don't know why, or what happened. But I will never do it again. I want to get better for you. And for me. I must. My illness somehow crept up and grabbed me. I can't do it again. I can't live like that again. And I know you can't either. I must get better. And I will. For us both. Starting today. I love you. Again, I am so sorry. So sorry...
I love you and feel so bad for letting you down...
Yours

May 29, 2014, 12:50 PM

I see that understanding and forgiveness ain't on the menu... I'm disappointed to see that, but, not too surprised, I suppose...



CALL MESSAGE

Send

An alleged text message from Johnny Depp in Amber Heard's phone, which lists him as "Steve."
Amber Heard

"Once again, I find myself in a place of shame and regret. Of course, I am sorry. I really don't know why or what happened. But I will never do it again," Depp allegedly wrote.

In Heard's court filing, she says that throughout the last three years of their relationship, Depp received medical treatment for his drug and alcohol addiction, including a live-in nurse at times.

During a vacation to the Bahamas in August 2014, Heard says Depp kicked and slapped Heard during a fight, before kicking a hole in the door. Later, his live-in nurse and private doctor flew to the Bahamas to help handle his "manic episodes," the court documents state.



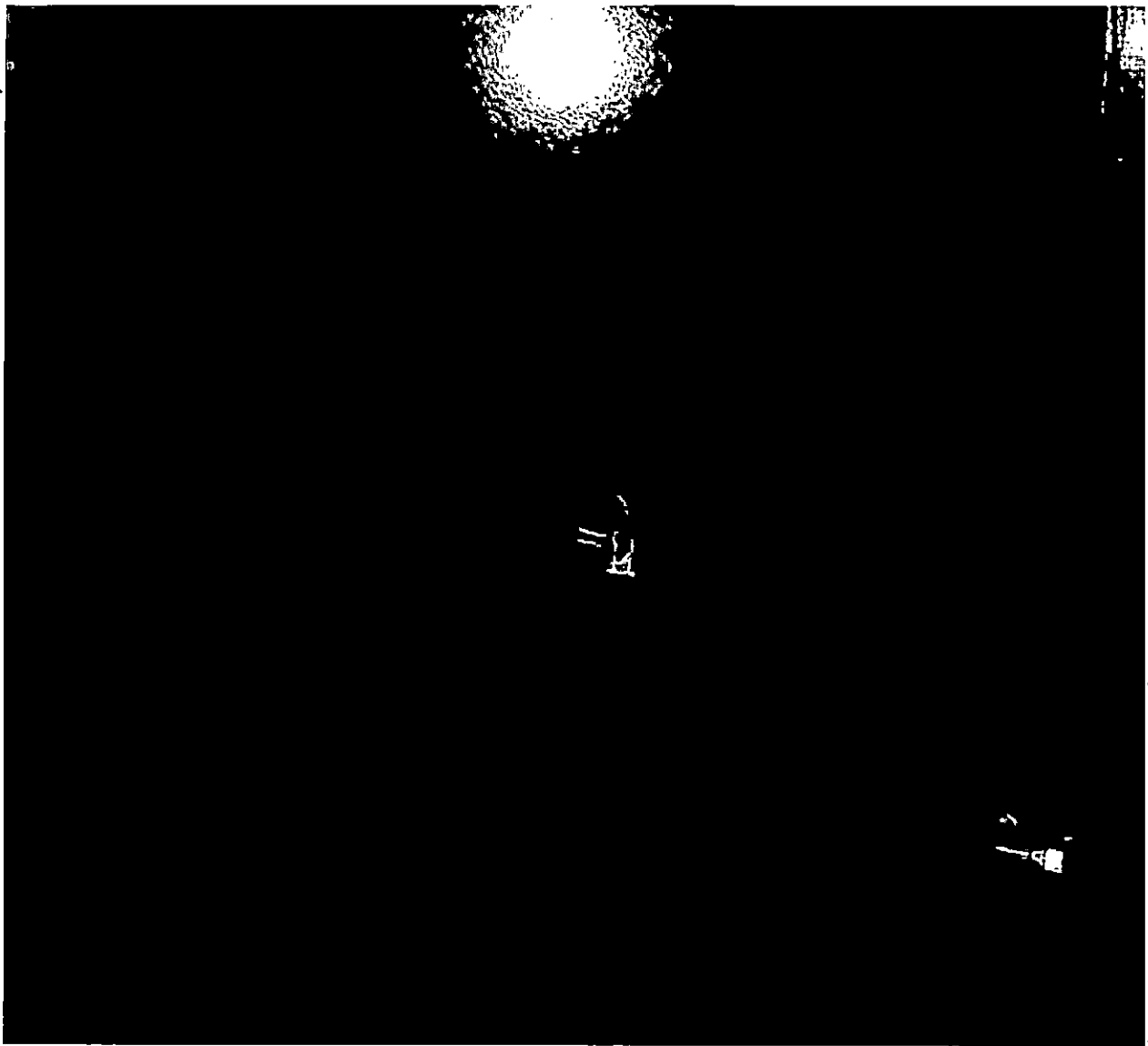


Photo of the door that Heard claims Depp kicked in.

Amber Heard

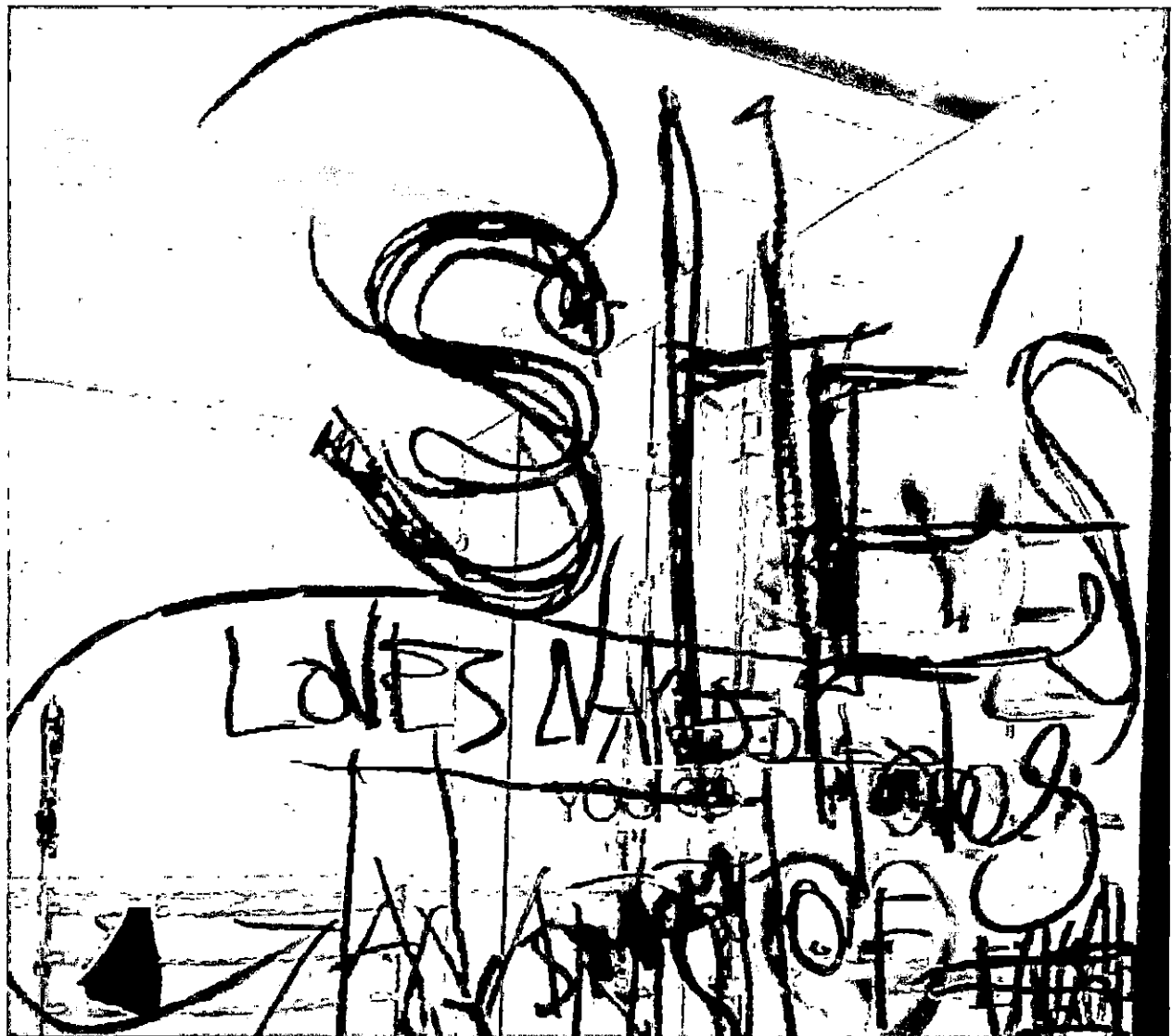
Heard also alleges that Depp went on an ecstasy and alcohol binge in March 2015 during a trip to Australia, where she says he violently assaulted her over three days, including choking and shoving her, spitting in her face, and throwing glass bottles at her.

Heard says that she still has scars on her arms and feet from the trip, stating in court documents:

In one of the most horrific and scariest moments of this three-day ordeal, Johnny grabbed me by the neck and collarbone and slammed me against the countertop. I

struggled to stand up as he strangled me, but my arms and feet kept slipping and sliding on to the spilled alcohol and were dragged against the broken glass on the countertop and floor, which repeatedly slashed my feet and arms. Scared for my life, I told Johnny, "You are hurting me and cutting me." Johnny ignored me, continuing to hit me with the back of one closed hand, and slamming a hard plastic phone against a wall with his other until it was smashed into smithereens.

While allegedly smashing the phone, Heard says Depp cut off the tip of his finger. The next morning, Heard awoke to messages scrawled on a mirror, allegedly by Depp in oil paint and the blood from his injured finger.





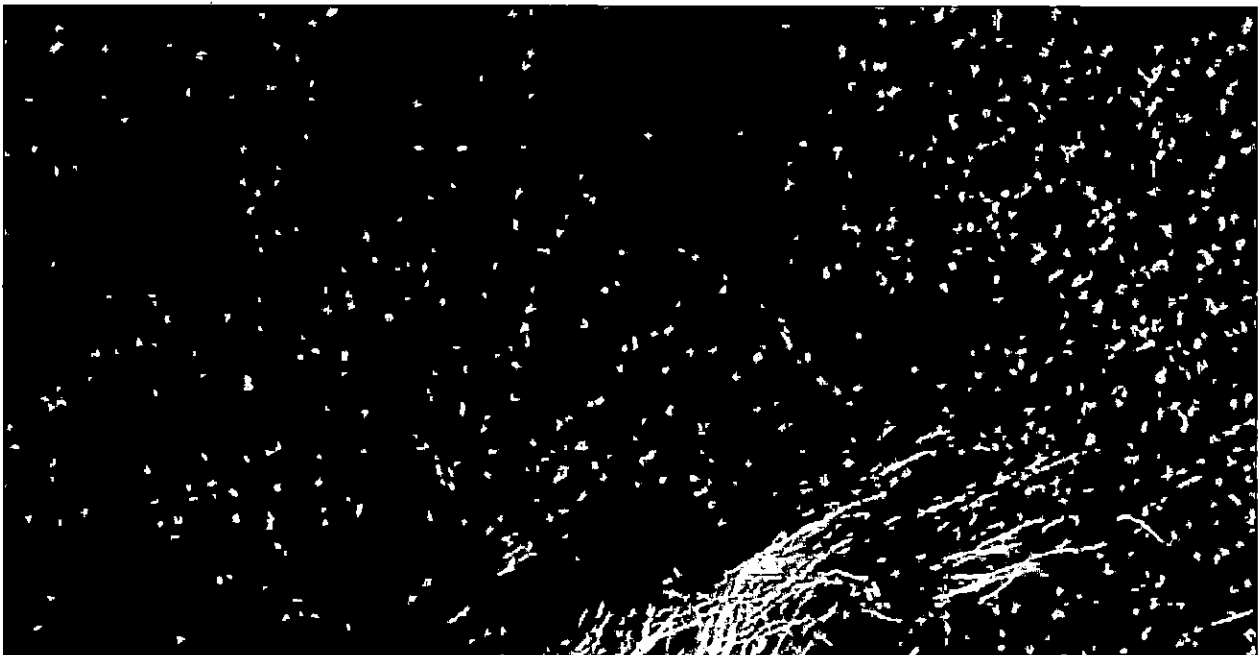
Photos of the messages scrawled in blood and paint.

Amber Heard

Heard admitted in the documents that shortly after their return to Los Angeles, she punched Depp when she feared he would hurt her sister.

During another fight in their Los Angeles apartment in December 2015, Heard says, "He slapped me hard, grabbed me by my hair, and dragged me from a stairwell to the office to the living room to the kitchen to the bedroom and then to the guest room. In the process, he pulled large chunks of hair and scalp out of my head."

Photos from the incident show clumps of hair on the ground.





Photos of hair Heard claims that Depp ripped out.

Amber Heard

Heard states in the court documents, "each time he knocked me down, I chose to react by simply standing up and looking him in the eye. Johnny responded by yelling, 'Oh, you think you're a fucking tough guy?'"





Heard pictured after the December 2015 incident.

Amber Heard

When she told Depp she was leaving him, Heard says he began threatening to kill her, punching her in the face and pushing her into a mattress.

"For a while, I could not scream or breathe," she states in the court filing. "I worried that Johnny was in a blacked-out state and unaware of the damage he was doing, and that he could actually kill me."



video-player.buzzfeed.com

In a video from Heard's 2016 deposition, she describes Depp throwing a phone at her, hitting her face near her eye, before grabbing her head and pulling a fistful of her hair.

A visibly shaken Heard then says Depp yanked her head side to side by grabbing her hair.

"He's yelling at me, he's screaming ... and I'm screaming at the top of my lungs, 'Help, help, please help!'" she says, adding that she hoped the security guards would hear her. "Even though they never respond when I'm screaming 'help' — ever."



Amber Jamieson is a reporter for BuzzFeed News and is based in New York.

Contact [Amber Jamieson](mailto:amber.jamieson@buzzfeed.com) at amber.jamieson@buzzfeed.com.

Got a confidential tip? [Submit it here](#).

Cause Celeb: Amber Heard backs ‘revenge porn’ bill on Capitol Hill

By Emily Heil

May 22, 2019 at 4:20 p.m. EDT

Cause: Passage of the SHIELD Act — one of those cleverly acronym-ed pieces of legislation that stands for “Stopping Harmful Image Exploitation and Limiting Distribution.” Basically, it targets people who share explicit images of someone without their consent, a.k.a. “nonconsensual pornography” or “revenge porn.”


Celeb: Model-actress-activist Amber Heard (firmly putting aside those tabloid headlines currently swirling about her former marriage to actor Johnny Depp), sharing her own story of having been hacked in 2014 — along with a handful of other Hollywood actresses — and having her nude photos distributed around the Internet.

Scene: A Wednesday news conference with Reps. Jackie Speier (D-Calif.) and John Katko (R-N.Y.) in the Capitol Visitor Center to reintroduce the bill. Heard, wearing a sleek black dress with black and white loafers that looked ready to pound the marble halls of Congress, stood next to (and high-fived) lawmakers talking up the legislation before making her own case.

Sound bite: Heard's tone was passionate as she described the fallout, even years later, from her hacking. "My stolen and manipulated photos are still online to this day, posted again and again with sexually explicit and humiliating and degrading headlines about my body, about myself," she said. "I continue to be harassed, stalked and humiliated by the theft of those images."

"The consequences to my personal safety, dignity and livelihood are severe," she continued. "My relationships, my family, my profession, my opportunities, and moreover, my expectations for bodily autonomy and liberty are forever compromised."

Emily Heil

Emily Heil is the co-author of the Reliable Source and previously helped pen the In the Loop column with Al Kamen. Follow 

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of September, 2019, I caused a copy of the foregoing document to be served by email and first class mail pursuant to Rule 1:12 of the Supreme Court of Virginia to the following:

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