

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

JOHN C. DEPP, II

Plaintiff/Counterclaim Defendant,

v.

AMBER LAURA HEARD,

Defendant/Counterclaim Plaintiff.

Civil Action No.: CL-2019-0002911

FILED

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JOHN T. FREY
Clerk of the Circuit Court
of Fairfax County, VA

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S
DEMURRER AND PLEA IN BAR TO ALL COUNTERCLAIMS**

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BACKGROUND

On March 1, 2019, Plaintiff John C. Depp, II (“Mr. Depp”) commenced the present defamation action against Ms. Heard to clear his name after Defendant Amber Laura Heard (“Ms. Heard”) revived false and malicious allegations of domestic violence Ms. Heard had made against Mr. Depp in 2016 in an op-ed published in the *Washington Post*. As is typical of a defamation complaint, Mr. Depp’s Complaint detailed why Ms. Heard’s charges were false and why the “evidence” she had relied upon in making those charges was unreliable and, in some instances, made up.

In response to Mr. Depp’s Complaint, Ms. Heard twice unsuccessfully sought dismissal of Mr. Depp’s defamation claims. First, by Letter Opinion dated August 9, 2019, the Honorable Bruce D. White, Chief Judge, denied her motion to dismiss based on *forum non conveniens* under Virginia Code § 8.01-265(i). Months later, on March 27, 2020, again by Letter Opinion, the Court overruled Ms. Heard’s demurrer as to all but one of the statements Mr. Depp alleged to be defamatory and denied Ms. Heard’s plea in bar regarding the statute of limitations.

Taking full advantage of the Court’s Emergency COVID Orders, Ms. Heard did not answer Mr. Depp’s Complaint until August 10, 2020.¹ At that time, seeking to punish Mr. Depp for correcting the record and exposing her lies, Ms. Heard also filed three counterclaims against Mr. Depp for a declaratory judgment under Virginia Code §§ 8.01-184, *et seq*, that Ms. Heard is entitled to anti-SLAPP immunity from Mr. Depp’s defamation claims (Count I), defamation and defamation per se (Count II), and violation of the Virginia Computer Crimes Act, Virginia Code § 18.2-152.7:1 (Count III) (the “Counterclaims” and, each, a “Counterclaim”). As set forth in

¹ Absent the Emergency COVID Orders, Ms. Heard’s answer would have been due 21 days after the entry of the March 27, 2020 order ruling on her demurrer and plea in bar, on April 17. *See* Va. R. Sup. Ct. 3:8(b).

Mr. Depp’s demurrer and plea in bar, filed on August 31, 2020, and herein, the Court should dismiss the Counterclaims.

ARGUMENT

I. The Court Should Sustain the Demurrer

The Court should dismiss Ms. Heard’s Counterclaims in their entirety because each of the three Counts fails to state a cause of action upon which relief can be granted. *Mansfield v. Bernabei*, 284 Va. 116, 120 (2012).

A. Count I for Declaratory Judgment Fails To State A Claim Upon Which Relief Can Be Granted

1. Legal Standard

“The General Assembly created the power to issue declaratory judgments to resolve disputes ‘before the right is violated.’” *Charlottesville Area Fitness Club Operators Ass’n v. Albemarle Cty. Bd. of Supervisors*, 285 Va. 87, 98 (2013) (quoting *Patterson v. Patterson*, 144 Va. 113, 120 (1926)). “Preventative relief is the moving purpose” of a declaratory judgment. *Id.* at 99 (quoting *Williams v. Southern Bank of Norfolk*, 203 Va. 657, 662 (1962)). Accordingly, “when the ‘actual objective in the declaratory judgment proceeding [i]s a determination of [a] disputed issue rather than the adjudication of the parties’ rights,’ the case is not one for declaratory judgment.” *Id.* (quoting *Green v. Goodman-Gable-Gould Co.*, 268 Va. 102, 108 (2004)). “[W]here claims and rights asserted have fully matured, and the alleged wrongs have already been suffered, a declaratory proceeding, which is intended to permit the declaration of rights before they mature, is not an available remedy.” *Id.* (quoting *Bd. of Supervisors v. Hylton Enters.*, 216 Va. 582, 585 (1976)).

2. Ms. Heard's Counterclaim for a Declaratory Judgment Is Improper

Ms. Heard asks the Court to “declare that she is immune from civil liability for Depp’s claims in his Complaint and for her statements in her op-ed because Ms. Heard’s op-ed” is protected by Virginia’s anti-SLAPP statute. Counterclaims ¶ 59 (citing Virginia Code § 8.01-233.2(A)). This is the quintessential “defense[] masquerading as [a] counterclaim[]” which, rather than seeking the preemptive adjudication of the parties’ rights, improperly seeks the determination of a dispute. *See Tyler v. Cashflow Technologies, Inc.*, Case No. 6:16-cv-00038, 2016 WL 6538006, at *1 (W.D. Va. Nov. 3, 2016). Indeed, Ms. Heard raised immunity for the statements in her op-ed under Virginia’s anti-SLAPP *as a defense* in her Plea in Bar seeking dismissal of Mr. Depp’s defamation claim. *See Demurrer and Plea in Bar*, filed Sept. 5, 2019.² A declaratory judgment “is not an available remedy” by which Ms. Heard can recharacterize her defenses to Mr. Depp’s defamation claim and so, her Counterclaim for declaratory relief should be dismissed. *See Tyler*, 2016 WL 6538006, at *6-7 (dismissing declaratory judgment counterclaim, which was the “inverse of Plaintiff’s claim[] that Defendant committed defamation,” as duplicative and defenses improperly characterized as counterclaims”); *see also Charlottesville Area Fitness*, 285 Va. at 99-100.

B. Ms. Heard Also Fails to State a Claim for Defamation (Count II)

1. Legal Standard

Under Virginia law, the elements of a claim of defamation by publication are “(1) publication of (2) an actionable statement with (3) the requisite intent.” *Schaecher v. Bouffault*, 290 Va. 83, 91 (2015). When demurrer is sought with respect to a claim of defamation, “the trial judge is responsible for determining whether, as a matter of law, the allegedly defamatory

² At hearing on her demurrer and plea in bar, Ms. Heard reserved her argument that she is entitled to immunity under Virginia’s anti-SLAPP statute, so the defense was not ultimately ruled upon by the Court.

statements are actionable.” *Taylor v. Southside Voice, Inc.*, 83 Va. 190 (2011). To be “actionable,” a statement must be “false and defamatory.” *Schaecher*, 290 Va. at 91.

Opinions about plaintiff’s character or conduct cannot form the basis for a defamation claim, especially where the challenged statements are “relative in nature and depend largely on the speaker’s viewpoint,” *Fuste v. Riverside Healthcare Ass’n*, 265 Va. 127, 132 (2003), or are statements that a reasonable person “could only regard . . . as a relative statement of opinion, grounded upon the speaker’s obvious bias.” *Chaves v. Johnson*, 230 Va. 112, 119 (1985). Indeed, statements that are “made during the course of an ongoing controversy” are “likely to be understood to be rhetorical opinion” rather than assertions of fact.” Judge Robert D. Sack, 1 *Sack on Defamation: Libel, Slander, and Related Problems* § 4:3.1 (5th ed. 2017); see also *Chaves*, 230 Va. at 119 (finding that a charge that professional fees are excessive, in the world of commercial competition, could only be understood to be a statement of opinion, grounded in the speaker’s bias).

Furthermore, under Virginia law, certain statements are absolutely or qualifiedly privilege and, thus, cannot form the basis of a defamation claim. See *Mansfield*, 284 Va. at 121-22; *D’Alfio v. Theuer*, 81 Va. Cir. 237, *2-4 (2010). In the Commonwealth, it is well settled that words spoken or written in connection with a judicial proceeding that are relevant to the matter under inquiry are absolutely against actions for defamation. *Mansfield*, 284 Va. at 121. Virginia also recognizes a qualified privilege that protects communications from defamation liability when made in good faith, but such privilege can be lost upon a showing of malice. See *Haycox v. Dunn*, 200 Va. 212, 229-30 (1958); *D’Alfio*, 81 Va. Cir. at 2-3.

2. The Statements Ms. Heard Challenges Are Not Actionable

The statements by Mr. Depp and his legal counsel in this case, Adam R. Waldman, Esq., that Ms. Heard contends are defamatory share a crucial commonality that is fatal to Ms. Heard’s

defamation claim: they are all statements concerning Ms. Heard's false claim that Mr. Depp abused her, which are the subject of Mr. Depp's suit for defamation against Ms. Heard. Ms. Heard, in her Counterclaim for defamation, essentially asks this Court to find that, where, as here, a plaintiff has stated a viable claim of defamation against a defendant, the defendant can turn around and sue the plaintiff and his attorney for stating – as all plaintiffs asserting a claim for defamation must – that the defendant has lied and correcting the record. Such a claim flies in the face of Virginia defamation law.

a. *The Challenged Statements Are Not Defamatory*

Under Virginia law, statements of opinion made during an ongoing controversy and, thus, obviously grounded in the speaker's own bias, *cannot* form the basis of a defamation claim. *Fuste*, 265 Va. at 132; *Chaves*, 230 Va. at 119. Consistent with this well-settled principal, Virginia courts have routinely held that statements that someone is a liar, a traitor, or a fraud are opinions that are not actionable as defamatory. *See, e.g., Schaecher*, 290 Va. at 102-06 (holding that statement that plaintiff was “lying and manipulating facts to her benefit” was a subjective statement protected by the First Amendment and, thus, not actionable); *Owens v. DRS Automotive Fantomworks, Inc.*, 87 Va. Cir. 30, *3 (2013) (sustaining demurrer of counterclaim for defamation claim alleging plaintiff called defendant a “liar”); *Habeck v. Cosby*, 78 Va. Cir. 117 (2009) (finding statements that plaintiff “put in motion a scheme that will coerce residents” and “reeks of extortion” to be non-actionable, hyperbolic statements); *Cobbs v. Commonwealth*, 55 Va. Cir. 1, 1 (2001) (sustaining demurrer as to statement that plaintiff was a “traitor to her race”).³ Pursuant to this well-established Virginia law, Mr. Depp's and Mr. Waldman's

³ Other jurisdictions are in accord. *See, e.g., Lauderback v. Am. Broadcasting Cos., Inc.*, 741 F.2d 193, (8th Cir. 1984) (finding statement that plaintiff was a crook and liar to be a non-actionable opinion); *Nicosia v. De Rooy*, 72 F. Supp. 2d 1093, 1104 (N.D. Cal. 1999)

statements, which essentially state that Ms. Heard lied and perpetrated a hoax in publicly claiming Mr. Depp abused her,⁴ are subjective statements of opinion, made in the context of a very public ongoing controversy between Mr. Depp and Ms. Heard, that cannot form the basis of a defamation claim. *See, e.g., Schaecher*, 290 Va. at 102-06.

b. The Challenged Statements Are Privileged

Virginia law recognizes an absolute and qualified privilege that protect statements made in relation to a pending judicial proceeding from defamation liability. *See Bull*, 323 F. Supp. At 135 (holding that a press release, which was a fair and accurate account of the pleadings in a recently-filed lawsuit, was privileged); *Mansfield*, 284 Va. at 126 (holding that statements in a draft complaint circulated “for settlement purposes only” were absolutely privileged); *D’Alfio*, 81 Va. Cir. at *2-3 (holding that the transmission of a publicly filed complaint to a reporter was protected by a qualified privilege). As one court recognized, “[o]ne has a right to institute and prosecute an action without fear of being mulched in damages for reflections case upon the defendant[], otherwise civil actions would be far less likely to lead to correct results.” *Bull*, 323 F. Supp. At 135 (citing *Penick v. Ratcliffe*, 149 Va. 618 (1927)). It is this right that Ms. Heard attempts to trample upon by levying a Counterclaim against Mr. Depp for the statements he and his attorney have made concerning the civil suit Mr. Depp initiated against Ms. Heard for

(finding accusations that the plaintiff was a “fraud” and “criminal” to be rhetorical hyperbole not actionable for defamation); *NBC Subsidiary (KCNC-TV), Inc. v. Living Will Ctr.*, 879 P.2d 6, 11 (Colo. 1994) (finding statement that a product is a “scam” to be not actionable for defamation).

⁴ *See* Counterclaims ¶¶ 63 (“no truth to” Ms. Heard’s claims of abuse), 66(a) (stating Ms. Heard committed “defamation, perjury” and filed for a “fraudulent” temporary restraining order), 66(b) (stating Ms. Heard “continues to defraud her abused hoax victim Mr. Depp”), 66(c) (stating Ms. Heard’s “‘battered fact’ was a hoax”), 66(d) (referring to Ms. Heard’s “fake sexual violence allegations” and “sexual violence hoax”), 66(e) (describing Ms. Heard’s conduct as “an ambush, a hoax”), 66(f) (stating Ms. Heard committed an “abuse hoax”).

defamation, and the protections afforded to this right that mandate that Ms. Heard's Counterclaim for defamation must fail.

Here, the statements Ms. Heard contends are defamatory all align with, and are a fair summary of, the allegations in Mr. Depp's publicly-filed Complaint initiating this suit for defamation against Ms. Heard defamed.⁵ Such statements are, thus, privileged and cannot form the basis of Ms. Heard's Counterclaim for defamation. *Bull*, 323 F. Supp. at 135 (holding "no action lies" in defamation from the publication of a press release which "was a fair and accurate account of the issues in the suit").

Virginia law recognizes another privilege that shields the statements Ms. Heard attributes to Mr. Depp from defamation liability: self-defense. As stated by the Virginia Supreme Court: "if a man is attacked in a newspaper, he may reply; and if his reply is not unnecessarily defamatory and is honestly made in self-defense, it will be privileged." *Haycox*, 200 Va. at 230. This is *precisely* what happened here: Mr. Depp was attacked in Ms. Heard's op-ed, which accused him of domestic violence; Mr. Depp then replied, "in fair defense," by filing a defamation suit against Ms. Heard and correcting the record by stating that he did not abuse Ms.

⁵ Compare: (1) Counterclaim ¶ 63 ("no truth to" Ms. Heard's claims of abuse) with Compl. ¶¶ 3-4 (Ms. Heard's allegations that Mr. Depp abused here are "demonstrably false"); (2) Counterclaim ¶ 66(a) (stating Ms. Heard committed "defamation, perjury" and filed for a "fraudulent" temporary restraining order) with Compl. ¶¶ 4 (Ms. Heard's implication that Mr. Depp is a domestic abuser is false and "defamatory per se"), 6 (Ms. Heard's "evidence" supporting her domestic abuse allegations was "false and perjurious"), 30-33 (Ms. Heard submitted a "false affidavit to obtain a restraining order against Mr. Depp"), 74-106 (Mr. Depp's defamation claims against Ms. Heard); (3) Counterclaim ¶¶ 66(b) (stating Ms. Heard "continues to defraud her abused hoax victim Mr. Depp"), 66(c) (stating Ms. Heard's "'battered fact' was a hoax"), 66(d) (referring to Ms. Heard's "fake sexual violence allegations" and "sexual violence hoax"), 66(e) (describing Ms. Heard's conduct as "an ambush, a hoax"), 66(f) (stating Ms. Heard committed an "abuse hoax") with Compl. ¶¶ 3 (Ms. Heard's allegations of domestic abuse were "part of an elaborate hoax"), 16-17 (describing Ms. Heard's "hoax" allegations and "battered face"), 33-60 (detailing the factual underpinnings of the claim that Ms. Heard's facial injuries were fake or staged).

Heard, that Ms. Heard had lied about the abuse, and that her purported injuries were fake.⁶ Such statements of self-defense are privileged and, thus, not actionable for defamation. *Haycox*, 200 Va. at 230.

C. Count III for Violation of Virginia Computer Crimes Act Fails to State a Claim

1. Legal Standard

Virginia's Computer Crimes Act provides in relevant part that:

If any person, with the intent to coerce, intimidate, or harass any person, shall use a computer or computer network to communicate obscene, vulgar, profane, lewd, lascivious, or indecent language, or make any suggestion or proposal of an obscene nature, or threaten any illegal or immoral act, he is guilty of a Class 1 misdemeanor.

Va. Code § 18.2-152.7:1. While the elements of a *civil* claim under Virginia Code § 18.2-152.7:1 appear to be a matter of first impression, based on the plain language of the statute and the manner in which Virginia courts have interpreted this provision in the criminal context, there are three elements for civil liability for computer harassment under Virginia Code § 18.2-152.7:1: (1) the use of a computer or computer network by the offender; (2) to (a) communicate obscene, vulgar, profane, lewd, lascivious, or indecent language, (b) make any suggestions or proposal of an obscene nature, or (c) threaten any illegal or immoral act; (3) with the intent to coerce, intimidate, or harass any person. *See* Va. Code § 18.2-152.7:1; *Barson v. Commonwealth*, 284 Va. 67, 71 (2012).

In *Barson v. Commonwealth*, the Virginia Supreme Court held that the definition of “obscene” set forth in Virginia Code § 18.2-372 applies to claims of computer harassment under Virginia Code § 18.2-152.7:1. *Barson*, 284 Va. at 75. “Obscene” as defined by Virginia Code § 18.2-372 means:

⁶ *See* n.5, *supra*.

that which, considered as a whole, has as its dominant theme or purpose an appeal to the prurient interest in sex, that is, a shameful or morbid interest in nudity, sexual conduct, sexual excitement, excretory functions or products thereof or sadomasochistic abuse, and which goes substantially beyond customary limits of candor in description or representation of such matters and which, taken as a whole, does not have serious literary, artistic, political or scientific value.

Language that is merely vulgar, profane, lewd, lascivious, indecent or offensive does not fall within the applicable definition of “obscene” and, thus, is not proscribed by Virginia Code § 18.2-152.7:1. *See Barson*, 284 Va. at 75 (vacating conviction for violation of Virginia Code § 18.2-152.7:1 because defendant’s communications, although “offensive, vulgar, and disgusting,” did not meet the standard of obscenity provided by Virginia Code § 18.2-372); *see also Moter v. Commonwealth*, 61 Va. App. 471, 478 (2013) (finding that the holding in *Barson* “effectively excise[ed]” the terms “vulgar, profane, lewd, or lascivious” from Virginia Code § 18.2-152.7:1).

2. *Ms. Heard Has Not Alleged Conduct Prohibited by the Virginia Computer Crimes Act*

Ms. Heard fails to state a civil claim for harassment by computer under Virginia Code § 18.2-152.7:1 because she has not alleged the use of any obscene language or threats of an illegal or immoral act. Other than the statements Ms. Heard alleges are defamatory – which are not defamatory, let alone obscene or threatening – she has not supplied, or even paraphrased, any of the “vulgar and profane threats and language” she allegedly has received. *See Counterclaims ¶¶ 28, 76-77.* She, instead, relies only on vague, conclusory allegations that Mr. Depp “threatened an illegal act against Ms. Heard” and he and his agents used, “in many cases, vulgar, profane, lewd and/or ma[de] suggestions or proposals of an obscene nature and/or threatened Ms. Heard explicitly.” *Id.* These elementary allegations cannot sustain a claim of computer harassment under the Virginia Computer Crimes Act, which targets two very specific and narrow categories of language.

Ms. Heard has not alleged the use of obscene language – *i.e.*, language that appeals to the “prurient interest in sex” – that would constitute a communication or proposal proscribed by Virginia Code § 18.2-152.7:1. *Barson*, 284 Va. at 75 (finding that “offensive, vulgar, and disgusting language . . . did not meet the standard of obscenity” proscribed by Virginia Code § 18.2-152.7:1); *Airhart v. Commonwealth*, Record No. 1219-05-2, 2007 WL 88747, at * (Va. App. Jan. 16, 2007) (holding that the use of sexually explicit words used in anger, contempt, or disgust with the target, as opposed in an effort to appeal to a prurient interest in sex, failed to meet the definition of obscene required for harassment by computer in violation of Virginia Code § 18.2-152.7:1). Nor has Ms. Heard alleged any specific threat of an illegal or immoral act within the meaning of Virginia Code § 18.2-152.7:1. The only specific threat Ms. Heard alleges is a threat to defame her and interfere with her reputation and career, which, even if countenanced, is not, as Ms. Heard contends, a threat of an illegal act that rises to the level of conduct proscribed by the Computer Crimes Act. *See Perkins v. Commonwealth*, 12 Va. App. 7, 16 (1991) (“A threat, in the criminal context, is recognized by a communication avowing an intent to injure another’s person or property.”); *cf. Rives v. Commonwealth*, 284 Va. 1, 4 (2012) (finding that a threat of “physical injury in the form of sexual offense” a threat to commit an illegal or immoral act proscribed by statute); *Hudgins v. Commonwealth*, No. 0582-95-1, 1996 WL 393012, at *1-2 (Va. App. July 16, 1996) (finding defendant’s statement that he would slit the victim’s throat and kill her son was a threat of an illegal or immoral act proscribed by statute); *Perkins*, 12 Va. App. at 11, 16 (finding that defendant’s statement that he would find out where the victim lived, rape his wife and burn his house down” was a threat of an illegal or immoral act proscribed by statute). Accordingly, Ms. Heard’s claim for computer harassment under Virginia Code § 18.2-152.7:1 should be dismissed.

II. Plea in Bar Argument

A. Five of the Alleged Statements in Ms. Heard's Counterclaim for Defamation (Count Two) Are Barred by the Statute of Limitations

A plea in bar condenses the litigation by narrowing it to a discrete issue of fact that bars a [party's] right of recovery when proven. *Tomlin v. McKenzie*, 251 Va. 478, 480 (1996). Applying *Tomlin*, the Court should grant Mr. Depp's plea in bar as to five of the publications Ms. Heard claims are defamatory because Ms. Heard herself concedes that they were published over a year before she filed her Counterclaims and are, thus, barred by Virginia's one-year statute of limitations. See Virginia Code § 8.01-247.1. Mr. Depp's interview in *GQ* was published by *GQ* in November 2018 (see Counterclaims ¶¶ 33-34, 63-64, Ex. A); and certain of Mr. Waldman's statements that Ms. Heard claims are defamatory were published on April 12, 2019 (see Counterclaims ¶¶ 42, 66(a) Ex. B), June 2019 (see Counterclaims ¶¶ 43, 66(b), Ex. C), July 2, 2019 (see Counterclaims ¶¶ 44, 66(c), Ex. D), and July 3, 2019 (see Counterclaims ¶¶ 44, 66 (c), Ex. E). It is undisputed that Ms. Heard waited until August 10, 2020 to file her Counterclaims. Accordingly, to the extent that Ms. Heard has stated a claim as to any of the five publications, Ms. Heard's Counterclaim for defamation based on statements in these publications should be dismissed as barred by Virginia's one-year statute of limitations.

B. Mr. Depp is Entitled to Anti-SLAPP Immunity on Ms. Heard's Counterclaim for Defamation

Virginia's anti-SLAPP statute provides in relevant part that:

- A. A person shall be immune from civil liability for . . . defamation based solely on statements (i) regarding matters of public concern that would be protected under the First Amendment to the United States Constitution made by that person that are communicated to a third party . . . The immunity provided by this section shall not apply to any statements made with actual or constructive knowledge that they are false or with reckless disregard for whether they are false.
- B. Any person who has a suit against him dismissed pursuant to the immunity provided by this section may be awarded reasonable attorney fees and costs.

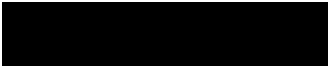
Va. Code § 8.01-223.2. Based on the statutory text, there are four elements to anti-SLAPP immunity: the allegedly defamatory statements were (1) on a matter of public concern; (2) protected by the First Amendment; (3) published to a third party; and (4) not made with actual or constructive knowledge that they were false or with reckless disregard for whether they were false. Where all four elements are met, a defendant enjoys statutory immunity from liability for defamation and may be awarded reasonable attorney fees and costs.

All four elements are met here. *First*, the statements Ms. Heard contends are defamatory were made with respect to a matter of public concern, specifically a very public controversy and litigation concerning domestic abuse allegations among two public figures. *Second*, for the reasons set forth above, none of the challenged statements are defamatory and the statements are, thus, protected by the First Amendment. *Third*, the challenged statements were published to third parties. *Finally*, Ms. Heard has not plausibly asserted that the statements were made by Mr. Depp with actual malice. All except for one of the allegedly defamatory statements, were allegedly made *by Mr. Waldman* (purportedly as an agent for Mr. Depp) and, as set forth above, the statements do not have a defamatory meaning and, thus, could not have been made with disregard for their truth. Anti-SLAPP immunity is, accordingly, appropriate. Awarding fees and costs to Mr. Depp is appropriate here, given that Ms. Heard's Counterclaims, and particularly the defamation Counterclaim, are nothing more than a frivolous attempt to frustrate Mr. Depp's attempts to seek an expeditious resolution of his defamation claims against Ms. Heard.

Conclusion

Based on the aforesaid, the Court should sustain Mr. Depp's demurrer to all Counts of the Counterclaims, and grant his plea in bar as to five of the alleged statements that comprise Count Two of same, as they are barred by Virginia's one-year statute of limitations for defamation claims.

Respectfully submitted,


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