

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

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JOHN C. DEPP, II,

Plaintiff and Counterclaim-Defendant,

v.

AMBER LAURA HEARD,

Defendant and Counterclaim-Plaintiff.

Civil Action No.: CL-2019-0002911

JOHN T. FREY
CLERK, CIRCUIT COURT

**DEFENDANT AND COUNTERCLAIM-PLAINTIFF AMBER LAURA HEARD'S
MEMORANDUM IN SUPPORT OF MOTION TO COMPEL RESPONSES
TO 3RD RFAs AND 14TH, 16TH AND 17TH RFPs
TO PLAINTIFF AND COUNTERCLAIM-DEFENDANT JOHN C. DEPP, II**

Elaine Charlson Bredehoft (VSB No. 23766)
Adam S. Nadelhaft (VSB No. 91717)
Clarissa K. Pintado (VSB 86882)
David E. Murphy (VSB No. 90938)
Charlson Bredehoft Cohen Brown & Nadelhaft, P.C.
11260 Roger Bacon Drive, Suite 201
Reston, Virginia 20190
Telephone: (703) 318-6800

J. Benjamin Rottenborn (VSB #84796)
Joshua R. Treece (VSB #79149)
WOODS ROGERS PLC
10 S. Jefferson Street, Suite 1400
P.O. Box 14125
Roanoke, Virginia 24011
(540) 983-7540

*Counsel to Defendant and Counterclaim-Plaintiff
Amber Laura Heard*

Ms. Heard seeks the same relief on the 3rd RFAs that the Court Ordered for the 4th and 5th RFAs- clear and unqualified “admit or deny” responses and the production of supporting documents (**Att. 1**)- and further moves to compel her 14th, 16th, and 17th RFPs (**Atts. 2-4**).

I. THIRD REQUESTS FOR ADMISSIONS

Ms. Heard has been attempting to obtain “admit or deny” responses from Mr. Depp on her 3rd RFAs since they were served in November 2020—*15 months ago*. **Att. 1.** Mr. Depp’s responses to RFAs 1-14, 19-22, 27-49, 61-85, 102, 106, 114-18, 122-24, 128, 130, 134, and 137-74 contain similar improper qualification language that led the Court to enter an Order on the 4th and 5th RFAs, requiring Mr. Depp to “admit or deny the authenticity of the documents in Ms. Heard’s 4th and 5th Requests for Admissions, and for those denied by Mr. Depp shall produce all nonprivileged documents, if any, supporting such denials.” **Att. 5.** On October 29, 2021, Mr. Depp’s counsel committed that [REDACTED]

[REDACTED] **Att. 6**, at 42:19-43:2. But Mr. Depp never supplemented his responses by admitting or denying these RFAs. Ms. Heard proposed the exact relief sought in this Motion in multiple meet and confers, but Mr. Depp did not agree. Therefore, Ms. Heard respectfully requests that the Court enter the same “admit or deny” Order for these 3rd RFAs as it did for the 4th and 5th RFAs. **Att. 14.**

II. SEVENTEENTH REQUESTS FOR PRODUCTION OF DOCUMENTS

At the January 7 hearing on Mr. Depp’s motion, Ms. Heard attempted to avoid burdening the Court, the parties, and the Conciliator with portions of Ms. Heard’s 17th RFPs that directly overlapped with Mr. Depp’s RFPs: documents referring to or reflecting the incidents described in the parties’ UK Witness Statements and Declarations submitted in this case. **Att. 2**, RFPs 48-59, 65-72, 79-91, and 106-19. Ms. Heard argued that the Court had limited remaining available Fridays and Ms. Heard could not:

[REDACTED]

Att. 7, at 34:20-36:16. Mr. Depp responded that [REDACTED]

[REDACTED]

[REDACTED]

Id. at 37:19-22.

But this is *precisely* how Mr. Depp [REDACTED] Ms. Heard repeatedly attempted to meet and confer with Mr. Depp for over five weeks between December 13, 2021-January 21, 2022, but Mr. Depp never substantively responded or provided dates and times for a meet and confer until January 25, 2022. Att. 8. Ms. Heard kept trying throughout this period, and on January 17, 2022 sent Mr. Depp a Consent Order with the same relief Ms. Heard now seeks in this Motion. Att. 9. The parties finally met and conferred on January 25 and counsel for Mr. Depp indicated that he expected to reach agreement on these RFPs, but during the final meet and confer on January 27 did not agree. The Court should overrule Mr. Depp's objections except for privilege, and compel the production of any responsive documents. Att. 14.

III. FOURTEENTH REQUESTS FOR PRODUCTION OF DOCUMENTS

Ms. Heard attempted to resolve these RFPs for five weeks while Mr. Depp never responded. Att. 8. So on January 18, Ms. Heard sent Mr. Depp a Consent Order with the same relief Ms. Heard now seeks in this Motion. Att. 10. The parties finally met and conferred on January 25 and completed the meet and confer on January 27, but Mr. Depp still did not agree.

RFPs 1-3 seek documents supporting Mr. Depp's statements to Christian Carino in the audio recording produced by Mr. Depp as DEPP8296 on three relevant topics:

1. "[I] have gotten emails from every fucking studio fucking head from every motherfucker, I didn't do a thing. 'I'm sorry you're going through this. I'm so sorry.' Clearly she's out of her fucking mind. She is viewed as out of her fucking mind across the globe." (RFP 1);

2. "There ain't no motherfucker in this business going to hire her" and "Oh, she's ruined. For sure. She did that herself. In terms of the business, she's a wrap" (RFPs 2-3).

Att. 3. Mr. Depp asserted extensive objections, and refused to produce any documents. *Id.* RFP 1 is relevant to Mr. Depp's alleged damages, because if "every fucking studio fucking head" emailed Mr. Depp that he "didn't do a thing" and that Ms. Heard "is viewed as out of her fucking mind," then Mr. Depp has no damages. Mr. Depp either admitted to the existence of documents refuting his alleged damages, or was lying. The only way to know is to compel Mr. Depp to produce the documents allegedly supporting his own statements. RFPs 2-3 are relevant to malice against Ms. Heard, along with Mr. Depp producing documents supporting his own material statements in a conversation with an agent who at the time also worked for Ms. Heard.

RFP 13 seeks communications between Mr. Depp (or his agents or employees) and any journalist, newspaper, or publication referring to or reflecting any recordings of Mr. Depp or Ms. Heard, to which Mr. Depp asserted extensive objections, but did not claim no documents existed (**Att. 3**), even though Mr. Depp has repeatedly denied allegations that Mr. Depp's team leaked any recordings to the press. Nor has Mr. Depp claimed in the parties' meet and confer that no documents existed. The documents are relevant to the status of each parties' reputation, and to Mr. Depp's credibility, and Mr. Depp should produce them.

RFP 14 seeks communications between Mr. Depp (or his agents or employees) and any journalist, newspaper, or publication referring to any purported investigation of Ms. Heard in Australia. **Att. 3.** The issue of the parties' dogs in Australia has arisen multiple times, with the parties blaming each other. This RFP is relevant and narrowly tailored.

The Court should overrule Mr. Depp's objections to RFPs 1-3 and 13-14 except for privilege, and compel the production of any responsive documents. **Att. 14.**

IV. SIXTEENTH REQUESTS FOR PRODUCTION OF DOCUMENTS

Ms. Heard unsuccessfully attempted to resolve these RFPs through emails and a Consent Order. **Atts. 8, 10.** The objections should be overruled and responsive documents produced.

“Monster” and Mr. Depp’s Anger: The parties’ use of the word “monster” concerning Mr. Depp’s conduct, and the specific conduct it refers to, is a disputed factual issue central to the case. *See, e.g., Att. 11.* Ms. Heard contends “monster” refers to Mr. Depp’s alter-ego that repeatedly violently abused her while heavily intoxicated on drugs and alcohol. Mr. Depp contends the word refers to something else. Thus RFP 1 seeks communications containing the word “monster” during the parties’ relationship. **Att. 4.** Mr. Depp asserted his boilerplate objections and refused to produce any documents, but the jury should have a full and fair opportunity to consider the meaning of “monster” in this case. RFP 40 further seeks documents reflecting instances of Mr. Depp’s anger towards individuals or reflect anger management. *Id.*

Consumption of Alcohol or Drugs: RFP 39 seeks any documents referring to Mr. Depp’s use or abuse of alcohol or drugs during the defined Depp Abuse of Heard Dates, the Depp Alleged Abuse by Heard Dates, or the Property Damage Dates, but Mr. Depp objected and refused to produce any documents. **Att. 4.** As just described, Mr. Depp’s use and abuse of alcohol and drugs correlate with the dates he abused Ms. Heard, and Mr. Depp’s level of intoxication directly affects his credibility and the veracity of his memory and recollections at these times and the times he falsely claims he was abused by Ms. Heard. RFP 42 seeks documents referring to or reflecting instances of physical violence by Mr. Depp towards any person or property, but Mr. Depp objected and refused to produce any documents. *Id.* Finally, RFP 43 seeks documents reflecting complaints against Mr. Depp for conduct involving violence, abuse, damage to property, alcohol/drug use or abuse and intoxication, or lateness/tardiness. *Id.*

Negative Impact: RFP 45 seeks documents referring to or reflecting any negative impact of the

Divorce Action, the U.K. Action, or Ms. Heard's allegations of abuse on Mr. Depp's reputation and career. **Att. 4.** These topics are relevant to the causation of Mr. Depp's alleged damages, and Mr. Depp even agrees because he compelled identical Requests, arguing that "Mr. Depp is entitled to explore the relative impact of each of these events on Ms. Heard's career and reputation." **Att. 12.** Yet Mr. Depp still objected and refused to produce any documents.

Affirmative Defenses and Answer Denials: RFPs 2-7 seek non-privileged documents supporting specific quoted statements from Mr. Depp's 4th and 5th Affirmative Defenses regarding Mr. Waldman's agency and authority to make the three defamatory statements going to trial. **Att. 4.** RFPs 8-27 then seek non-privileged documents supporting the statement in Mr. Depp's Answer denying "that particular conduct by Mr. Waldman was authorized by Counterclaim Defendant." *Id.* Mr. Depp objected and refused to produce any documents. As reflected in Ms. Heard's proposed Order, Ms. Heard seeks expedited production of these non-privileged documents for purposes of Mr. Waldman's deposition on February 15, 2022 and for opposing Mr. Depp's Motion for Summary Judgment on this exact issue. **Att. 14.**

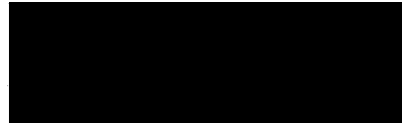
Depp Settlements: RFPs 37, 41, 44, and 46 seek documents referring to allegations, settlement terms, and settlement payments for legal claims of any conduct within the scope of the subject matter of the Court's August 19, 2021 "Other Litigations" Order (**Att. 13**), along with Mr. Depp's efforts to cover up facts and events reflecting negatively upon him. **Att. 4.**

Recordings of Heard: RFP 38 seeks any multimedia containing Ms. Heard in Mr. Depp's possession during the parties' relationship through the present. **Att. 4.**

CONCLUSION

For these reasons, Ms. Heard respectfully requests the Court grant the Motion and enter the attached proposed Order. **Att. 14.**

January 28, 2022



(VSB #23766)
Adam S. Nadelhaft (VSB #91717)
Clarissa K. Pintado (VSB 86882)
David E. Murphy (VSB #90938)
Charlson Bredehoft Cohen Brown & Nadelhaft,
P.C.
11260 Roger Bacon Drive, Suite 201
Reston, VA 20190
(703) 318-6800
ebredehoft@cbcblaw.com
anadelhaft@cbcblaw.com
cpintado@cbcblaw.com
dmurphy@cbcblaw.com

J. Benjamin Rottenborn (VSB #84796)
Joshua R. Treece (VSB #79149)
WOODS ROGERS PLC
10 S. Jefferson Street, Suite 1400
P.O. Box 14125
Roanoke, Virginia 24011
(540) 983-7540
brottenborn@woodsrogers.com
jtreece@woodsrogers.com

*Counsel to Defendant and Counterclaim-Plaintiff,
Amber Laura Heard*

CERTIFICATE OF SERVICE

I certify that on this 28th day January, 2022, a copy of the foregoing was served by email, by agreement of the parties, addressed as follows:

Benjamin G. Chew, Esq.
Andrew C. Crawford, Esq.
BROWN RUDNICK LLP
601 Thirteenth Street, N.W.
Washington, D.C. 20005
Telephone: (202) 536-1700
Facsimile: (202) 536-1701
bchew@brownrudnick.com
acrawford@brownrudnick.com

Camille M. Vasquez, Esq.
BROWN RUDNICK LLP
2211 Michelson Drive
Irvine, CA 92612
Telephone: (949) 752-7100
Facsimile: (949) 252-1514
cvasquez@brownrudnick.com

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

