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CLERK, CIRCUIT COURT
FAIRFAX, VA

Transcript of Jury Trial - Day 23

Date: May 25, 2022
Case: Depp, II -v- Heard

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

Transcript of Jury Trial - Day 23
Conducted on May 25, 2022

1 (7050 to 7053)

7050	7052
<p>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 Wednesday, May 25, 2022 16 9:00 a.m. EDT 17 TRIAL DAY 23 18 19 20 Job No.: 443907 21 Pages: 7050 - 7435 22 Reported by: Judith E. Bellinger, RPR, CRR</p>	<p>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 BROWN RUDNICK LLP 7 601 Thirteenth Street NW 8 Suite 600 9 Washington, D.C. 20005 10 202.536.1700 11 12 CAMILLE M. VASQUEZ, ESQUIRE 13 BROWN RUDNICK LLP 14 2211 Michelson Drive 15 7th Floor 16 Irvine, CA 92712 17 949.440.0234 18 19 20 21 22</p>
7051	7053
<p>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</p>	<p>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 REBECCA MACDOWELL LECAROS, ESQUIRE 10 WAYNE DENNISON, ESQUIRE 11 BROWN RUDNICK LLP 12 One Financial Center 13 Boston, MA 02111 14 617.856.8149 15 16 17 18 19 20 21 22</p>

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2 (7054 to 7057)

7054	7056
<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 WOODS ROGERS PLC</p> <p>17 10 South Jefferson Street</p> <p>18 Suite 1400</p> <p>19 P.O. Box 14125</p> <p>20 Roanoke, VA 24011</p> <p>21 540.983.7540</p> <p>22</p>	<p>1 EXHIBITS</p> <p>2 Offered Admitted</p> <p>3 Plaintiffs.</p> <p>4 1301 7203 7204</p> <p>5</p> <p>6 Defendant's</p> <p>7 821 7308 7308</p> <p>8 857A 7312 7312</p> <p>9 883 7298 7300</p> <p>10 1859 7283 7284</p> <p>11 1905 7279 7280 (with redactions)</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>
7055	7057
<p>1 CONTENTS</p> <p>2 EXAMINATION OF KATE MOSS (VIA WEBEX) PAGE</p> <p>3 By Mr. Chew 7082</p> <p>4 EXAMINATION OF SHANNON J. CURRY, PSY.D., M.S.C.P.</p> <p>5 By Mr. Dennison 7086</p> <p>6 By Ms. Bredehoft 7128</p> <p>7 By Mr. Dennison 7152</p> <p>8 EXAMINATION OF JOHN C. DEPP, II PAGE</p> <p>9 By Ms. Meyers 7175</p> <p>10 By Mr. Rottenborn 7276</p> <p>11 By Ms. Meyers 7319</p> <p>12 EXAMINATION OF MORGAN TREMAINE PAGE</p> <p>13 By Ms. Vasquez 7331</p> <p>14 By Ms. Bredehoft 7346</p> <p>15 By Ms. Vasquez 7352</p> <p>16 EXAMINATION OF BRYAN NEUMEISTER PAGE</p> <p>17 By Ms. Lecaroz 7353</p> <p>18 By Mr. Murphy 7399</p> <p>19 By Ms. Lecaroz 7414</p> <p>20 EXAMINATION OF BEVERLY R. LEONARD (WEBEX) PAGE</p> <p>21 By Ms. Vasquez 7418</p> <p>22 By Ms. Bredehoft 7423</p>	<p>1 PROCEEDINGS</p> <p>2 THE BAILIFF: All rise.</p> <p>3 Please be seated and come to order.</p> <p>4 THE COURT: Good morning.</p> <p>5 MR. CHEW: Good morning, Your Honor.</p> <p>6 THE COURT: All right. Do we have any</p> <p>7 preliminary matters?</p> <p>8 MS. BREDEHOFT: Yes, Your Honor, we do.</p> <p>9 THE COURT: Okay.</p> <p>10 (Sidebar.)</p> <p>11 THE COURT: All right.</p> <p>12 MR. NADELHAFT: First, the easy ones.</p> <p>13 THE COURT: Easy ones are nice.</p> <p>14 MR. NADELHAFT: These are the exhibits</p> <p>15 that were admitted and were on the list.</p> <p>16 THE COURT: Okay. All right. So</p> <p>17 that's 1493F?</p> <p>18 MR. NADELHAFT: Uh-huh.</p> <p>19 THE COURT: Okay. Got that one.</p> <p>20 MR. NADELHAFT: There's a copy.</p> <p>21 MS. VASQUEZ: Thank you.</p> <p>22 THE COURT: And R?</p>

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3 (7058 to 7061)

7058	7060
<p>1 MR. NADELHAFT: Right. That was -- 2 THE COURT: And then 1903. 3 MR. NADELHAFT: That was yesterday. 4 THE COURT: Oh, that was yesterday's. 5 MR. NADELHAFT: Then there were two 6 exhibits that were played during the depositions 7 of Tracey Jacobs and iO Tillett Wright, and they 8 were in by agreement, so I don't think they were 9 on your list. 10 THE COURT: All right. 468 and 537. 11 No objection; is that correct? 12 MS. VASQUEZ: I want to confirm this. 13 Okay. Yes, no objection. 14 THE COURT: Okay. 468 and 537, no 15 objection. 16 MR. NADELHAFT: Thank you. 17 THE COURT: I'll take them off my list 18 as I go. 19 MR. ROTTENBORN: We have a few 20 witnesses that we want to discuss. The first one, 21 we could discuss in open court. It's the motion 22 to exclude Mr. Neumeister.</p>	<p>1 during Ms. Heard's examination, no arrest is 2 coming in relating to the Tasya van Ree issue; 3 Your Honor has already ruled that. Calling a 4 police officer, even if they say, well, we're not 5 going to elicit the testimony she was arrested. 6 That would be like calling the U.K. judge and 7 saying, we're going to put you on the stand, don't 8 talk about the ruling, just talk about the 9 discovery and witness testimony and all that. 10 THE COURT: All right. 11 MR. ROTTENBORN: We think the jury is 12 going to draw from that. Second, Your Honor, that 13 type of evidence and that type of testimony is 14 precluded by the collateral evidence rule, which 15 basically says that when somebody's introduced on 16 cross-examination, a party can't introduce 17 extrinsic evidence on a collateral matter. What 18 happened in the Seattle airport between Ms. Heard 19 and Ms. van Ree is a classic example of a 20 collateral matter that's barred by the collateral 21 evidence doctrine, and it's also barred under 22 2:608B, Your Honor. I have a copy if Your Honor</p>
7059	7061
<p>1 THE COURT: Okay. 2 MR. ROTTENBORN: Which Mr. Murphy is 3 going to argue. 4 MS. LECAROS: Our opposition is under 5 seal, so it may make sense to handle it at 6 sidebar. 7 THE COURT: You want to do it sidebar? 8 Okay. 9 MR. ROTTENBORN: And then we have a few 10 other witnesses. 11 THE COURT: Which one do you want to do 12 first? 13 MR. ROTTENBORN: The first one is 14 Beverly Leonard. She is someone that was 15 identified last night by them. And they say that 16 this is a witness who reached out to them late 17 last night, which is whatever, that's fine. But 18 she is, as best we can tell, she is one of the 19 police officers from the Seattle airport, which we 20 object to them calling for a couple different 21 reasons. The first one, Your Honor, is Your 22 Honor's rulings in the case, both in limine and</p>	<p>1 would like to see, but under 608B, specific 2 instances of conduct may not be proved by 3 extrinsic evidence. And this is a side issue to 4 the trial. It's about something totally unrelated 5 to this. And, so, collateral evidence, 608B and 6 the fact that it would expressly violate or 7 explicitly violate Your Honor's rulings that the 8 rest is too prejudicial and isn't coming in. 9 THE COURT: Okay. 10 MS. VASQUEZ: If I may be heard, Your 11 Honor. I was the one that received an email past 12 1:00 a.m. last night, still working with 13 Ms. Meyers. I can represent to you that I emailed 14 Ms. Leonard back, asked her to call me on my cell 15 phone. I then had a phone call with Ms. Leonard, 16 I confirmed a couple things; she has not been 17 watching the trial, she has not seen testimony. I 18 then instructed her, per Your Honor's ruling, that 19 she is not to watch the trial, watch testimony. 20 THE COURT: That's not the issue. 21 MS. VASQUEZ: I understand that. Now 22 as to the attempt -- with Your Honor's blessing to</p>

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4 (7062 to 7065)

<p>7062</p> <p>1 offer Ms. Leonard just to testify as a third-party 2 fact witness as to what she observed. It is 3 rebuttal. It is impeachment. Ms. Heard -- as 4 Your Honor is aware, allowed me to ask Ms. Heard 5 whether she assaulted her ex-girlfriend. She 6 denied doing so. I then asked Ms. Heard whether 7 people saw it. She denied that people saw it. 8 And so -- 9 THE COURT: So you're saying this 10 witness actually saw this? 11 MS. VASQUEZ: Yeah, she witnessed the 12 assault. She is the arresting officer. 13 MS. BREDEHOFT: No, she is not. 14 MS. VASQUEZ: I can represent to the 15 Court, as an officer of this court, that she will 16 not testify that she arrested Ms. Heard. She is 17 only going to testify -- 18 THE COURT: She can't testify she's an 19 officer either. 20 MS. VASQUEZ: She's not an officer 21 anymore, she's now retired. If you would like her 22 not even testify --</p>	<p>7064</p> <p>1 MR. ROTTENBORN: Ms. Barkin was 2 testifying about the facts of her time and 3 experience -- 4 THE COURT: With specific incident. 5 MR. ROTTENBORN: Which didn't come up 6 on cross-examination, which Your Honor blessed 7 before the trial. It's a totally separate issue. 8 They could have argued that. They didn't object 9 to that. Your Honor, I mean, 608B is very clear 10 that specific instances of conduct may not be 11 proved by extrinsic evidence. They were allowed 12 to elicit testimony by Ms. Heard on that. 13 THE COURT: She denied it. 14 MS. VASQUEZ: She denied it. 15 THE COURT: She denied that it 16 happened, so for impeachment purposes, they can 17 have someone say that it did happen. 18 MR. ROTTENBORN: Not under 608B. Can I 19 get a copy of the rule? 20 THE COURT: Sure. 21 MS. VASQUEZ: Thank you. 22 MR. ROTTENBORN: Specific instances of</p>
<p>7063</p> <p>1 THE COURT: She cannot say anything 2 about being an officer, just somebody at the 3 airport. 4 MS. VASQUEZ: Somebody at the airport. 5 She observed Ms. Heard hit Ms. van Ree and rip off 6 her necklace, leaving marks on her neck. That's 7 what she's going to testify to. 8 THE COURT: All right. 9 MR. ROTTENBORN: It's a plainly 10 collateral matter. It's a mistrial. It's a 11 collateral matter, just as if we were to bring 12 someone on to testify about something Johnny did 13 30 years ago. It's a collateral matter. It's not 14 relating -- 15 THE COURT: Well, you did. Somebody -- 16 MS. VASQUEZ: Ellen Barkin. 17 MR. ROTTENBORN: Understood. 18 THE COURT: How is that not allowed? 19 MR. ROTTENBORN: Under 608B, Your 20 Honor, specific instances of conduct may not be 21 proved by extrinsic evidence. 22 THE COURT: What was Ms. Barkin?</p>	<p>7065</p> <p>1 conduct of a witness may not be proved by 2 extrinsic evidence except as -- and then they say 3 except as otherwise provided in this Rule. It's 4 not impeachment. If it is impeachment, it's 5 impeachment on a plainly collateral matter. It's 6 not relating to whether or not Mr. Depp abused 7 Ms. Heard. That is a collateral matter and under 8 both the common law collateral evidence doctrine 9 and the Rules of Evidence, it's not allowed. And 10 her testimony is not -- it wasn't false. She said 11 she didn't assault -- 12 MS. VASQUEZ: It's proper rebuttal, 13 Your Honor, and it's impeachment. Ms. Heard said 14 she did not assault Ms. van Ree, that people did 15 not see it. That's exactly what Ms. Leonard 16 intends to testify about. 17 THE COURT: I don't find that it's a 18 collateral matter in this matter because Ms. Heard 19 testified that she always does self-defense, she 20 only hits in self-defense, and that's what her 21 expert also testified, was always hits in 22 self-defense. That's why I allowed the question</p>

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5 (7066 to 7069)

<p>7066</p> <p>1 to begin with, to Ms. Heard at the time when she 2 was on the stand in cross-examination. She said 3 it did not happen. I will allow the testimony, 4 very limited. 5 MS. VASQUEZ: Understood, Your Honor. 6 MR. CHEW: Thank you, Your Honor. 7 MS. VASQUEZ: And as an officer of the 8 court, I will represent she will not testify she 9 was formerly a police officer or that she arrested 10 Ms. Heard. 11 THE COURT: Very limited testimony -- 12 MS. VASQUEZ: Understood. 13 THE COURT: -- will be allowed in this 14 matter based on that, for impeachment purposes. 15 MS. VASQUEZ: Thank you, Your Honor. 16 MR. CHEW: Thank you, Your Honor. 17 MR. ROTTENBORN: Second matter, Your 18 Honor, is just want to get some parameters of what 19 Kate Moss is allowed to testify to. 20 THE COURT: Okay. 21 MR. ROTTENBORN: So I don't have to 22 jump up.</p>	<p>7068</p> <p>1 part. I don't have that, and I don't recall that. 2 I'm not -- I'm not doubting what she's saying. 3 But if she heard a rumor, it's the rumor about 4 what happened on the stairs. So what I'm saying 5 is they shouldn't be allowed to say -- elicit 6 testimony about oh, Johnny was so sweet, Johnny 7 never hit me. If they want to get her and ask 8 her, you know, a couple questions about did he hit 9 you on the stairs, I think that's fair game. But 10 anything beyond that is beyond the scope of 11 rebuttal, and I fear that that's what they're 12 trying to do, and I just want to stem this off 13 now. 14 MR. CHEW: It is a very short 15 examination. And here is the testimony 16 question -- 17 MS. VASQUEZ: Cross-examination. 18 MR. CHEW: -- from Ms. Vasquez. "You 19 thought he was going to throw your sister down the 20 stairs like he had thrown Kate Moss down the 21 stairs, right?" 22 "He swung at Whitney and I had heard a</p>
<p>7067</p> <p>1 THE COURT: Is H&L her -- 2 MS. VASQUEZ: Yeah. 3 THE COURT: There's a lobby. I didn't 4 know who it was. 5 MR. ROTTENBORN: This is the testimony 6 of Amber related to Kate Moss. It's this one 7 sentence. She said, "I just, in my head, 8 instantly think of Kate Moss on the stairs when I 9 swing at him." 10 THE COURT: Right. 11 MR. ROTTENBORN: So, in our view, 12 asking about Kate Moss, did Johnny ever hurt you 13 on the stairs, that's fair game. 14 THE COURT: Anything on the stairs. 15 MS. VASQUEZ: It is only related to the 16 stairs. But, Your Honor, I will represent that in 17 cross-examination, I also inquired of Ms. Heard 18 whether or not what about Ms. Moss she remembered, 19 and she testified, in cross-examination, that she 20 had heard a rumor. 21 MR. CHEW: May I just -- 22 MR. ROTTENBORN: I don't remember that</p>	<p>7069</p> <p>1 rumor about that, so that's what I thought of." 2 THE COURT: Right. 3 MR. CHEW: She testified about it both 4 on direct -- 5 THE COURT: Okay. Yes, about the 6 stairs. 7 MR. CHEW: It's a very limited inquiry 8 about whether he ever physically harmed her. 9 We've been doing that throughout the -- 10 MS. VASQUEZ: They brought in -- 11 MR. CHEW: Clearly, what she's saying 12 is that Johnny was violent with her, and she's 13 going to say that's not true. 14 MR. ROTTENBORN: That's beyond the 15 scope, Your Honor. The only two times Kate Moss 16 came up is this rumor about what happened on the 17 stairs. To get them to elicit testimony about was 18 he ever violent, which I know is what they're 19 going to try to do, and that's beyond the scope. 20 MR. CHEW: They elicited testimony from 21 Ellen Barkin about Johnny throwing a bottle 22 30 years ago against a wall in a crowded room and</p>

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6 (7070 to 7073)

<p>7070</p> <p>1 being abusive.</p> <p>2 MR. ROTTENBORN: Your Honor has held</p> <p>3 both parties to objections that are made at the</p> <p>4 time, and if objections aren't made at the time,</p> <p>5 then we waive them. They could have brought up</p> <p>6 these issues --</p> <p>7 THE COURT: They objected to Ellen</p> <p>8 Barkin's deposition testimony.</p> <p>9 MS. VASQUEZ: Even in Motion in Limine,</p> <p>10 Your Honor.</p> <p>11 MR. ROTTENBORN: Understood. But my</p> <p>12 understanding is not on the same basis that we're</p> <p>13 objecting now. I'm saying this is beyond the</p> <p>14 scope of this -- it's rebuttal testimony, Your</p> <p>15 Honor has been very strictly --</p> <p>16 THE COURT: But they're saying they're</p> <p>17 rebutting Ellen Barkin also.</p> <p>18 MS. BREDEHOFT: They never raised it in</p> <p>19 the interrogatories --</p> <p>20 MR. ROTTENBORN: They can't call Kate</p> <p>21 Moss to rebut Ellen Barkin, Your Honor, that's</p> <p>22 inappropriate rebuttal testimony. This is the one</p>	<p>7072</p> <p>1 MR. CHEW: May I set the context of how</p> <p>2 she knows --</p> <p>3 THE COURT: Well, yeah, how she knows</p> <p>4 is fine.</p> <p>5 MR. ROTTENBORN: How she knows him? If</p> <p>6 it's, like, you dated for five years, that's fine.</p> <p>7 MR. CHEW: I just don't want to run</p> <p>8 afoul of the Court's rule.</p> <p>9 THE COURT: You can do that. I'm</p> <p>10 saying you can't ask any questions about was he</p> <p>11 ever violent?</p> <p>12 MR. CHEW: I understand.</p> <p>13 THE COURT: Focus right on the stairs.</p> <p>14 MR. CHEW: I gotcha. Understood, Your</p> <p>15 Honor. I just want to be clear, I don't want to</p> <p>16 run afoul.</p> <p>17 THE COURT: I appreciate it.</p> <p>18 MR. ROTTENBORN: Two more. I'll be</p> <p>19 quick. This is Dr. Collins, who they've indicated</p> <p>20 they'll be calling today. Dr. Collins is a</p> <p>21 pathologist who will testify -- I think will</p> <p>22 testify about some bruising pictures on Amber's</p>
<p>7071</p> <p>1 and only instance where Kate Moss came up, which</p> <p>2 was a rumor that Johnny had injured her on the</p> <p>3 stairs, which wasn't limited to Amber, that was a</p> <p>4 widely circulated rumor. That should be the</p> <p>5 only --</p> <p>6 THE COURT: I'm going to limit it just</p> <p>7 to the stairs, okay?</p> <p>8 MR. CHEW: Your Honor, I understand.</p> <p>9 THE COURT: The only -- because the</p> <p>10 only reason it's coming in is because she opened</p> <p>11 the door on cross-examination about the stairs.</p> <p>12 MR. CHEW: But won't the jury think</p> <p>13 they're not allowed to ask whether he ever hit</p> <p>14 her, they're going to think --</p> <p>15 THE COURT: Well, I mean, he could have</p> <p>16 done it in the case-in-chief. I don't even know</p> <p>17 if it would have come in, in case-in-chief.</p> <p>18 But what I'm saying is the only reason</p> <p>19 it was overruled because the door was opened</p> <p>20 because she mentioned Kate Moss on the stairs.</p> <p>21 She did that and that's why she's coming in to</p> <p>22 testify that nothing happened on the stairs.</p>	<p>7073</p> <p>1 face. They designated a longer report of her at</p> <p>2 the initial -- this is kind of like the Bercovici</p> <p>3 situation last week. They designated a longer</p> <p>4 report of her in their initial designations. They</p> <p>5 didn't put her on in the case-in-chief. Her</p> <p>6 rebuttal designations, which were filed at the end</p> <p>7 of February, consist of that. And so, we believe</p> <p>8 that she should not be allowed to testify. They</p> <p>9 could have put her on during the case-in-chief,</p> <p>10 they elected not to.</p> <p>11 THE COURT: All right. So this is the</p> <p>12 only rebuttal designation?</p> <p>13 MR. ROTTENBORN: Yep.</p> <p>14 MS. MEYERS: If I may, Your Honor. We</p> <p>15 designated her as an informative witness, right.</p> <p>16 So we designated her at the earliest point at</p> <p>17 which we had to identify our expert witnesses,</p> <p>18 which was in January of 2022.</p> <p>19 THE COURT: Obviously they can't rebut</p> <p>20 anything on Dr. Jordan because Dr. Jordan didn't</p> <p>21 testify.</p> <p>22 MS. MEYERS: That's true, and we don't</p>

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7 (7074 to 7077)

<p>7074</p> <p>1 intend to have her do that.</p> <p>2 THE COURT: So, previously exposed as</p> <p>3 to -- which plaintiff incorporates by reference.</p> <p>4 So what was the first?</p> <p>5 MR. ROTTENBORN: The first designation</p> <p>6 was quite wholesome, but our point is, that's</p> <p>7 their case-in-chief. They should have put her on</p> <p>8 during the case-in-chief. To just call her during</p> <p>9 rebuttal --</p> <p>10 THE COURT: Here's the problem: It's</p> <p>11 not just rebuttal, it's the defense to your</p> <p>12 counterclaim.</p> <p>13 MR. ROTTENBORN: Right.</p> <p>14 THE COURT: So that's an issue you're</p> <p>15 going to have with some of these witnesses.</p> <p>16 MR. ROTTENBORN: I have a response to</p> <p>17 that. So, there was an initial expert disclosure,</p> <p>18 I think it was January 11th or January 10th,</p> <p>19 something like that, the disclosure for people in</p> <p>20 response to the claims -- the defense was due</p> <p>21 February 10th.</p> <p>22 THE COURT: Okay.</p>	<p>7076</p> <p>1 MS. MEYERS: -- if necessary, I can go</p> <p>2 grab. We identified, at the end, we said that we</p> <p>3 also designate her to testify in rebuttal in</p> <p>4 response to anything that any witness has</p> <p>5 testified to. And at this point --</p> <p>6 THE COURT: Well, you can't use an</p> <p>7 expert rebuttal on lay witnesses.</p> <p>8 MS. MEYERS: But we --</p> <p>9 THE COURT: An expert in rebuttal can</p> <p>10 only rebut experts.</p> <p>11 MS. MEYERS: So we identified her in</p> <p>12 our initial disclosure.</p> <p>13 THE COURT: So what is she rebutting?</p> <p>14 Which expert is she rebutting?</p> <p>15 MS. MEYERS: We designated her</p> <p>16 affirmatively, and at this point, they didn't put</p> <p>17 in any of the photographs of Ms. Heard during our</p> <p>18 case-in-chief, so now that it's in, in their</p> <p>19 defense --</p> <p>20 THE COURT: It's your rebuttal.</p> <p>21 Rebuttal case.</p> <p>22 MS. MEYERS: Well, it's also our</p>
<p>7075</p> <p>1 MR. ROTTENBORN: Then there was a final</p> <p>2 rebuttal disclosure. They didn't disclose</p> <p>3 anything about Collins on February 10th.</p> <p>4 THE COURT: They did disclose some</p> <p>5 people on February 10th for the defense?</p> <p>6 MR. ROTTENBORN: But not Collins.</p> <p>7 THE COURT: All right. So.</p> <p>8 MR. ROTTENBORN: So Collins was not</p> <p>9 listed.</p> <p>10 THE COURT: So either in their direct</p> <p>11 case or rebuttal, but not in the counterclaim?</p> <p>12 MR. ROTTENBORN: Correct. And the only</p> <p>13 reason that she's listed for rebuttal is</p> <p>14 Dr. Jorden. We didn't call Dr. Jorden, so she</p> <p>15 shouldn't be allowed to testify in rebuttal.</p> <p>16 MS. MEYERS: You Honor, we designated</p> <p>17 her in our affirmative designations. They had</p> <p>18 notice as of January 2022. She's the earliest --</p> <p>19 they had more notice than was necessary to put her</p> <p>20 up on rebuttal. And in those designations,</p> <p>21 which --</p> <p>22 THE COURT: Right.</p>	<p>7077</p> <p>1 defenses case.</p> <p>2 THE COURT: You didn't designate her as</p> <p>3 your defense witness, correct, your defense</p> <p>4 experts?</p> <p>5 MS. VASQUEZ: I believe we did, in</p> <p>6 reference.</p> <p>7 THE COURT: Designated as your defense</p> <p>8 experts. That's a different story. You're saying</p> <p>9 they didn't designate --</p> <p>10 MR. ROTTENBORN: I do not believe that</p> <p>11 she was ever mentioned on February 10th. These</p> <p>12 are the two --</p> <p>13 THE COURT: February 10th? All right.</p> <p>14 So let me see the designations from February 10th.</p> <p>15 Do you have the designations from February 10th?</p> <p>16 MR. ROTTENBORN: Mr. Murphy has those.</p> <p>17 THE COURT: Does somebody have the</p> <p>18 designations from February 10th?</p> <p>19 MS. VASQUEZ: Your Honor --</p> <p>20 MS. MEYERS: So, Your Honor, first of</p> <p>21 all, there's no prejudice here. We identified her</p> <p>22 affirmatively.</p>

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8 (7078 to 7081)

<p>7078</p> <p>1 THE COURT: Rebuttal experts are only 2 for experts that were deposed in the case, who is 3 rebutting their expert. 4 MS. MEYERS: Well, she's responding to 5 the evidence that came in, in their defense. 6 THE COURT: No. Objection sustained 7 unless you've designated them in your defense. 8 MR. ROTTENBORN: And I believe the 9 exact same argument is going to be made for 10 Mr. Neumeister. 11 THE COURT: Was he designated in your 12 defense? 13 MS. MEYERS: He's in the affirmative 14 and -- 15 THE COURT: They didn't bring any 16 experts, so he can't testify either, okay? So 17 that's where we are. 18 MR. ROTTENBORN: We'll just confirm 19 that there was no reference there. 20 MS. LECARAZ: We're checking too. 21 MR. ROTTENBORN: Okay. 22 THE COURT: That's where we are.</p>	<p>7080</p> <p>1 defense. That's where we are. 2 All right. So that's where we are. 3 Oh, and the TMZ motion is set for 1:00, so they'll 4 be here at 1:00 to argue their motion. 5 Would you like to weigh in on the 6 motion? 7 MR. CHEW: Yes, Your Honor. We're 8 prepared. 9 THE COURT: It will be quick, though. 10 MS. MEYERS: If I may, I have some 11 exhibits for Jamie that she requested. 12 THE COURT: Sure. 13 MS. LECARAZ: Your Honor, we had 14 prepared a written opposition on the motion to 15 exclude Mr. Neumeister. 16 THE COURT: Would you like to put it as 17 part of your record? 18 MS. LECARAZ: Yeah, I think that's a 19 good idea. 20 THE COURT: Thank you. 21 MS. LECARAZ: Thank you. 22 (Open court.)</p>
<p>7079</p> <p>1 MR. ROTTENBORN: Okay. That's all we 2 have. 3 MS. VASQUEZ: I anticipate, Your Honor, 4 that their rebuttal experts that are counters to 5 Mr. Neumeister and Dr. Collins will also not be 6 allowed to testify in the rebuttal case. 7 THE COURT: Well, yes, because if 8 Mr. Collins doesn't testify, then they don't get a 9 rebuttal expert either. It works both ways. 10 MS. BREDEHOFT: We wouldn't be able to 11 call Jordan. If Neumeister is out, correct. 12 THE COURT: They can only rebut experts 13 you've put in on your defense. All right. 14 MR. NADELHAFT: Mr. Murphy's looking 15 for February. 16 THE COURT: 10th of February. 17 MR. MURPHY: February 10th. I don't 18 see Collins. This is part of my argument, Your 19 Honor. Neumeister is not in there as well. 20 THE COURT: We have Richard Marks in 21 defense, Mr. Spindler in defense, Mr. Bania in 22 defense, Dr. Curry in defense, Dr. Shaw in</p>	<p>7081</p> <p>1 THE COURT: All right. Are we ready 2 for the jury? 3 MR. ROTTENBORN: Yes, Your Honor. 4 THE COURT: Okay. 5 (Whereupon, the jury entered the 6 courtroom and the following proceedings took 7 place.) 8 THE COURT: All right. Good morning, 9 ladies and gentlemen. 10 All right. Your next witness. 11 MR. CHEW: Good morning, Your Honor. 12 Mr. Depp calls Kate Moss to the stand. She will 13 be appearing on your screen. 14 THE COURT: All right. Ma'am, can you 15 hear me? 16 THE WITNESS: Yes. 17 THE COURT: Yes, can you count to five 18 for me. 19 THE WITNESS: One, two, three, four, 20 five. 21 THE COURT: Thank you, ma'am. If you 22 could raise your right hand.</p>

Transcript of Jury Trial - Day 23
Conducted on May 25, 2022

9 (7082 to 7085)

<p>1 KATE MOSS, 2 a witness called on behalf of the 3 plaintiff and counterclaim defendant, having been 4 first duly sworn by the Court, testified as 5 follows: 6 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND 7 COUNTERCLAIM DEFENDANT 8 BY MR. CHEW: 9 Q Good morning, Ms. Moss, or I should say 10 good afternoon your time. My name is Ben Chew, 11 from the firm of Brown Rudnick. 12 Would you, please, state your full name 13 for the record. 14 A Kate Moss. 15 Q Ms. Moss, where do you reside? 16 A London, England. 17 Q From where are you testifying today, 18 Ms. Moss? 19 A Gloucestershire, England. 20 Q Ms. Moss, do you know Johnny Depp? 21 A Yes, I do. 22 Q How do you know Mr. Depp?</p>	<p>7082 7084 1 A And I screamed because I was in – 2 because I didn't know what happened to me, and I 3 was in pain, and he came running back to help me 4 and carried me to my room and got me medical 5 attention. 6 Q Did Mr. Depp push you, in any way, down 7 the stairs? 8 A No. 9 Q During the course of your relationship, 10 did he ever push you down any stairs? 11 A No, he never pushed me, kicked me, or 12 threw me down any stairs. 13 Q Ms. Moss, have you ever, before today, 14 testified in any kind of court proceeding? 15 A No, I have never. 16 Q Why did you decide to testify today? 17 MR. ROTTENBORN: Objection, Your Honor. 18 That's beyond the scope of what we just talked 19 about. 20 THE COURT: All right. I'll sustain 21 the objection. 22 MR. CHEW: Thank you, Ms. Moss. We</p>
<p>7083 1 A I had a relationship with him. 2 Q Did there come a time when you and 3 Mr. Depp had a romantic relationship? 4 A Yes. 5 Q For how long, Ms. Moss, were you and 6 Mr. Depp a romantic couple? 7 A 1993 to – no, 1994 to 1998. 8 Q Ms. Moss, did there come a time when 9 you -- while you and Mr. Depp were a couple, that 10 the two of you took a vacation together to the 11 GoldenEye resort in Jamaica? 12 A Yes. 13 Q What, if anything, happened when you 14 were in Jamaica with Mr. Depp? 15 A I – we were leaving the room and 16 Johnny left the room before I did, and there had 17 been a rainstorm, and as I left the room, I 18 slipped down the stairs and I hurt my back. 19 Q How did you -- 20 A And -- 21 Q I apologize, Ms. Moss. Please 22 continue.</p>	<p>7085 1 have nothing further at this time. We greatly 2 appreciate your taking the time to testify. 3 THE COURT: All right. Any 4 cross-examination? 5 MR. ROTTENBORN: No, Your Honor. 6 THE COURT: All right. You're free to 7 go. Thank you, Ms. Moss. 8 MR. CHEW: Thank you, Your Honor. 9 THE WITNESS: Thank you. 10 THE COURT: All right. Your next 11 witness. 12 MS. MEYERS: Your Honor, we're calling 13 Dr. Shannon Curry. 14 THE COURT: Just give us a moment to 15 move the TV. 16 All right. Dr. Curry. 17 Good morning, Mr. Dennison. 18 MR. DENNISON: Good morning, Your 19 Honor. 20 Plaintiff calls Shannon Curry, 21 Dr. Shannon Curry. 22 THE COURT: You're under oath, so,</p>

Transcript of Jury Trial - Day 23
Conducted on May 25, 2022

10 (7086 to
7089)

<p>7086</p> <p>1 please, have a seat, Doctor.</p> <p>2 THE WITNESS: Good morning.</p> <p>3 SHANNON J. CURRY, PSY.D., M.S.C.P.,</p> <p>4 having been previously sworn, was</p> <p>5 examined and testified as follows:</p> <p>6 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND</p> <p>7 COUNTERCLAIM DEFENDANT</p> <p>8 BY MR. DENNISON:</p> <p>9 Q Good morning, Dr. Curry.</p> <p>10 A Good morning.</p> <p>11 Q Can you remind the jury who you are and</p> <p>12 what you do?</p> <p>13 A Sure. I'm Dr. Shannon Curry, I'm a</p> <p>14 clinical and forensic psychologist, and I'm here</p> <p>15 today to rebut the testimony that was provided by</p> <p>16 Dr. Hughes.</p> <p>17 Q Which of the opinions rendered by</p> <p>18 Dr. Hughes do you intend to rebut?</p> <p>19 A So, generally speaking, there are three</p> <p>20 main categories that I would like to talk about</p> <p>21 today. So, the first is that Dr. Hughes</p> <p>22 misrepresented the tests and the results that she</p>	<p>7088</p> <p>1 and treatment only. She also stated that these</p> <p>2 checklists revealed things that they simply cannot</p> <p>3 reveal, especially in this context.</p> <p>4 And, let's see, she also misrepresented</p> <p>5 information, clear indications on several of the</p> <p>6 objective measures that she offered. And there</p> <p>7 were indications visible that Ms. Heard had</p> <p>8 essentially engaged in what we call response</p> <p>9 distortion.</p> <p>10 So clear indications of exaggeration on</p> <p>11 one of the measures that's specific to PTSD, clear</p> <p>12 minimization of symptoms intentional, on another</p> <p>13 more broad personality and psychopathology-based</p> <p>14 measure that she gave to Ms. Heard, which she did</p> <p>15 not acknowledge.</p> <p>16 Q Did you intend to address anything</p> <p>17 relative to the CAPS-5?</p> <p>18 A I did.</p> <p>19 So Dr. Hughes administered the CAPS-5</p> <p>20 about ten days after I did, almost two years after</p> <p>21 she initially tested Ms. Heard, and she did not</p> <p>22 administer the test appropriately. So she left</p>
<p>7087</p> <p>1 utilized in her evaluation. She misrepresented my</p> <p>2 testing and the results that I obtained in my</p> <p>3 evaluation. And she communicated in a manner,</p> <p>4 provided testimony in a manner, that presented,</p> <p>5 essentially, her own opinions and the self-report</p> <p>6 of Ms. Heard as facts.</p> <p>7 Q Okay. The first category you talked</p> <p>8 about was the misrepresentation of her own test</p> <p>9 methods and results.</p> <p>10 What do you mean by that?</p> <p>11 A So, Dr. Hughes used -- she stated that</p> <p>12 she administered 12 tests. In actuality, she used</p> <p>13 eight checklists, about half of those were symptom</p> <p>14 checklists, the other half were checklists about</p> <p>15 experiences that people can have with domestic</p> <p>16 violence. And those are not appropriate for</p> <p>17 forensic settings. They're easily exploited.</p> <p>18 Q Other issues that you intend to address</p> <p>19 relative to misrepresentation of those results?</p> <p>20 A Yes, so, in addition to using these</p> <p>21 checklist measures, which are easily exploited in</p> <p>22 a forensic context, they're developed for research</p>	<p>7089</p> <p>1 major components blank. She didn't apply the</p> <p>2 scoring rules that are clearly outlined with the</p> <p>3 test. And yet, she diagnosed Heard -- Ms. Heard</p> <p>4 with PTSD based on that assessment.</p> <p>5 Q What about Dr. Hughes's use of the</p> <p>6 Personality Assessment Inventory?</p> <p>7 A So, of the tests that Dr. Hughes</p> <p>8 administered, two would be considered -- of those</p> <p>9 12, two would be considered what we would call</p> <p>10 forensically relevant instruments, meaning that</p> <p>11 they're objective enough, and they provide us with</p> <p>12 some information about how the examinee approached</p> <p>13 the test, that would be appropriate for this</p> <p>14 setting, where the examinee is going to have the</p> <p>15 natural incentive to present themselves in a way</p> <p>16 that benefits the outcome of their case.</p> <p>17 Now, on the PAI, there were clear</p> <p>18 indications that Ms. Heard was responding and</p> <p>19 obtained scores that's consistent with individuals</p> <p>20 who have a personality disorder, and there was</p> <p>21 also an indication that several scales, we call</p> <p>22 this a configuration, so you might have one main</p>

<p style="text-align: right;">7090</p> <p>1 scale that you notice is elevated, and then you 2 look for additional subscale information and get 3 additional information on what could be elevating 4 that scale. And there was a configuration that 5 showed that even though Ms. Heard had moderately 6 elevated one of the scales that can be associated 7 with trauma, that elevation is better explained by 8 childhood, or distant traumatic experiences, like 9 the complex trauma Ms. Heard reported experiencing 10 growing up. 11 Q Okay. You said that Dr. Hughes 12 utilized checklists that are not appropriate for 13 forensic analysis? 14 A Yes. 15 Q Can you explain that? 16 A Yes. 17 So, as I said, in any sort of forensic 18 context, whether it's a civil or criminal matter, 19 a person who's being evaluated is going to have 20 major incentive to present in a way that benefits 21 the outcome of their case. So you always approach 22 the examination, and I believe Dr. Hughes said</p>	<p style="text-align: right;">7092</p> <p>1 scales, similar to the one test that I 2 administered, the MMPI, that tells us a lot of 3 nuanced information about the way the person 4 approached the test. 5 She also administered a malingering 6 screen that can be very, very useful, but not in 7 this context. So it's called the Miller Forensic 8 Assessment Symptom Test. It's a brief set of 9 questions that you ask the examinee, and it's been 10 shown by research to be extremely effective at 11 identifying an examinee's attempt to fake a severe 12 mental illness or psychosis. And psychosis is 13 when somebody loses complete connection with 14 reality. It's excellent for that purpose. It's 15 actually been shown in research to not be 16 effective at all for identifying a respondent's 17 attempts to fake PTSD, anxiety, or mood disorders. 18 The questions are just too odd for somebody who 19 has the wherewithal to be trying to have PTSD to 20 endorse. They see through it. So, she used that. 21 That's a fine test, but not appropriate for this 22 context.</p>
<p style="text-align: right;">7091</p> <p>1 with a healthy dose of skepticism. But that alone 2 is not enough. We have to operationalize that. 3 So we actually have to administer very 4 comprehensive objective tests that either control 5 for attempts to manipulate the test results or 6 reveal attempts to manipulate the test results so 7 that we're not just blindly accepting the results 8 or the self-report of the examinee. 9 Q How many tests were administered by 10 Dr. Hughes? 11 A She said that she administered 12 12 tests. 13 Q How many of them were appropriate for 14 forensic physical [sic] examination? 15 A So, the Trauma Symptom Inventory is 16 appropriate, it's an objective measure, and it 17 does have two primary scales that look at how the 18 person approached the test. The Personality 19 Assessment Inventory is an excellent test. It's a 20 broadband measuring, it captures not only symptoms 21 of mental illness but also general personality 22 traits. That also gives us pretty detailed</p>	<p style="text-align: right;">7093</p> <p>1 Q Of the various tests that she 2 administered, how many were these checklists? 3 A Eight of them. 4 Q What are you talking about, 5 specifically? 6 A Okay. So I had mentioned that there 7 were two main categories of checklists she used. 8 The first is the symptom checklists, those 9 included the Beck Depression Inventory, it's a 10 brief inventory of items that, essentially, show 11 all of the systems of depression that a person 12 might have and rate which level of severity you 13 have for each question. 14 She also gave the Beck Anxiety 15 Inventory, very similar, but just with questions 16 about anxiety. 17 She gave the Mood Disorder 18 Questionnaire, which is a very brief, again, 19 checklist. It shows symptoms of bipolar disorder. 20 Bipolar disorder is a mood disorder where you 21 might have an extended manic episode and then a 22 very extended depressive episode.</p>

<p>7094</p> <p>1 And then she gave the Post-traumatic 2 Stress Disorder Checklist, and that is a screening 3 instrument only. It contains every single symptom 4 of PTSD. So there's a secondary danger here too, 5 when you think about it, given that PTSD is the 6 most frequently feigned and claimed diagnosis. In 7 civil courts, if you are handing somebody a 8 checklist that has every single symptom of PTSD, 9 you're essentially teaching them all the little 10 nuances that we're looking for to get that 11 diagnosis. So she gave that to Ms. Heard. 12 Ms. Heard endorsed most of the items, and 13 Dr. Hughes diagnosed her with PTSD and 14 substantiated that opinion by Ms. Heard's checking 15 those items on the PCL-5. 16 Q Were there another group of checklists 17 that Dr. Hughes used? 18 A Yes. So she also -- oh, and I forgot 19 one in the last, because I don't think of it as 20 one. But previously I've explained, and I do not 21 expect you to remember, it's called the Life 22 Events Checklist, which is just an inventory of</p>	<p>7096</p> <p>1 because if she has to check off all the things 2 that have happened that year that have been 3 dangerous, does he own a gun? Has he -- you know, 4 I won't go into all of them. But the more she 5 checks off, the more likely it is that she might 6 realize that she is in imminent danger and then 7 accept resources offered by the hospital and 8 social work to protect her. That was the purpose 9 of this scale. It was never intended to be used 10 as a retrospective measure to look back in time 11 and find out whether abuse was occurring based on 12 one person's report used later in a litigation. 13 She also gave the Conflict Tactic Scale 14 Revised, the second edition. Similarly, this 15 scale was developed for research purposes, to 16 research family violence. Again, there's no 17 control for exaggeration or minimizing. It was 18 just given to research participants, anonymously, 19 so that we could get data on the prevalence of 20 abuse and how the abusive dynamics work. And on 21 that, there's 39 questions where the respondent 22 indicates, essentially, certain abusive behaviors</p>
<p>7095</p> <p>1 experiences a person may have gone through that 2 are traumatic. Dr. Hughes also used that, and 3 that's appropriate to use before the clinician 4 administered PTSD scale, the gold standard, 5 CAPS-5; however, she administered this long ago, 6 before she gave the CAPS-5. 7 Now, going on to the second group, 8 there were three checklists that she gave that are 9 specific to abuse. And the first she gave, Danger 10 Assessment Scale, was actually developed for use 11 by nursing staff in an emergency room setting, 12 specifically for female victims of intimate 13 partner violence. The purpose of this is 14 important because our forensic ethics, our 15 psychology ethics talk a lot about relevance. Is 16 the test relevant to the purpose? And the Danger 17 Assessment Scale, its original purpose is 18 completely different. This was developed to show 19 high-risk factors for dangerousness and pretty 20 much to help a female, who's in an extremely 21 abusive partnership, who is in the emergency room 22 with extreme injuries to stop rationalizing,</p>	<p>7097</p> <p>1 they may have engaged in, and there are 39 where 2 they indicate behaviors their partner might have 3 engaged in. And obviously, you can understand in 4 a forensic setting, the respondent is likely to 5 put a very minimal amount of behaviors they 6 engaged in and then extremely increase the number 7 of behaviors their partner might have. 8 And then lastly, the Abusive Behaviors 9 Observation Checklist was the third checklist she 10 gave. This one has not been -- there's no known 11 research, even on its effectiveness, for what it 12 was developed. It's a theoretical, very brief 13 checklist that was meant to be used for therapy, 14 where an individual who had experienced domestic 15 violence could essentially read through some of 16 the behaviors that constitute violence that they 17 might not have been aware of. And if those 18 behaviors apply to them or if some of those coping 19 strategies were ones they utilized, they would 20 check that off, and then they have a way to talk 21 about it because now it's been put to words. 22 Again, this is similarly problematic. If you're</p>

7098	7100
<p>1 in a civil litigation, the person's motivated to</p> <p>2 have the results be consistent with a claim or an</p> <p>3 allegation of intimate partner violence, and an</p> <p>4 allegation that they've been severely harmed, then</p> <p>5 they could simply just check off more. And not</p> <p>6 only that, but checklists like this one,</p> <p>7 specifically, give a lot of nuanced information</p> <p>8 about what clinicians might be looking for when</p> <p>9 they're assessing whether violence was present,</p> <p>10 whether the person's self-report is consistent</p> <p>11 with a genuine self-report of having been</p> <p>12 victimized. They're given all that information</p> <p>13 that we might be looking for.</p> <p>14 Q Can you talk, specifically, about</p> <p>15 Dr. Hughes's use of the, I think you called it the</p> <p>16 PCL-5?</p> <p>17 A Yes. So the PCL-5 is the</p> <p>18 Post-traumatic Stress Disorder Checklist. This is</p> <p>19 different, not to be confused with the CAPS-5,</p> <p>20 which I talked about previously as being the gold</p> <p>21 standard. The PCL-5 was developed by the National</p> <p>22 Center of PTSD. It's intended for treatment. So</p>	<p>1 Q All right. What about -- well, you</p> <p>2 talked about forensic use. What do you mean by</p> <p>3 that?</p> <p>4 A So, when I'm talking about forensic</p> <p>5 evaluation, that's an evaluation that doesn't --</p> <p>6 isn't done for therapy or treatment. It's</p> <p>7 specifically to assist the fact finder, to assist</p> <p>8 the judge or the jury in the court by providing</p> <p>9 information about the psychological status about</p> <p>10 an individual. And that's an important</p> <p>11 delineation, too. We are not psychologists -- I</p> <p>12 wish we were mind readers, I wish we had a crystal</p> <p>13 ball and find out whether intimate partner</p> <p>14 violence occurred and looked back in the past.</p> <p>15 But it's nothing like that. Really, it's a lot</p> <p>16 less interesting. We look at data, we have to</p> <p>17 control for those response biases, and then we</p> <p>18 also, looking at functioning, which is really the</p> <p>19 bottom line of the assessment. Did the person</p> <p>20 have a change in functioning from before the</p> <p>21 alleged trauma, or, in this case, the alleged IPV,</p> <p>22 to after? Is there a declining in the way they go</p>
7099	7101
<p>1 if I were, for instance, working with a service</p> <p>2 member who I know had been in combat, I would</p> <p>3 probably give this as a standard with my intake</p> <p>4 before we do the diagnostic interview. It kind of</p> <p>5 gives me a read on how somebody who's there for</p> <p>6 treatment who I assume can be taken at their word</p> <p>7 because if they give us correct information,</p> <p>8 they're going to get an appropriate treatment, and</p> <p>9 if they give us incorrect, they might not get the</p> <p>10 treatment they need.</p> <p>11 So I would give this checklist to them,</p> <p>12 and then if they recognize some of those symptoms</p> <p>13 of PTSD, they can check it off. And that would</p> <p>14 probably indicate to me that I need to, then, do</p> <p>15 the next step, if they're checking off more items</p> <p>16 than not. I would probably decide to administer</p> <p>17 the Clinician Administered PTSD scale, that gold</p> <p>18 standard interview, to find out more about the</p> <p>19 diagnosis.</p> <p>20 Q The last thing is what everybody refers</p> <p>21 to as the CAPS-5?</p> <p>22 A Yes, the CAPS-5.</p>	<p>1 about their life?</p> <p>2 MS. BREDEHOFT: Objection, Your Honor.</p> <p>3 May we approach?</p> <p>4 THE COURT: All right.</p> <p>5 (Sidebar.)</p> <p>6 THE COURT: Yes, ma'am.</p> <p>7 MS. BREDEHOFT: All right. She's</p> <p>8 testifying outside the scope of her designation,</p> <p>9 now, Your Honor. Dr. -- and I elicited this from</p> <p>10 her, and you may recall this before. The only</p> <p>11 thing she's testifying to is whether Ms. Heard has</p> <p>12 PTSD or not. She is not -- she's explicitly</p> <p>13 testifying -- or she is explicitly not testifying</p> <p>14 about whether she suffered IPV or not, whether she</p> <p>15 was a perpetrator, whether she was a victim,</p> <p>16 whether she suffered any domestic abuse. All</p> <p>17 those things, she's already testified and admitted</p> <p>18 those are not part of her opinion, and now she's</p> <p>19 clearly trying to tell the jury about IPV and</p> <p>20 assessing whether somebody has suffered from IPV,</p> <p>21 and that's completely outside the scope of her</p> <p>22 designation.</p>

Transcript of Jury Trial - Day 23
Conducted on May 25, 2022

14 (7102 to
7105)

<p>1 MR. DENNISON: Your Honor, I 2 respectfully disagree with that analysis. This is 3 the root of the report. There are multiple pages 4 in this report, pages 18 through -- through 23. 5 THE COURT: Uh-huh. 6 MR. DENNISON: That reflect each of the 7 tests I've been asking about and why they -- why 8 Dr. Curry believes they were administered 9 incorrectly. 10 MS. BREDEHOFT: And I didn't object on 11 those. But she's now testifying about whether 12 somebody suffered from IPV or not, and that is 13 absolutely outside the scope. 14 MR. DENNISON: First of all, I don't 15 think she -- 16 THE COURT: I'm not sure that's where 17 she was going. 18 MS. BREDEHOFT: She just says 19 explicitly, she said when you're trying to figure 20 out whether somebody is suffering from IPV or not. 21 THE COURT: Not that she's going to 22 give an opinion to that. I think she's just</p>	<p>7102</p> <p>1 you have a crystal ball, whether you can determine 2 whether somebody suffered from IPV or not, and 3 that's outside the scope. It's not anywhere in 4 any of her testimony. 5 MR. DENNISON: I believe the answer was 6 in relation to the use of the checklist. 7 THE COURT: Overrule the objection. 8 Make sure it's within the tests, okay? 9 MR. DENNISON: Thank you. 10 MS. BREDEHOFT: Okay. 11 (Open court.) 12 BY MR. DENNISON: 13 Q Dr. Curry, let's look back at some of 14 those domestic violence checklists that you were 15 talking about. 16 A Okay. 17 Q And did you see any problem with the 18 use of those? 19 A Yes. 20 Q What problems did you see? 21 A Well, first of all, they shouldn't be 22 used, so we do have professional standards that</p> <p>7104</p>
<p>1 discussing. 2 MR. DENNISON: Well, she's certainly 3 not giving an opinion to that. 4 MS. BREDEHOFT: That's outside the 5 scope. She cannot address whether somebody 6 suffers from IPV or not. She's already admitted 7 that outside -- 8 THE COURT: Well, I don't think she's 9 giving an opinion about whether somebody. I think 10 she's talking about IPV. 11 MS. BREDEHOFT: She can't talk about 12 IPV. She's confined to PTSD, and she cannot -- 13 and she has said she did not try to evaluate for 14 IPV. I even elicited it from her testimony 15 earlier, nothing about IPV or domestic abuse. 16 MR. DENNISON: Your Honor, she 17 specifically identified that nothing about IPV, 18 other than the test given by Dr. Hughes, were done 19 inappropriately. 20 MS. BREDEHOFT: And I did not object 21 when she was testifying to those, Your Honor. But 22 now she went into -- she's talking about whether</p>	<p>7103</p> <p>1 require that we utilize instruments that are 2 relevant and appropriate for the particular 3 setting, and that we substantiate our opinions 4 based on data that is reliable from tested, 5 accurate, reliable tests for the purpose. 6 So there's that. It's inconsistent 7 with the ethics. 8 And, essentially, they just shouldn't 9 be used. They don't provide us with the robust 10 information that would be expected in such a 11 high-stake setting. 12 Q All right. Would you have expected 13 Dr. Hughes to comment on the limitations of the 14 checklists she was using? 15 A Yes. So, first of all, Dr. Hughes 16 provided opinions based on these checklists, so 17 she referenced, especially, the Danger Assessment 18 Scale several times throughout her testimony, 19 stating that Ms. Heard was in a very dangerous 20 situation. We also have an ethical guideline in 21 the professional standard, as well, that indicate 22 that whenever there is a question about the</p> <p>7105</p>

<p>7106</p> <p>1 reliability and validity, and in psychology, we 2 use the term "validity" to talk about accuracy. 3 Any of the methods that we're using to collect 4 data, we clearly communicate not only that there 5 are limitations to our opinions, but we also need 6 to provide the fact finder with information about 7 what the potential implications or impact could 8 actually be. So, for instance, if we use a scale 9 that's idiosyncratic for the purpose, but we would 10 first need to explain why we made that decision, 11 not follow standard procedures, and then we would 12 need to explain the use of this scale might 13 introduce some potential exaggeration of this 14 symptom and, so, I'm trying to control for that, 15 that way, but that was one of the limitations of 16 my opinion. You have to make it very clear. 17 Transparency is really at the center of good 18 science, in general. 19 Q You talked a little bit about ignoring 20 response distortion. What is response distortion? 21 A Response distortion is a term that 22 speaks, generally, about examining, approaching a</p>	<p>7108</p> <p>1 that scale just because they have such well-being, 2 there are additional configurations of scales that 3 you can look at to find out what's going on. And 4 so, the catchall discriminate function is the name 5 of one of these configurations, these equations 6 that are done, and she was highly elevated on 7 that. In fact, that elevation tells me that, no, 8 this isn't accidental. This isn't because she's 9 just doing so well in life that she has an 10 extremely, extremely low amount of problems. No, 11 this is an intentional over reporting – I'm 12 sorry, an intentional effort to minimize any 13 appearance of having problems. 14 Q Now, you may have addressed this, but 15 there was a reference to malingering? 16 A Yes, so what's interesting about 17 Ms. Heard's approach to different tests is that it 18 seems to be influenced by what we call the face 19 validity of questions on the test. So if a test 20 looks like it's measuring PTSD, you see 21 exaggeration on her validity scales. If the test 22 has less face value questions, for instance, the</p>
<p>7107</p> <p>1 test, and providing answers that are either 2 exaggerated or minimized, but in some way, an 3 inaccurate representation of the current mental 4 status or their experience. 5 Q What tests do you believe that 6 Dr. Hughes failed to acknowledge response 7 distortion on? 8 A So, she administered the Personality 9 Assessment Inventory, which is similar to the test 10 that I gave, the MMPI-2, it's that general 11 broadband measure of psychopathology symptoms and 12 personality traits. It includes several scales 13 that are very good at detecting either 14 exaggeration, minimization, or even trying to 15 claim that you have unusually good qualities. On 16 that test, there were clear indicators that 17 Ms. Heard, very similar to the way she approached 18 my MMPI, engaged in defensiveness. And, in fact, 19 there's a function that you can look at, so you 20 have that main scale elevation, call it positive 21 impression, which was elevated, and then because 22 we want to make sure that somebody isn't elevating</p>	<p>7109</p> <p>1 Personality Assessment, which Dr. Hughes 2 administered, the MMPI-2, which I administered, 3 where she can't quite figure out what the 4 questions are asking, they seem really benign in 5 general, on those, you see extreme defensiveness, 6 minimization of any potential pathology, 7 essentially presenting herself as perfect and free 8 of any mental illness or personality disorder. 9 But on the Trauma Symptom Inventory, which 10 Dr. Hughes administered, that was the one that I 11 previously indicated, for ease of explanation, 12 when the test results come out for how the person 13 approaches the test, that test itself prints it as 14 a percentage. And there's a really excellent 15 scale for finding out if a person is exaggerating 16 their symptoms of PTSD. It's called the Atypical 17 Response Scale, and the TSI-2 is the revised 18 version of this test, and that scale was improved 19 this time around to really try to be a clean 20 indication of is this person exaggerating. And it 21 puts – has questions in the test that are so 22 unusual; they might seem like PTSD, but even the</p>

<p style="text-align: right;">7110</p> <p>1 most severe cases of PTSD don't have these 2 symptoms. And so, somebody who's intentionally 3 trying to exaggerate PTSD, or possibly 4 unintentionally, but nonetheless, who is 5 exaggerating it, is likely to endorse these items, 6 even though they're not real PTSD symptoms. 7 Ms. Heard worked so hard on this that even if 8 there is -- although, Dr. Hughes directly said 9 there tends to be a negative skew when people have 10 the high levels of distress that's associated with 11 PTSD, so sometimes people score high levels even 12 when they do have PTSD, she scored so high that 13 that is effectively ruled out as a possibility. 14 Q Okay. What about Dr. Hughes's 15 administration and use of the CAPS-5? 16 A Okay. So Dr. Hughes had diagnosed 17 Ms. Heard with PTSD back in 2019, when she began 18 testing her. It wasn't until two years later, 19 more than two years later, ten days after I 20 administered the CAPS-5 in Ms. Heard that 21 Dr. Hughes had an impromptu evaluation session 22 remotely with Ms. Heard and administered the</p>	<p style="text-align: right;">7112</p> <p>1 and asked the childhood question. But you can't 2 do that. If you're assessing for two separate 3 periods of one's life to find out relatedness to 4 PTSD, you do two separate CAPS interviews, period. 5 You don't create your own question system. That 6 is non-standard administration of the test, and it 7 invalidates it. 8 Q All right. You also mentioned, with 9 respect to the PAI or the Personality Assessment 10 Inventory, that Dr. Hughes failed to mention some 11 element. What did she fail to mention? 12 A Oh, okay. So on the Personality 13 Assessment Inventory, so first she failed to 14 mention that there were clear indications of 15 response distortion. She also failed to mention 16 that Ms. Heard's score, her score profile against 17 their main scores, she did elevate a score for the 18 borderline personality disorder sort of section, 19 but that, in and of itself, would not indicate a 20 diagnosis. However, the configuration of the 21 scores overall is consistent with that, and in 22 fact, it's one of the diagnostic suggestions given</p>
<p style="text-align: right;">7111</p> <p>1 CAPS-5. She had previously diagnosed PTSD without 2 using what we consider to be the gold standard 3 PTSD diagnostic interview. And, again, when we're 4 doing a forensic evaluation, it is an important 5 responsibility, and part of our ethics and 6 professional standards are that we document 7 everything to allow for transparency and full 8 judicial scrutiny. And Dr. Hughes administered it 9 incorrectly. She left huge sections, very 10 relevant sections, blank. There's no way to 11 understand why she scored it as high as she did, 12 based on the information that's provided. You're 13 essentially supposed to notate the examinee's 14 responses as verbatim as possible to explain your 15 reasoning in applying their scoring procedure. 16 It's a standardized test, and if you don't follow 17 those standard procedures, it's completely 18 invalid. 19 Not only that, but after -- it looks as 20 though Dr. Hughes further invalidated it by trying 21 to show that she had assessed for the childhood 22 trauma impact, and she had said that she went back</p>	<p style="text-align: right;">7113</p> <p>1 by the test itself. 2 And then, also, there's a configuration 3 around Ms. Heard's trauma responses around that 4 particular test, which demonstrates that it is 5 more likely that those symptoms were reported in 6 relation to something in the distant childhood. 7 It's more consistent with childhood chronic abuse 8 than present circumstances or recent 9 circumstances. 10 Q Okay. I think you said, in addition to 11 the issues with her own testing, Dr. Hughes 12 misrepresented your results? 13 A She did. 14 Q Can you tell us how? 15 A So, I would say the main issue is that 16 she said that Ms. Heard obtained a normal profile 17 on my MMPI-2. 18 Q All right. How do you disagree with 19 Dr. Hughes relative to the profile? 20 A Okay. So the profile was not normal. 21 So Ms. Heard already had subtle elevations, just 22 by the -- the test by itself, as it came out,</p>

<p>7114</p> <p>1 there were several elevations, but they were 2 elevation that if the validity scales hadn't been 3 as elevated as they were, you might have said this 4 person has some traits, but this isn't necessarily 5 at the level of a true pathology. However, 6 Ms. Heard elevated a scale that essentially is a 7 defensiveness scale on this test. And when you're 8 giving this test, you always are mindful of 9 different norms or groups who may have similar 10 profiles, and there are certain groups of 11 litigants who tend to elevate this scale as well. 12 So, I had that in mind. However, Ms. Heard 13 elevated this so much that it was far beyond the 14 mean for the litigants that are known to have the 15 highest level of this scale, this defensiveness 16 scale. And when this scale is elevated to the 17 level that is, you automatically understand that 18 it is very likely that those clinical scales be – 19 I keep doing this because I'm seeing it in my 20 head, it looks like sort of an ECT, sort of these 21 peaks you see on a graph. And when you see these 22 peaks, and you have this huge peak over here for</p>	<p>7116</p> <p>1 3-6 code type tend to be marked by a lot of 2 externalization blame, a lot of denial about one's 3 own personal faults, intentional or not 4 intentional. Just extreme denial. Hostility that 5 is strongly controlled and suppressed. The person 6 may not even realize how hostile they are, but 7 family members, those closest to them are very 8 likely to report that they lose their temper and 9 when they lose their temper, explodes. We have 10 sort of what we call a cookbook for these code 11 types, which will provide you with all the 12 information that's been researched to be 13 associated with them. And our cookbook actually 14 states that that 3-6 profile, specifically, tends 15 to be associated with cruel and ruthless behavior, 16 particularly to those who they perceive as less 17 powerful to them and subordinates. 18 Q Describe for the jury the review 19 process that you went through relative to the 20 MMPI. 21 A So, I conducted a very methodical 22 analysis of the scores; I do this for every test.</p>
<p>7115</p> <p>1 the defensiveness scale, what you know is that 2 these peaks are artificially lowered or suppressed 3 based on respondent being so defensive. They 4 still detected what's likely there for her, but 5 it's not as high as it should be. So you make an 6 adjustment. And the recommendation is that 7 anything at 60 or above, we call it a T score of 8 60 or above, is considered significant. 9 Ms. Heard's were already over 60, some were quite 10 higher than that. And then you see a very clear 11 profile. And that was how I got that. I 12 mentioned a 3-6 code type. 13 Now, the test does some of its own 14 correction, also, for some of the scores, but not 15 the ones that are the main code type. With the 16 test correction, she had a 1-3-6 code type, which 17 is very similar. 18 Q What is a 3-6 code type? 19 A A 3-6 code type is something that has 20 been researched and found to be highly correlated 21 or problematic of certain behavioral tendencies 22 and personality traits. And the traits with the</p>	<p>7117</p> <p>1 I also did it when I was reviewing Dr. Hughes's 2 scores. So what you haven't seen, it's in 3 discovery, is that I created a 25-page outline 4 just of her scores, with – and it's sort of a 5 table. So I'll put the score, I'll do it in 6 sections so that I can understand different 7 groupings, different research studies, and I start 8 with looking at all the validity scales. So I put 9 in the score, I – and I'll even color the table 10 to show me if it's kind of in the high zone, 11 moderate zone, or low, and then if it's low, is it 12 a significant low score or is it just low, so it 13 doesn't mean anything. And then, on the right 14 side, I put all the research data that I found on 15 this particular scale score. And so, I start with 16 the validity scales, the way the person approached 17 the test, and then I go down to, essentially, we 18 call these the first factors. So their overall 19 sense of well-being and how well they cope. On 20 this, actually, Ms. Heard's, she endorsed scores 21 were -- endorsed items that were opposite of PTSD. 22 So, really, saying that she feels free of distress</p>

<p>7118</p> <p>1 and that she views herself very well. 2 So then I go down to control, 3 self-control, loss of control, coping abilities, 4 and I put in the scores that are associated with 5 that, the research and the test development. Then 6 I go down to clinical and personality pathology, 7 and I look at all the scores that are significant 8 there, first with the top level main scores, then 9 with all the different subscores. Again, citing 10 the research, the meaning, the level of elevation 11 and what that means. 12 And then, I do comparison with 13 different research groups. So for Ms. Heard, I 14 did a section that looked at all sorts of 15 different scores that have been implicated with 16 the PTSD presentation to see if any of those were 17 consistent. I can't remember how many there were. 18 I think I put 13 on there, but I could be wrong. 19 But I believe that there was only one that could 20 even be -- in some research, sometimes associated 21 with it, but it was general anxiety, which turned 22 out to be more trade specific.</p>	<p>7120</p> <p>1 unusual items that are not consistent with PTSD. 2 And even though, when some people are experiencing 3 PTSD, their distress level is so high that they'll 4 engage in what we call a cry for help, and they 5 may sometimes exaggerate distress. Again, when 6 you're looking at scores as high as Ms. Heard's 7 and then you're not seeing indications of PTSD in 8 the more subtle tests, where she doesn't know what 9 she's endorsing, it's good evidence that her 10 over-endorsement on that one test is because of 11 the reason the scale was made, to detect 12 exaggeration and feigning of symptoms. 13 Q Is this the test that resulted in the 14 98 percentile score? 15 A Yes. Yes, on that atypical response 16 scale. 17 Q And what is the 98 percentile score 18 represent? 19 A So that 98th percentile score 20 represents that among 98 -- 98 percent of people 21 who take that test would not have endorsed. She 22 scored more of those unusual items that are not</p>
<p>7119</p> <p>1 I looked at the scores that are typical 2 of women with IPV. Those were not consistent, at 3 all, with those. I looked at the scores that are 4 consistent with people who are frequently in 5 litigation. Hers actually were very highly 6 correlated with those. That tends to be also 7 consistent with a 3-6 code type. The reason for 8 that is believed to be that they tend to perceive 9 themselves often as victims who need to avenge 10 wrongs. 11 Q Were there other results you believed 12 Dr. Hughes to have misrepresented, the TSI-2? 13 A Yes. So Dr. Hughes generally said that 14 testing supported PTSD and that there was an 15 etiology for trauma of intimate partner violence. 16 She did reference that, essentially, the -- I 17 can't remember if she said that the Trauma Symptom 18 Inventory indicated PTSD, but she did say that the 19 elevation of the validity scale is consistent with 20 PTSD, and that's simply not true. That scale was 21 designed and has been tested and shown to be there 22 to show when somebody is endorsing extremely</p>	<p>7121</p> <p>1 consistent with PTSD than 98 percent of people who 2 had ever taken the test. 3 Q Does that relate to this concept you 4 talked about before called feigning? 5 A Yes. 6 Q What is feigning again? 7 A Feigning is essentially exaggerating 8 symptoms of a disorder. 9 Q I think the third thing you indicated 10 you were going to talk about is self-reports and 11 personal opinion as facts. 12 What are you talking about there? 13 A So, in any science, as in psychology 14 specifically, it's really important that we use 15 precise language and we say what we mean and we do 16 not present opinions as facts. Because when you 17 are in the role of an expert witness, or an expert 18 in any setting, essentially, a layperson may not 19 be able to detect the difference between something 20 that is a personal opinion that you're giving 21 versus something that is substantiated by research 22 data, test data, reliable test methods. So our</p>

<p style="text-align: right;">7122</p> <p>1 ethics talk about, especially with the specialty 2 guidelines of forensic psychology, the 3 responsibility we have to distinguish between data 4 then inferences we're making from that data, what 5 the data can mean, sort of like those tables I do. 6 I put the data, the inferences based on the 7 research, and then what my ultimate opinion is 8 integrating all of that data. And it's very 9 important that we clarify that to the fact 10 finders, to the judge, the jury. That's our 11 responsibility, that we do not cloak personal 12 opinions or the self-report of an examinee as an 13 expert fact or somehow scientifically based when 14 it is just a personal opinion or a self-report of 15 an examinee. 16 Q What do you mean by self-report? 17 A The self-report is essentially what the 18 examinee tells you during the interview. 19 Q Okay. When did Dr. Hughes do this 20 most? 21 A She did this most when describing 22 instances of alleged IPV, and there's also an</p>	<p style="text-align: right;">7124</p> <p>1 Q Dr. Hughes says that Ms. Heard has 2 PTSD. Do you agree? 3 A I do not. 4 Q Why not? 5 A The results of my multi-method 6 comprehensive evaluation, based on carefully 7 selected researched relevant test instruments, 8 based on comparing those instruments to 9 Ms. Heard's self-report, observing Ms. Heard's 10 behavior over 12 direct hours of assessment, 11 reviewing copious notes from prior therapists who 12 indicated symptoms in their notes, reviewing the 13 notes of Nurse Falati, previously Nurse Boerum, 14 who spent, I believe, at one point, almost 15 2 months with Ms. Heard, daily. Reviewing the 16 notes of her treating providers. Let's see. All 17 of the legal documents and discovery. There was 18 no evidence of PTSD. 19 Q How is evidence of PTSD generally 20 exhibited? 21 A So, really, the bottom line in a 22 forensic psychological evaluation is a change in</p>
<p style="text-align: right;">7123</p> <p>1 issue there because one of our ethics also 2 discusses the importance of relevance and 3 withholding, essentially constraining our 4 testimony to the data and not including private 5 information, personal information that 6 unnecessarily compromises the dignity of any of 7 the litigants. She provided a lot of what was 8 Ms. Heard's report to her, the allegations of 9 abuse, when describing Mr. Depp, who she had not 10 examined, when describing Mr. Depp's behavior, his 11 motivations. I believe she used the word 12 "obsessive jealousy" quite a few times, talked 13 about Ms. Heard being in a highly dangerous 14 situation. These are simply things that we cannot 15 detect based on testing and a psychological 16 evaluation. We have to evaluate the person, we 17 have to get consent, and we can only describe an 18 individual, not whether or not IPV has occurred. 19 And we certainly shouldn't go into explicit 20 details about sexual encounters or other things 21 that are highly prejudicial, shocking, and hard to 22 forget.</p>	<p style="text-align: right;">7125</p> <p>1 functioning. That's what we're looking for. 2 Again, I said we don't have a crystal ball. We're. 3 not wizards, we can't get into somebody's head. 4 What we're looking for, were there identifiable 5 changes in the way the person engaged in their 6 world, were they able to keep their job? PTSD is 7 an extremely disabling diagnosis. When a person 8 has true PTSD, it is difficult for them to work. 9 You'll see unemployment, job loss. It causes 10 extreme levels of distress and impairment. 11 There's divorce, there's isolation and 12 estrangement from children, from family members. 13 Extreme alcohol abuse, often a string of sudden 14 DUIs, when the person never had any before. They 15 become homebound, they can't go to the store. 16 They're certainly not going to events. They're 17 not having success in their film career, usually. 18 They're not exercising every day, pursuing their 19 hobbies, being avid readers, obtaining level 3 20 Sommelier training, having dinner parties with 21 friends, speaking to public groups. Those are 22 just indications of very high functioning, and</p>

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<p style="text-align: right;">7126</p> <p>1 when you're looking for a decrease in functioning 2 over time, that is inconsistent with that 3 decrease. 4 Q What about Dr. Hughes's suggestion that 5 Mr. Waldman's statements served as a trigger for 6 Ms. Heard's PTSD? 7 MS. BREDEHOFT: Objection. Your Honor, 8 may we approach? 9 THE COURT: All right. 10 (Sidebar.) 11 MS. BREDEHOFT: Very explicitly, she is 12 not testifying about -- and I elicited it in trial 13 testimony early, she is not testifying about 14 whether Ms. Heard suffered any PTSD as a result of 15 defamatory statements. Explicitly testified she 16 is not. She's not -- it's not anywhere in her 17 report. It's not in her rebuttal report, and she 18 admitted that on the stand, that she is not 19 addressing that, was not asked to address that. 20 MR. DENNISON: Her answer, and it's the 21 last answer of this inquiry, is there is no PTSD 22 to be triggered.</p>	<p style="text-align: right;">7128</p> <p>1 about it. 2 THE COURT: All right. 3 MS. BREDEHOFT: Thank you, Your Honor. 4 BY MR. DENNISON: 5 Q Dr. Hughes suggested that perhaps 6 Ms. Heard's PTSD was somehow triggered. What's 7 your view on that? 8 A I would say that it can't be triggered 9 if PTSD isn't present. 10 MR. DENNISON: Thank you very much, 11 Doctor. 12 THE COURT: All right. 13 Cross-examination. 14 MS. BREDEHOFT: Thank you, Your Honor. 15 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND 16 COUNTERCLAIM PLAINTIFF 17 BY MS. BREDEHOFT: 18 Q Dr. Curry, I just want to make sure 19 that we all remember, you're not board certified, 20 correct? 21 A No, I'm not. 22 Q Okay. And you've been licensed for how</p>
<p style="text-align: right;">7127</p> <p>1 MS. BREDEHOFT: Still, he's asking -- 2 he's trying to connect it to the defamation. You 3 know, she can say that there's no PTSD, but she 4 cannot connect it to the defamation. She did not 5 disclose that opinion. 6 THE COURT: She's going to bring up the 7 defamation is the issue. 8 MR. DENNISON: All it literally says is 9 it brings it into the current time frame. There's 10 no effort to connect it other than saying there 11 was no PTSD to be triggered. 12 THE COURT: I think you can state there 13 is no PTSD to be triggered. I get that. 14 MS. BREDEHOFT: I disagree, Your Honor. 15 He's bringing up the defamation and letting her 16 give an opinion about whether she has PTSD as a 17 result of the defamation, and she explicitly said 18 she's not speaking to that. 19 THE COURT: Okay. You cannot ask the 20 defamation, but he can say no PTSD has been 21 triggered. 22 MR. DENNISON: I can do it and not talk</p>	<p style="text-align: right;">7129</p> <p>1 long? 2 A I've been licensed for ten years. 3 Q Okay. And you are being paid by 4 Mr. Depp's legal team to be here, correct? 5 A Yes. 6 Q How much have you charged so far? 7 A I actually don't know. 8 Q Over a hundred thousand? 9 A I truly don't know. I don't do my own 10 books. 11 Q Over 200,000? 12 A I don't know. 13 Q Over 300,000? 14 A That would be way too much, but I do 15 not know. 16 Q Okay. Now, just so that we all 17 remember, you had dinner at Mr. Depp's house for 18 three to four hours with Mr. Depp, Mr. Waldman, 19 Mr. Chew, and Ms. Vasquez, correct? 20 A I was interviewed. I asked if there 21 was anything I could eat because at about 22 three hours, I started to get hungry. Mr. Depp,</p>

<p style="text-align: right;">7130</p> <p>1 then, offered to order takeout for the entire 2 team. 3 Q So you had dinner at Mr. Depp's home 4 with Mr. Waldman, Mr. Chew, Ms. Vasquez, and 5 Mr. Depp, correct? 6 A Yes. 7 Q And you had drinks as well, correct? 8 A I actually don't know. I do remember 9 that there were drinks. 10 Q Do you recall testifying earlier that 11 you did have a drink, a mule something? 12 A No, I remember testifying that there 13 might have been a mule, a Moscow mule. 14 Q Thank you. 15 We didn't have animals there as well, 16 right? 17 A No animals. 18 Q That's good to know. 19 You talked about transparency. I want 20 to make sure. You had several designations, 21 expert designations and reports in this case, 22 correct?</p>	<p style="text-align: right;">7132</p> <p>1 A I did not talk to Mr. Depp. I was 2 talking to his legal team. He was there to 3 observe. 4 Q He was present for the three or 5 four hours? 6 A Yes. 7 Q And are you saying now he just stayed 8 silent and said nothing all day? 9 A I don't recall what he did or didn't 10 do. I was answering questions. 11 Q Okay. Now, your expertise here is 12 limited to whether Amber Heard suffers from PTSD 13 currently; is that correct? 14 A Yes. I was tasked with conducting 15 evaluation to determine. 16 Q Okay. 17 A To – 18 Q Dr. Curry, you know, we're on very, 19 very strict time limitations because we promised 20 to get this case to the jury, so I'd really 21 appreciate it if you just answer my question 22 rather than trying to go further.</p>
<p style="text-align: right;">7131</p> <p>1 A Yes. 2 Q And in not one of them did you disclose 3 that you had dinner and drinks at Mr. Depp's house 4 for three to four hours with Mr. Waldman, 5 Mr. Chew, and Ms. Vasquez; is that correct? 6 A Ms. Bredehoft, you're mischaracterizing 7 what occurred. 8 Q Dr. Curry, please answer the question. 9 Not once did you disclose this in any of your 10 reports? 11 A I did not disclose that I was 12 interviewed because that's standard procedure. 13 Q But it's true that you have never gone 14 to a client's house to be interviewed for an 15 expert witness position, correct? 16 A Yes. Because I never had a client that 17 was essentially homebound because of their 18 celebrity status. 19 Q All right. And you talked to Mr. Depp 20 for three to four hours before taking on the role 21 of assessing Ms. Heard and deciding whether she 22 was suffering from any distress, correct?</p>	<p style="text-align: right;">7133</p> <p>1 A Sure. 2 Q Okay. Thank you very much. 3 Now, after you did have the dinner, 4 you, then, provided the designation in February of 5 2021, in which you said, and this is long before 6 you ever saw Amber Heard, correct, you said that 7 Amber "exhibits patterns of behavior that are 8 consistent with co-occurring Cluster B personality 9 disorder traits, especially borderline personality 10 disorder." 11 Correct? 12 A No. 13 Q No? We went through this before. 14 A We did. 15 Q And that was on the designation; was it 16 not? 17 A I told you last time that I did not 18 write that. 19 Q Okay. And you don't know who did, on 20 the legal team, correct? 21 A No. 22 Q Okay. And then I also asked you, as</p>

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<p>1 you might recall, whether you listened to the 2 audio recording in which Mr. Depp taunted Amber 3 Heard that she had a borderline personality 4 disorder. 5 Do you recall that? 6 A I recall you asking me that, yes. 7 Q Did you recall listening to that 8 audiotape? 9 A I don't recall Mr. Depp taunting 10 Ms. Heard. I do recall that he, at some point, 11 suggested she might have that diagnosis. 12 Q Okay. And that was back in these 13 audiotapes, back when they were together, correct? 14 A Yes. 15 Q Okay. Now, you've never before been 16 asked to testify or serve as an expert witness 17 with respect to someone who has bipolar disorder, 18 correct? 19 A No, as I previously stated, that's not 20 true. 21 Q All right. Let's get your deposition. 22 MS. BREDEHOFT: Your Honor, my extra</p>	<p>7134 1 to her? Would that be the best way to do it? 2 MR. DENNISON: I'm perfectly fine if 3 she approaches the witness and shows her the 4 deposition. 5 THE COURT: Right. Just remember you 6 need a microphone, so don't start talking. 7 MS. BREDEHOFT: Okay. Thank you for 8 the reminder. 9 MR. DENNISON: Thank you. 10 MS. BREDEHOFT: Thank you. 11 (Open court.) 12 BY MS. BREDEHOFT: 13 Q Now, you recall testifying in your 14 deposition on March 21, 2022, correct? 15 A Yes. 16 Q And you were under oath at that time, 17 correct? 18 A Yes. 19 Q And the question I just showed on 20 page 207, line 5, "Have you ever been asked to 21 testify or serve as an expert with respect to 22 whether someone has bipolar disorder?" And your</p>
<p>7135 1 copies were all distributed before. Does 2 everybody have those? 3 THE COURT: Not up here anymore. 4 MS. BREDEHOFT: Okay. Then my 5 apologies, but I'm going to go -- 6 MR. DENNISON: Your Honor, may we 7 approach? 8 THE COURT: Okay. 9 (Sidebar.) 10 THE COURT: I think we've cleaned up 11 since then. 12 MS. BREDEHOFT: My apologies on that 13 one. I thought they were still here. 14 MR. DENNISON: I get it. Are we going 15 to rehash the entire previous cross-examination? 16 MS. BREDEHOFT: She just testified to 17 bipolar. 18 MR. DENNISON: It's her time. 19 THE COURT: It's her cross-examination. 20 MR. DENNISON: Right. 21 THE COURT: I don't have mine. 22 MS. BREDEHOFT: Should I just show it</p>	<p>7137 1 answer at that time was no, correct? 2 A Yes. I had forgotten a case. 3 Q Okay. And have you ever been asked to 4 testify whether anyone has behavioral or 5 characterological conduct that suggests they may 6 be an IPV perpetrator? 7 A I can't -- I may have. It's difficult, 8 after about 250 cases, it's difficult to remember 9 specifically. 10 Q All right. And have you ever been 11 qualified as an expert in the area of IPV? 12 A No. 13 Q Have you ever been qualified to testify 14 as an expert in domestic abuse or violence? 15 A Violence -- 16 Q Domestic abuse or violence? 17 A Yes. That's been a component of 18 testimony. 19 MS. BREDEHOFT: May I approach, Your 20 Honor? 21 THE COURT: All right. 22 MS. BREDEHOFT: We're still on the same</p>

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23 (7138 to
7141)

<p>7138</p> <p>1 page.</p> <p>2 Q Line 16 on page 207, "Have you ever</p> <p>3 been qualified as an expert in the area of IPV?"</p> <p>4 Your answer, on line 20, was no, under oath,</p> <p>5 correct?</p> <p>6 Then the next question, "Have you ever</p> <p>7 been qualified to testify as an expert in domestic</p> <p>8 abuse or violence?" And it goes into page 208,</p> <p>9 line 4, the answer, then, under oath, was no.</p> <p>10 Now, you would agree that the</p> <p>11 literature is quite clear that trauma-based</p> <p>12 symptoms, such as PTSD, are complex; PTSD has</p> <p>13 symptoms that overlap with borderline personality</p> <p>14 disorder and histrionic personality disorder,</p> <p>15 correct?</p> <p>16 A Yes.</p> <p>17 Q And you would agree that it's important</p> <p>18 to use valid and reliable measures for an accurate</p> <p>19 diagnosis, correct?</p> <p>20 A Absolutely.</p> <p>21 Q Okay. You chose, however, not to</p> <p>22 administer the structured clinical interview to</p>	<p>7140</p> <p>1 treatment records for the psychologist Bonnie</p> <p>2 Jacobs, who saw Amber Heard over five years?</p> <p>3 A I do.</p> <p>4 Q And did you see anything in Bonnie</p> <p>5 Jacobs' notes over five years in which she</p> <p>6 diagnosed Ms. Heard with borderline personality or</p> <p>7 histrionic personality disorder?</p> <p>8 A No.</p> <p>9 Q Now, you also saw the notes of</p> <p>10 Dr. Connell Cowan, right, you even attended his</p> <p>11 deposition, correct?</p> <p>12 A Yes.</p> <p>13 Q He saw Amber for, roughly, two years,</p> <p>14 he was part of Dr. Kipper connection, right?</p> <p>15 A Uh-huh.</p> <p>16 Q Correct?</p> <p>17 A Yes.</p> <p>18 Q Okay. Did you see anything in</p> <p>19 Dr. Cowan's notes and did he say, in his</p> <p>20 deposition, that he diagnosed Amber Heard with</p> <p>21 borderline personality disorder or histrionic</p> <p>22 personality disorder?</p>
<p>7139</p> <p>1 DSM Personality Disorders, the SCID; is that</p> <p>2 correct?</p> <p>3 A That's correct.</p> <p>4 Q Would you agree that that is a</p> <p>5 state-of-the-art structured clinical interview?</p> <p>6 A Not for a forensic evaluation of this</p> <p>7 sophisticated examinee.</p> <p>8 Q But to determine if a personality</p> <p>9 disorder is present?</p> <p>10 A No, not in this setting.</p> <p>11 Q You don't agree with that?</p> <p>12 A I do not.</p> <p>13 Q You don't agree that that is the gold</p> <p>14 standard assessment for reliable, accurate</p> <p>15 psychiatric diagnosis?</p> <p>16 A It's a good one but, for treatments</p> <p>17 that are (indiscernible).</p> <p>18 Q Now, did Ms. Heard -- you said you</p> <p>19 talked about you read all of the treatment</p> <p>20 records, right?</p> <p>21 A Yes.</p> <p>22 Q Okay. Do you recall reading the</p>	<p>7141</p> <p>1 A I saw the symptoms clearly delineated</p> <p>2 throughout his notes and his deposition. He does</p> <p>3 not use diagnoses, so he would not have diagnosed</p> <p>4 her.</p> <p>5 Q He said specifically, in his</p> <p>6 deposition, he did not diagnose her with that,</p> <p>7 correct?</p> <p>8 A Yes. And he also specifically stated</p> <p>9 that he does not use diagnoses.</p> <p>10 Q All right. And you also have seen</p> <p>11 Dr. Banks, Dr. Amy Banks, the psychiatrist, her</p> <p>12 deposition, correct?</p> <p>13 A Yes -- not her deposition, I reviewed</p> <p>14 her notes and the transcript.</p> <p>15 Q Did Dr. Anderson diagnoses Ms. Heard</p> <p>16 with borderline personality disorder or histrionic</p> <p>17 personality disorder?</p> <p>18 A I don't believe she provided any</p> <p>19 diagnosis, and she was a couples therapist.</p> <p>20 Q Now, you said quite a bit about Dawn</p> <p>21 Hughes. Do you remember how many years of</p> <p>22 experience Dawn Hughes has in IPV and domestic</p>

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24 (7142 to
7145)

<p>7142</p> <p>1 abuse and violence?</p> <p>2 A I know it's quite a bit.</p> <p>3 Q Extensive. And she is board certified,</p> <p>4 correct?</p> <p>5 A Yes, she is.</p> <p>6 Q And she spent 29 hours of examination</p> <p>7 with Amber Heard; did she not?</p> <p>8 A Yes.</p> <p>9 Q And she admitted -- and she interviewed</p> <p>10 her therapists, Bonnie Jacobs and Connell Cowan,</p> <p>11 correct?</p> <p>12 A Yes.</p> <p>13 Q And she also interviewed Amber's late</p> <p>14 mother?</p> <p>15 A Yes.</p> <p>16 Q And she administered 12 different tests</p> <p>17 over the period of that time, correct?</p> <p>18 A Well, as I said, the majority of those</p> <p>19 were checklists, which are inappropriate in the</p> <p>20 forensic setting.</p> <p>21 Q I understand that's what you're saying.</p> <p>22 But she administered 12 different tests, correct?</p>	<p>7144</p> <p>1 A That's not a psychological assessment.</p> <p>2 We can't assess for intimate partner violence.</p> <p>3 That's an event.</p> <p>4 Q Dr. Hughes administered a full intimate</p> <p>5 partner violence assessment, right?</p> <p>6 A She stated that, and that's actually</p> <p>7 something I'm rebutting today.</p> <p>8 Q And you reviewed her psychological</p> <p>9 testing?</p> <p>10 A I sure did, yes.</p> <p>11 Q And are you aware that in</p> <p>12 September 2019, Ms. Heard had a trauma-based</p> <p>13 symptom on many of those valid tests?</p> <p>14 A Can you be a little bit more specific?</p> <p>15 Those valid tests? Which tests are you talking</p> <p>16 about?</p> <p>17 Q Do you have a recollection of that,</p> <p>18 September 2019?</p> <p>19 A She administered all her testing on</p> <p>20 September 2019, so I'm not sure -- except for the</p> <p>21 CAPS-5, which was ten days after mine, 2021.</p> <p>22 Q Now, Dr. Hughes clinically evaluated</p>
<p>7143</p> <p>1 A If you want to qualify them as tests,</p> <p>2 sure.</p> <p>3 Q And so, you disregard -- no, I'm not</p> <p>4 even going to say that.</p> <p>5 Okay. Let's go to the CAPS-5 and PTSD.</p> <p>6 Now, you assessed Ms. Heard's traumas in her life,</p> <p>7 correct?</p> <p>8 A Yes. I did give her an instrument to</p> <p>9 assess for any trauma exposure throughout the</p> <p>10 entire life-span.</p> <p>11 Q Yes, that's fine. And you wrote that</p> <p>12 Ms. Heard's exposure to a traumatic event, namely</p> <p>13 one of the sexual assaults by Mr. Depp, more than</p> <p>14 satisfied this requirement; did you not write that</p> <p>15 in your notes?</p> <p>16 A That is not what I wrote in my notes.</p> <p>17 Do you have my notes, so I can look at them?</p> <p>18 Q You administered a structured clinical</p> <p>19 interview based on that trauma, correct?</p> <p>20 A Not exactly. It's not quite right.</p> <p>21 Q Now, Dr. Hughes administered a full</p> <p>22 intimate partner violence assessment, correct?</p>	<p>7145</p> <p>1 those symptoms and established that Ms. Heard does</p> <p>2 have PTSD from the totality of the intimate</p> <p>3 partner violence by Mr. Depp, correct?</p> <p>4 A That's what she stated, yes.</p> <p>5 Q Okay. Now, Dr. Anderson's clinical</p> <p>6 notes that said Amber --</p> <p>7 MR. DENNISON: Objection. Hearsay.</p> <p>8 MS. BREDEHOFT: I haven't even asked</p> <p>9 the question yet, Your Honor.</p> <p>10 THE COURT: Are you going to read her</p> <p>11 notes?</p> <p>12 MS. BREDEHOFT: No, no. Actually, I</p> <p>13 wasn't going to read her notes. I was going to</p> <p>14 ask a particular question.</p> <p>15 THE COURT: Okay.</p> <p>16 Q You talked about danger.</p> <p>17 Do you recall that in your testimony?</p> <p>18 A Yes.</p> <p>19 Q All right. Now, if a patient comes to</p> <p>20 you, as a couples therapist, with two black eyes,</p> <p>21 would you assess that there may be a potential</p> <p>22 danger there?</p>

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25 (7146 to
7149)

<p>7146</p> <p>1 A Sure.</p> <p>2 Q Did you read Dr. Anderson's notes?</p> <p>3 A I believe I did.</p> <p>4 Q Now, you administered the Minnesota</p> <p>5 Multiphasic Personality Inventory 2, the MMPI-2.</p> <p>6 Do you recall that?</p> <p>7 A Yes.</p> <p>8 Q And you used that to determine whether</p> <p>9 Amber had PTSD, right?</p> <p>10 A Not by itself. But it was a part of</p> <p>11 the data.</p> <p>12 Q Okay. And in the 60 to 70 T-score</p> <p>13 range for that test, which "deliberate attempts to</p> <p>14 mislead are uncommon"; isn't that correct?</p> <p>15 A Sorry, could you repeat that?</p> <p>16 Q In the T score section of that, which</p> <p>17 assesses deliberate attempts to mislead, do you</p> <p>18 recall -- she scored a 60 on that test, correct?</p> <p>19 A So there are multiple T scores for each</p> <p>20 scale, so I'm not sure which scale you're talking</p> <p>21 about.</p> <p>22 Q Okay. Well, we can deal with that</p>	<p>7148</p> <p>1 Q Correct?</p> <p>2 Now, in addition to not listing the</p> <p>3 four hours you spent with Mr. Depp, Mr. Waldman,</p> <p>4 Mr. Chew, and Ms. Vasquez, you also did not list</p> <p>5 that you spent an hour with Dr. Shaw, correct?</p> <p>6 A That's incorrect.</p> <p>7 Q Are you saying that the designation</p> <p>8 said that you --</p> <p>9 A During my deposition, I also clarified</p> <p>10 this. I didn't spend an hour with Dr. Shaw.</p> <p>11 There was an introduction with the attorneys</p> <p>12 present on Zoom. My time on that call was less</p> <p>13 than 30 minutes.</p> <p>14 Q But you still didn't disclose it, did</p> <p>15 you, in your report?</p> <p>16 A No.</p> <p>17 Q Okay. Now, you are not -- you have not</p> <p>18 been asked to testify about Ms. Heard's behavior</p> <p>19 in the context of her relationship with Mr. Depp;</p> <p>20 is that correct?</p> <p>21 A I was asked to testify about somebody's</p> <p>22 behavioral mental status, in general, so that can</p>
<p>7147</p> <p>1 later.</p> <p>2 So you would agree that you need to</p> <p>3 follow ethics and best practices in forensic</p> <p>4 psychology, correct?</p> <p>5 A Yes.</p> <p>6 Q Okay. And the two primary sources are</p> <p>7 the American Psychological Association Ethical</p> <p>8 Principles and Professional Code of Conduct,</p> <p>9 right?</p> <p>10 A Uh-huh.</p> <p>11 Q And the American Psychological</p> <p>12 Association's Specialty Guidelines for Forensic</p> <p>13 Psychology, correct?</p> <p>14 A Yes.</p> <p>15 Q And special guidelines 1.02 states that</p> <p>16 forensic practitioners "strive for accuracy,</p> <p>17 impartiality, fairness, and independence,"</p> <p>18 correct?</p> <p>19 A Yes.</p> <p>20 Q And specialty guidelines 1.03 states</p> <p>21 "that you have to avoid a conflict of interest"?</p> <p>22 A Yes.</p>	<p>7149</p> <p>1 include behavior involved in the relationship with</p> <p>2 Mr. Depp, but not specifically.</p> <p>3 MS. BREDEHOFT: Can you pull up day 10</p> <p>4 of the trial testimony, at page 2710. 2710,</p> <p>5 lines 12 through 13.</p> <p>6 MR. DENNISON: May we approach?</p> <p>7 THE COURT: All right.</p> <p>8 (Sidebar.)</p> <p>9 THE COURT: Okay.</p> <p>10 MR. DENNISON: I think the request I</p> <p>11 heard, may we pull up some trial testimony and</p> <p>12 I'm --</p> <p>13 MS. BREDEHOFT: I'm not going to show</p> <p>14 it to the jury.</p> <p>15 MR. DENNISON: Okay. That's the issue.</p> <p>16 THE COURT: This is to refresh?</p> <p>17 MS. BREDEHOFT: This is what I should</p> <p>18 have done in deposition. It would have made it go</p> <p>19 a lot faster.</p> <p>20 MR. DENNISON: That was why I asked.</p> <p>21 THE COURT: Okay.</p> <p>22 (Open court.)</p>

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26 (7150 to
7153)

<p>7150</p> <p>1 BY MS. BREDEHOFT: 2 Q So, Dr. Curry, this is your testimony 3 from day ten in this case, and if you can look at 4 page 2710, line 13. Now is it -- my question was, 5 "Now is it your testimony, under oath, today that 6 you have not been asked to testify concerning 7 Ms. Heard's behavior in the context of her 8 relationship with Mr. Depp, including any abuse?" 9 And your answer, under oath, to this jury that day 10 was that's correct. 11 A Yes. 12 Q Is that correct? 13 A I still agree with that question. 14 Q All right. And you have not made any 15 determinations, including any opinions, that 16 Ms. Heard abused Mr. Depp or Mr. Depp abused 17 Ms. Heard, correct? 18 A Correct. 19 Q Okay. And in fact, you've said that's 20 outside the scope, correct? 21 A Yes, of psychology. 22 Q And you cannot testify whether</p>	<p>7152</p> <p>1 THE COURT: Withdrawn. 2 (Open court.) 3 BY MS. BREDEHOFT: 4 Q Now, you have not rendered any opinion 5 as to whether Amber Heard exhibits patterns of 6 behavior that would suggest her allegations of 7 abuse against Mr. Depp are false; would you agree? 8 A No -- I mean, yes, I would agree with 9 that. 10 Q Thank you. 11 And you have not -- no, that's all 12 right. 13 MS. BREDEHOFT: That's all I've got. 14 No further questions. 15 THE COURT: All right. Redirect. 16 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND 17 COUNTERCLAIM DEFENDANT 18 BY MR. DENNISON: 19 Q You were asked about the SCID. 20 A Yes. 21 Q What's that? 22 A It's a structured clinical interview.</p>
<p>7151</p> <p>1 Ms. Heard suffered any emotional distress as a 2 result of any of the defamatory comments that she 3 has alleged Mr. Waldman made through Mr. Depp or 4 Mr. Depp made through Mr. Waldman, correct? 5 MR. DENNISON: Objection, Your Honor. 6 A Do you want me to read my response? 7 Q Sure. 8 THE COURT: Objection. 9 THE WITNESS: I'm sorry, Your Honor. 10 THE COURT: That's okay. 11 What was the objection? 12 (Sidebar.) 13 MR. DENNISON: That's the question she 14 wouldn't let me ask. 15 THE COURT: Well, it opens it up for 16 redirect. 17 MR. DENNISON: Yeah. 18 MS. BREDEHOFT: Well, she's going to 19 say what I can testify is there's no indication of 20 a decline in psychological functioning since she's 21 been with Mr. Depp. 22 I'll withdraw that.</p>	<p>7153</p> <p>1 It's for rendering a diagnosis. It's best for 2 treatment because you're asking direct questions 3 of the examinee and about symptoms. So if you 4 have an examinee who has a tendency to minimize, 5 you're not going to get much information. 6 Q Why didn't you use it? 7 A Because, well, first of all, I had a 8 limited amount of time for my evaluation, and I 9 already had to use -- just to complete the 10 interview was extremely time consuming, and I had 11 to even restructure it into handouts so that I 12 could keep Ms. Heard on track. I determined, 13 based on that -- so this is where you would make 14 an interference. Because I was having difficulty 15 getting direct answers to my questions from 16 Ms. Heard, I had determined that creating forms of 17 those questions would be a better use of the time, 18 which it was, and then I further deduced that 19 adding on the structured clinical interview would 20 probably be unproductive, given that I had limited 21 time to use the best, most reliable methods for 22 getting information at that time.</p>

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27 (7154 to
7157)

<p>7154</p> <p>1 Q You were asked about the APA Specialty 2 Guidelines. 3 A Yes. 4 Q Specifically, 1.02 -- 5 A Yes. 6 Q -- and 1.03? 7 A Yes. 8 Q Have you complied with it? 9 A I have. 10 MR. DENNISON: No further questions. 11 THE WITNESS: Thank you. 12 THE COURT: Thank you, Dr. Curry. 13 You're free to go. Thank you, ma'am. 14 All right. Ladies and gentlemen, let's 15 go ahead and take our morning recess for 16 15 minutes. Do not discuss the case, and do not 17 do any outside research, okay? 18 (Whereupon, the jury exited the 19 courtroom and the following proceedings took 20 place.) 21 THE COURT: All right. Just for 22 planning purposes, Sammy asked Mr. Tobin to be</p>	<p>7156</p> <p>1 THE COURT: Okay. Sure. 2 (Sidebar.) 3 MS. MEYERS: Your Honor, I think 4 earlier when we were discussing the expert 5 issue -- 6 THE COURT: Oh, we're going backwards? 7 MS. MEYERS: I understand that. But 8 this is why I wanted to grab this. 9 THE COURT: Sure. 10 MS. MEYERS: This is our rebuttal 11 designations. 12 THE COURT: Right. 13 MS. MEYERS: We incorporate, by 14 reference, the affirmative designations of both 15 Mr. Neumeister and Dr. Collins. 16 THE COURT: Right. 17 MS. MEYERS: And so, we are offering to 18 rebut -- not a fact witness, but evidence that was 19 presented in their defensive case. We understand 20 that rebuttal evidence is evidence that a 21 plaintiff offers to explain or repel evidence that 22 the defendant offered --</p>
<p>7155</p> <p>1 here as early as noon, just in case. With the 2 fluidity of trial, I'm not sure what time we can 3 get to that motion. 4 MR. CHEW: That's fine. 5 THE COURT: Just to let you know. 6 MS. BREDEHOFT: We have to know who it 7 is. 8 THE COURT: Yeah, they need to work on 9 that. They're going to find out who the next 10 witness is. So let's go ahead and take a recess 11 until 10:55, okay? 12 MR. CHEW: 10:55. Okay. Thank you, 13 Your Honor. 14 THE BAILIFF: All rise. 15 (Recess taken from 10:36 a.m. to 16 10:55 a.m.) 17 THE BAILIFF: All rise. 18 Please be seated and come to order. 19 THE COURT: All right. Are we ready 20 for the jury? 21 MR. CHEW: Your Honor, we do have an 22 issue we would like to raise with you.</p>	<p>7157</p> <p>1 THE COURT: It's only to rebut an 2 expert. 3 MS. MEYERS: Your Honor, I think the 4 rule. 5 THE COURT: I didn't work that way when 6 I didn't let their expert testify. 7 MS. MEYERS: Well, Your Honor, I think 8 that was a different issue because their expert 9 was only designated in rebuttal to rebut the 10 testimony of our expert doctor -- or Ms. Frost. 11 In this case, we designated them affirmatively. 12 In fairness -- 13 THE COURT: In your case-in-chief. 14 MS. MEYERS: In our case-in-chief. And 15 then those affirmative. 16 THE COURT: It's not in your defense. 17 MS. MEYERS: But this is also our 18 rebuttal case, Your Honor, and we identified them 19 as rebuttal witness that incorporated their expert 20 testimony from their affirmative designations. 21 THE COURT: Right, so you could have 22 called them in your case-in-chief.</p>

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28 (7158 to
7161)

<p>7158</p> <p>1 MS. MEYERS: But we also designated 2 them as rebuttal witnesses that would testify 3 to -- 4 THE COURT: Testify to what? 5 MS. MEYERS: To rebut the evidence that 6 was provided during their -- 7 THE COURT: And expert can only rebut 8 an expert -- 9 MS. MEYERS: So, Your Honor, my 10 understanding is that an expert can be call -- 11 THE COURT: It is reversible error if I 12 let an expert testify unless they are designated. 13 MS. MEYERS: So we designated -- 14 THE COURT: Reversible error is what 15 I'm trying to avoid in this case. 16 MS. MEYERS: I understand that, Your 17 Honor. So my understanding is that the rule is 18 not that an expert can't be called in rebuttal 19 unless they're rebutting another expert. But they 20 can be called an expert -- you know, under that 21 rule, an expert can never be called in rebuttal if 22 there's no expert testimony on -- in the defensive</p>	<p>7160</p> <p>1 relevant once that evidence came in during their 2 defensive case. And so, we are now 3 offering -- which we -- you know, trials are 4 fluid, we can't anticipate when or if certain 5 evidence will come in. Photographs only came in 6 during their defensive case, as well as 7 Ms. Heard's testimony about how those injuries 8 occurred. And so, now, the -- after their 9 defensive case, the testimony of Mr. Neumeister 10 and Dr. Collins has now become relevant based off 11 of that evidence that they put in. And we submit 12 that those experts, because we designated them at 13 the first available date, we have designated what 14 they intended to testify about, at that time, and 15 then we incorporated, by a reference, that 16 testimony, that they would respond to any 17 photographic evidence and any purported injuries. 18 We identified that when we submitted the experts 19 for our rebuttal case, as well as identifying them 20 to rebut to certain experts if they put them up. 21 But we identified them as rebuttal 22 witnesses who could testify about photographic</p>
<p>7159</p> <p>1 case. 2 THE COURT: Okay. 3 MS. MEYERS: And so, what we are -- 4 basically, during their defensive case -- so this 5 is an issue of fairness. In our affirmative case 6 the -- I would like to make a record, if I may. 7 THE COURT: Yes. Sure. 8 MS. MEYERS: Right. So the testimony 9 of our experts, Mr. Neumeister and Dr. Collins, 10 only became relevant once the photographic 11 evidence of Ms. Heard's purported injuries came 12 into evidence. That did -- we cannot control -- 13 we obviously were not offering that, and they did 14 not offer it when they were crossing Mr. Depp or 15 anyone else during our case-in-chief. 16 THE COURT: They tried to offer it when 17 they did the depositions of the police officers, 18 which was objected to. 19 MS. MEYERS: Which was objected to. 20 And then, it came in during their 21 defensive case. And so, the testimony of 22 Mr. Neumeister and Dr. Collins only became</p>	<p>7161</p> <p>1 evidence and other injuries that only came in 2 during their defensive case. 3 So we submit that that's proper and 4 fair to permit them to testify. 5 MR. ROTTENBORN: I don't have anything 6 to add to my arguments from this morning, Your 7 Honor, unless you have any questions. 8 THE COURT: So they're saying since 9 they incorporated -- as their expert designated 10 for their case-in-chief, that the evidence came up 11 about photographs in your case and, therefore, 12 they can bring an expert in to talk about the 13 photograph is, I believe, their argument. 14 MR. ROTTENBORN: They could have put 15 the experts on in their case-in-chief. They 16 obviously objected, as Your Honor pointed out, to 17 our attempt to get pictures in. And for all the 18 reasons that we discussed this morning and that 19 Your Honor ruled, they're going backward. 20 THE COURT: Mr. Murphy, do you want 21 to -- this is your motion, so... 22 MR. MURPHY: Yes, absolutely, Your</p>

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29 (7162 to
7165)

<p>7162</p> <p>1 Honor. Mr. Neumeister, Your Honor, the exact 2 argument on Mr. Bercovici, I have the transcript, 3 was that the expert was here to rebut the facts. 4 And Your Honor said, no, experts essentially rebut 5 experts. Now they're trying to say exactly what 6 they argued against. Their expert is here to 7 rebut the facts. That is a complete contradiction 8 of Bercovici, from my understanding of it looking 9 at the transcript. 10 THE COURT: Well, Bercovici was just a 11 rebuttal expert. What they're saying the 12 difference is -- so I want to go through this -- 13 is that they actually had him designated, also, in 14 their case-in-chief. 15 MR. MURPHY: They did, and they didn't 16 call him. They also could have called Ms. Heard 17 in their case-in-chief and put in the photographs, 18 and they chose not to, that's, again, their 19 choice. So there's no reason they can now put on 20 an expert to rebut the factual testimony when he 21 wasn't identified in the disclosure, and the 22 rebuttal disclosure says he's here, over and over</p>	<p>7164</p> <p>1 things. We can't be punished for not calling the 2 defendant in our case-in-chief. The reason we 3 objected to those pictures were foundational 4 because there had not been a foundation laid for 5 those photographs, and, you know, as we saw, some 6 of these photographs actually did end up coming in 7 for various reasons. So these experts truly only 8 became relevant -- look, we couldn't have 9 anticipated that. We identified them just in case 10 these paragraphs did come in and that testimony 11 did come in, in our case-in-chief, and it did not. 12 And then on defendant's, they offered it in. I 13 think that, you know, an expert can be called to 14 rebut factual evidence -- 15 THE COURT: Does anybody have case law 16 for me? Any case law? 17 MS. MEYERS: We looked very hard. 18 There's not a clear case law on this either way. 19 THE COURT: There's a reason for that. 20 MR. ROTTENBORN: They clearly knew they 21 could have designated and called the experts in 22 their case-in-chief because they put them in their</p>
<p>7163</p> <p>1 again, to rebut Ms. Ackert, who has not yet 2 testified. 3 THE COURT: Well, no, it also says it 4 incorporates the case-in-chief. 5 MR. MURPHY: In the line above that. 6 But, Your Honor, if you can just insert 7 incorporates everything previously in the case 8 into every expert disclosure, it would just defeat 9 the purpose of what the specific testimony is and 10 specific disclosures and specific parts of the 11 case. 12 I mean, Mr. Rottenborn said Your Honor 13 ruled on this, this morning, and we're now trying 14 to go backward. 15 THE COURT: Well, I want to make sure 16 we get it right. 17 MS. BREDEHOFT: The incorporation, if 18 you recall, Your Honor didn't let me have 19 Dr. Hughes testify on things that we incorporated 20 by reference into the designation for her 21 testimony. 22 MS. MEYERS: So, Your Honor, a couple</p>	<p>7165</p> <p>1 January designations. 2 THE COURT: Designated them in their 3 defense. 4 MR. ROTTENBORN: But they didn't. 5 MS. MEYERS: This is all rebuttal case. 6 We're offering these not as a defense witness, but 7 we're rebutting -- 8 THE COURT: If you're offering them as 9 rebuttal, then they don't testify. 10 MS. MEYERS: Well, we are offering them 11 to rebut evidence that came in during their 12 case -- in their defensive case. 13 THE COURT: All the case law I've ever 14 read says you can't use an expert to rebut lay 15 witness testimony. 16 MS. MEYERS: But it's not just lay 17 witness testimony. We're rebutting fact -- 18 documentary and photographic evidence. 19 THE COURT: That came in through lay 20 witnesses, right? 21 MS. MEYERS: Yeah, but I think that -- 22 again, I think the rule cannot be that an expert</p>

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30 (7166 to
7169)

<p>7166</p> <p>1 can't be called unless they're rebutting another 2 expert, I think it has -- 3 THE COURT: I'll tell you what, I'll 4 give you until lunchtime to find me some case that 5 says that in rebuttal, an expert can testify, even 6 though an expert did not testify in direct, all 7 right? I'll give them a chance to give me case 8 law. 9 MR. ROTTENBORN: At some point, we just 10 need to move on. 11 THE COURT: I'm giving them an hour and 12 then we'll move on, okay? So we'll give you until 13 lunchtime, which I guess will be around -- I'm not 14 really sure. Who's up next? 15 MS. MEYERS: If we cannot call 16 Dr. Collins, I think we will call Mr. Depp at this 17 time. 18 THE COURT: We'll do that. So we're 19 near the end. We're probably not going to have 20 testimony tomorrow? Is that what we're thinking? 21 Even if you get these witnesses in? 22 MS. VASQUEZ: So there is another</p>	<p>7168</p> <p>1 in from Dr. Moore, who testified about Mr. Depp's 2 finger injury, and that was designated in her 3 affirmative disclosure. 4 THE COURT: Okay. 5 MR. ROTTENBORN: No, that's -- I'll 6 wait. 7 MS. MEYERS: And I believe that she 8 could also be designated to come -- I think she's 9 also rebutting the testimony from Dr. Hughes, that 10 Ms. Heard's injuries resulting from IPV were more 11 severe than Mr. Depp's, and she testifies to the 12 severity of the injuries. So I think that was -- 13 those types of information were disclosed in our 14 affirmative designations and identified in 15 rebuttal, which under Your Honor's ruling, can be 16 offered to rebut expert testimony. 17 MR. ROTTENBORN: A couple things, Your 18 Honor. She's designated to rebut the opinions of 19 Dr. Jordan -- 20 MS. MEYERS: But she is also 21 designated -- her original designations are also 22 incorporated by reference --</p>
<p>7167</p> <p>1 issue, Your Honor. Our expert, Dr. Gilbert, who 2 is rebutting and was designated just to rebut 3 Dr. Moore, the hand surgeon, he can only testify 4 in person tomorrow. 5 THE COURT: Okay. 6 MS. VASQUEZ: He's scheduled to fly 7 this evening. 8 THE COURT: Well, I don't think the 9 jury has any problems with me releasing them 10 early. We can work on jury instructions if that's 11 the case. 12 Were you planning any rebuttal on 13 evidence? 14 MS. BREDEHOFT: Yes, Your Honor, we're 15 planning on calling Dr. Hughes and Amber Heard. 16 That's it. And both are relatively short. 17 THE COURT: Is there any way -- well, I 18 guess it'll depend on this, this issue. 19 MS. MEYERS: And, Your Honor, if I may, 20 and Ms. Vasquez just reminded me of this. I do 21 believe, especially with respect to Dr. Collins, 22 her testimony is rebutting the evidence that came</p>	<p>7169</p> <p>1 MR. ROTTENBORN: If I may finish, Your 2 Honor. 3 MS. MEYERS: -- on rebuttal. 4 MR. ROTTENBORN: Dr. Moore was not 5 designated until February. Ms. Meyers just told 6 you that she was designated to rebut the opinions 7 of Dr. Moore. That's not true. 8 MS. MEYERS: I did not. 9 MR. ROTTENBORN: You did just say that. 10 She was designated to rebut the opinion of 11 Dr. Jordan, and I have her testimony where I asked 12 her, are you rebutting the testimony of Dr. Moore, 13 and she says no. 14 I want to -- I can get it from the 15 outline. 16 MS. VASQUEZ: If I may, Your Honor, 17 just briefly be heard. I'll wait. 18 THE COURT: Yes. Wait. 19 MS. VASQUEZ: If I may briefly be heard 20 on that point. 21 THE COURT: Uh-huh. 22 MS. VASQUEZ: She, in her affirmative</p>

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31 (7170 to
7173)

<p>7170</p> <p>1 designations, Dr. Collins opined as to the cause 2 of the finger injury. 3 THE COURT: Okay. 4 MR. ROTTENBORN: Here's page 87. 5 THE COURT: I have to go by 6 designations. You understand that. 7 MS. VASQUEZ: We do. 8 THE COURT: Again, we're not getting 9 reversible error in this case. 10 MS. VASQUEZ: We understand, Your 11 Honor. 12 THE COURT: I'll read the designations 13 to the rule. 14 MR. ROTTENBORN: Just because they told 15 you that she was rebutting Dr. Moore's testimony, 16 please, just read that. 17 THE COURT: You're not offering any 18 expert opinion in reaction to or in rebuttal to 19 Dr. Moore's opinion, correct? Correct. 20 MS. MEYERS: Okay, so, Your Honor, I 21 think -- 22 THE COURT: That's the deposition.</p>	<p>7172</p> <p>1 THE COURT: Right. 2 MS. MEYERS: We will look for that 3 because that would apply to both of them. 4 MR. ROTTENBORN: I would disagree that 5 that's the only issue. We can see what they come 6 up with. We still think that there's the initial 7 rebuttal things. As Your Honor will remember with 8 Mr. Bercovici, he said I'll testify in rebuttal to 9 Mr. Frost and there was a comma and he said -- 10 THE COURT: Oxford comma. 11 MR. ROTTENBORN: I'm not going 12 backwards on that. I'm just saying that was 13 something that was designated. 14 THE COURT: Well, he was just 15 designated as a rebuttal expert. I think this is 16 apples and oranges, but I just -- I have never 17 seen, and I don't want to create reversible error, 18 I have just never seen an expert rebut lay 19 testimony. 20 MR. ROTTENBORN: Particularly when they 21 have the opportunity when they designated -- 22 THE COURT: And I even took the</p>
<p>7171</p> <p>1 MS. MEYERS: I understand that. Your 2 Honor, I think the point is, is that we identified 3 her -- what her testimony from her affirmative 4 designations as potential rebuttal evidence, and 5 we could not have known whether Dr. Moore was 6 coming in. Her testimony -- she's not rebutting 7 Moore specifically, and she won't opine onto any 8 of his things. But her testimony about the finger 9 injury is explanatory or, you know, rebuts what 10 Dr. Moore testified to. 11 THE COURT: That needs to be 12 designated. I have to go by the designations, 13 okay? 14 MS. MEYERS: I understand. 15 THE COURT: So that was clear. Now, if 16 you want to find me something, in the next hour, 17 on Mr. Neumeister, we'll take that up. 18 MS. MEYERS: Well, I think the issue 19 that we -- excuse me, the case law that you asked 20 us to look for is whether an expert can be offered 21 to rebut factual evidence that didn't necessarily 22 come in through an expert witness.</p>	<p>7173</p> <p>1 metadata out of it, so there's not even any 2 metadata in the evidence. 3 MS. MEYERS: I understand that. I 4 think, particularly with respect with Dr. Collins, 5 it's not so much that she's responding to -- not 6 responding to lay testimony, she's providing an 7 expert opinion to explain the factual evidence 8 that came in during the defense's case. 9 THE COURT: That's a no for sure. So 10 if you want -- 11 MR. CHEW: Your Honor, may we have 12 until 1, since we have an argument at 12? 13 THE COURT: Okay. 14 MS. BREDEHOFT: Your Honor, we have all 15 our experts and we are releasing them all, I 16 mean -- 17 THE COURT: Excuse me. You're 18 releasing -- oh, you have Dr. Ackert here. 19 I can only give you until noon. 20 MR. CHEW: What's that, Your Honor? 21 THE COURT: Yeah, I can only give you 22 until noon to see what you can find out, okay? I</p>

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32 (7174 to
7177)

<p>7174</p> <p>1 don't think there's going to be much there.</p> <p>2 MR. ROTTENBORN: Thank you, Your Honor.</p> <p>3 THE COURT: I'm not creating reversible</p> <p>4 error. You have to understand this.</p> <p>5 MS. VASQUEZ: We do understand that.</p> <p>6 The only point I'll make is that I don't</p> <p>7 understand that -- how a party can designate a</p> <p>8 rebuttal witness --</p> <p>9 THE COURT: Rebuttal expert.</p> <p>10 MS. VASQUEZ: A rebuttal expert witness</p> <p>11 only to testify if the defense puts on an expert?</p> <p>12 THE COURT: That's what rebuttal</p> <p>13 experts are. In Virginia.</p> <p>14 MS. VASQUEZ: I understand. But we'll</p> <p>15 find the case law, I hope. Thank you, Your Honor.</p> <p>16 MR. CHEW: Thank you, Your Honor.</p> <p>17 MR. ROTTENBORN: Thank you, Your Honor.</p> <p>18 (Open court.)</p> <p>19 THE COURT: All right. Your next</p> <p>20 witness. I'm sorry, let's get the jury first,</p> <p>21 right?</p> <p>22 Are we ready for the jury?</p>	<p>7176</p> <p>1 that Mr. Waldman made.</p> <p>2 Do you remember that?</p> <p>3 A Yes.</p> <p>4 Q And Mr. Waldman is your attorney or was</p> <p>5 your attorney?</p> <p>6 A Yes.</p> <p>7 MS. MEYERS: Could we, please, pull up</p> <p>8 Defendant's Exhibit 1245.</p> <p>9 And this is already in evidence, so</p> <p>10 permission to, please, publish?</p> <p>11 THE COURT: Yes.</p> <p>12 MS. MEYERS: If we could scroll down to</p> <p>13 the second page.</p> <p>14 Q Mr. Depp, do you see the statement here</p> <p>15 attributed to Mr. Waldman?</p> <p>16 A Yes, I do.</p> <p>17 Q When's the first time that you saw this</p> <p>18 statement?</p> <p>19 MR. ROTTENBORN: Objection, Your Honor.</p> <p>20 May we approach?</p> <p>21 THE COURT: All right.</p> <p>22 (Sidebar.)</p>
<p>7175</p> <p>1 MS. BREDEHOFT: Yes, Your Honor.</p> <p>2 (Whereupon, the jury entered the</p> <p>3 courtroom and the following proceedings took</p> <p>4 place.)</p> <p>5 THE COURT: All right. Thank you.</p> <p>6 Are we ready for the next witness?</p> <p>7 MS. MEYERS: Yes. We call Mr. Depp.</p> <p>8 THE COURT: Okay.</p> <p>9 All right. Sir, just to remind you,</p> <p>10 you're still under oath, okay?</p> <p>11 THE WITNESS: Yes, m'am. Thank you,</p> <p>12 Your Honor.</p> <p>13 THE COURT: All right. Thank you.</p> <p>14 JOHN C. DEPP, II,</p> <p>15 being first duly sworn, was examined</p> <p>16 and testified as follows:</p> <p>17 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND</p> <p>18 COUNTERCLAIM DEFENDANT</p> <p>19 BY MS. MEYERS:</p> <p>20 Q Good morning, Mr. Depp.</p> <p>21 A Good morning.</p> <p>22 Q We heard a lot about some statements</p>	<p>7177</p> <p>1 THE COURT: Is this going to</p> <p>2 attorney-client?</p> <p>3 MR. ROTTENBORN: It sure is. Yep.</p> <p>4 They refused to let him answer.</p> <p>5 MS. MEYERS: This question was never</p> <p>6 answered -- never asked and it was never answered.</p> <p>7 There was no attorney-client privilege asserted to</p> <p>8 this specific question. Never asked.</p> <p>9 MR. ROTTENBORN: This question still</p> <p>10 goes into the argument of whether or not Mr. Depp</p> <p>11 was -- had authorized Mr. Waldman, and they didn't</p> <p>12 let him answer any questions on that, so I think</p> <p>13 even going to this is inappropriate.</p> <p>14 MS. MEYERS: This question was never</p> <p>15 asked, Your Honor, and certain questions, he did</p> <p>16 answer. He answered when --</p> <p>17 THE COURT: I believe the Motion in</p> <p>18 Limine was any question that he asserted</p> <p>19 attorney-client privilege will not be elicited at</p> <p>20 trial.</p> <p>21 MR. ROTTENBORN: I think it goes</p> <p>22 broader than that to the subject matter.</p>

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33 (7178 to
7181)

<p>1 THE COURT: That's not what the Motion 2 in Limine said, was it? 3 MR. ROTTENBORN: No, I'm not 4 representing that. I'm saying my argument here is 5 that is shouldn't have to be phrased the exact 6 same way for it to go to subject matter. 7 THE COURT: They're not going to change 8 just an "and" or a "to," but it's a different 9 question. We can go from there. 10 MR. ROTTENBORN: All right. 11 THE COURT: He didn't assert 12 attorney-client privilege for it. 13 MR. ROTTENBORN: Okay. I'll be at the 14 ready. 15 THE COURT: Okay. 16 (Open court.) 17 MS. MEYERS: If we can have the exhibit 18 back up. Thank you. 19 BY MS. MEYERS: 20 Q Mr. Depp, when is the first time that 21 you saw this statement by Mr. Waldman? 22 A The first time that I ever saw this</p>	<p>7178 1 you. 2 Q Mr. Depp, do you see the statement 3 attributed to Mr. Waldman? 4 A I do, indeed, yes. 5 Q And when's the first time that you saw 6 this statement? 7 A This is the same. It's the 8 counterclaim, August 2020. 9 Q After you saw these statements for the 10 first time, did you form an understanding as to 11 where they appeared? 12 A I did -- as to where they had appeared, 13 these statements? 14 Q In what publication. 15 A No. Off the bat, I didn't know 16 exactly. It just seemed like a lot of word salad 17 to me. I didn't know where they'd come from -- or 18 I mean where they ended up. 19 Q Mr. Depp, do you recall Ms. Heard 20 testifying that you did not assist her in getting 21 her role in Aquaman? 22 A Yes, I do. Yes.</p>
<p>7179 1 statement was in August -- when the piece was, 2 the -- when she -- August 2020, when I was 3 countersued by Ms. Heard, is the first time that I 4 saw any of these statements. 5 MS. MEYERS: Can we, please, pull up 6 Defendant's Exhibit 1246. 7 And this is also already in evidence. 8 THE COURT: All right. 9 MS. MEYERS: Thank you. 10 If we could scroll down to the second 11 page or the third, perhaps. Thank you. 12 Q Mr. Depp, do you see this statement 13 that's attributed to Mr. Waldman here? 14 A I do. 15 Q And when is the first time that you saw 16 these statements? 17 A Same. When the countersuit was filed. 18 MS. MEYERS: And could we, please, go 19 to Defendant's Exhibit 1247. 20 And, again, this is already in 21 evidence. 22 If we could scroll down, please. Thank</p>	<p>7181 1 Q And what is your response to that? 2 A It's not -- it's not exactly true. 3 Q Do you know when Ms. Heard first 4 auditioned for Aquaman? 5 A Strangely, I know the date. Well, yes, 6 I do know the date because I was scheduled with my 7 band, the Hollywood Vampires. We had done two 8 shows at the Roxy, which is a place in 9 Los Angeles, to rehearse for a -- we were invited 10 to play at the Rock and Rio concert, which is a 11 huge rock and roll festival. So we did the two 12 shows to go to Rio and play there. Ms. Heard had 13 wanted to come with me, and Whitney, her sister, 14 had come as well. While we were there, in Rio, we 15 were rehearsing, getting ready for the show, 16 Ms. Heard informed me that she would have to be 17 going -- she would have to get back to Los Angeles 18 for an audition, meaning, basically, after our 19 two-hour show or whatever. We had to -- we would 20 have to get on the plane immediately to make it 21 back to Los Angeles for this audition. And that 22 audition was at Warner Brothers, it was whatever</p>

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34 (7182 to
7185)

<p>7182</p> <p>1 film it was.</p> <p>2 Q And when were you performing at the</p> <p>3 Rock and Rio?</p> <p>4 A I'm sorry. Yeah, I believe that was</p> <p>5 the 24th of September.</p> <p>6 Q And what year?</p> <p>7 A That was '15.</p> <p>8 Q What do you understand happened after</p> <p>9 Ms. Heard auditioned for Aquaman?</p> <p>10 A After Ms. Heard's audition, or possibly</p> <p>11 auditions for Warner Brothers, and, I suppose, the</p> <p>12 creative team, Ms. Heard expressed to me that the</p> <p>13 film was going to be -- Warner Brothers had said</p> <p>14 that the film was going to be shooting in</p> <p>15 Australia. And Australia was a, for Ms. Heard,</p> <p>16 that was a potential problem, which --</p> <p>17 MR. ROTTENBORN: Objection, Your Honor.</p> <p>18 May we approach?</p> <p>19 THE COURT: Okay.</p> <p>20 (Sidebar.)</p> <p>21 THE COURT: Yes.</p> <p>22 MR. ROTTENBORN: I don't know where</p>	<p>7184</p> <p>1 MR. ROTTENBORN: Ms. Heard and Mr. Depp</p> <p>2 had brought dogs to Australia.</p> <p>3 THE COURT: Right, I understand that.</p> <p>4 MR. ROTTENBORN: But that, Your Honor,</p> <p>5 has been kept out.</p> <p>6 MS. MEYERS: So, Your Honor, I assure</p> <p>7 you that he understands that he cannot --</p> <p>8 MR. ROTTENBORN: He just said --</p> <p>9 MS. MEYERS: Yes, he understands he</p> <p>10 can't reference, like, the legal issue. He's</p> <p>11 going to say there's an issue, generally.</p> <p>12 MR. ROTTENBORN: He just testified that</p> <p>13 there's a problem with her getting in Australia.</p> <p>14 That goes over the line.</p> <p>15 MS. MEYERS: I don't believe that</p> <p>16 that's true, Your Honor. I understood Your</p> <p>17 Honor's ruling. We tried to get in the fact of</p> <p>18 her pleading guilty to the false form issue, and</p> <p>19 we understand that that's --</p> <p>20 THE COURT: He's saying there were</p> <p>21 problems. What else is he going to say?</p> <p>22 MS. MEYERS: He is just explaining that</p>
<p>7183</p> <p>1 he's going to go with this testimony on the</p> <p>2 problem, but if he's going to talk about the dog</p> <p>3 issue and the visas in Australia, Your Honor has</p> <p>4 already made a couple rulings, I believe, in this</p> <p>5 case that that's not -- that's a collateral issue,</p> <p>6 that's something that's not coming in.</p> <p>7 THE COURT: At the Motion in Limine, I</p> <p>8 said I wouldn't allow it in testimony, but then</p> <p>9 Ms. Bredehoft, in her opening statements, kind of</p> <p>10 threw everything out.</p> <p>11 MR. ROTTENBORN: About an Australia</p> <p>12 dog? I don't --</p> <p>13 THE COURT: About the dog poop in</p> <p>14 Australia.</p> <p>15 MR. ROTTENBORN: No, that's a different</p> <p>16 dog.</p> <p>17 THE COURT: Oh, that's different.</p> <p>18 MR. ROTTENBORN: She addressed the dog</p> <p>19 poop on the bed. Believe me, I wish that</p> <p>20 hadn't --</p> <p>21 THE COURT: Yes, okay. So you're just</p> <p>22 talking about the dog getting into Australia?</p>	<p>7185</p> <p>1 because there was a problem, he was asked to</p> <p>2 intercede with Warner Brothers.</p> <p>3 THE COURT: He was asked?</p> <p>4 MS. MEYERS: To intercede with Warner</p> <p>5 Brothers. I assure you that he's not going to</p> <p>6 touch the specific issue at all.</p> <p>7 THE COURT: Intercede with Warner</p> <p>8 Brothers? I have no idea what that means.</p> <p>9 MR. ROTTENBORN: I have no idea what</p> <p>10 that means either. Even just saying there was a</p> <p>11 problem, I think, runs afoul.</p> <p>12 THE COURT: I think saying there was a</p> <p>13 problem is fine. We're not going into what the</p> <p>14 problems was or anything about Ms. Heard.</p> <p>15 MS. MEYERS: Yes, Your Honor.</p> <p>16 THE COURT: Okay. That's fine.</p> <p>17 MR. ROTTENBORN: And then there's --</p> <p>18 okay. If he was asked to intercede --</p> <p>19 THE COURT: With Warner Brothers.</p> <p>20 MR. ROTTENBORN: Who's he going to</p> <p>21 testify he was asked by, other than Ms. Heard?</p> <p>22 MS. MEYERS: Amber. He's just saying</p>

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35 (7186 to
7189)

<p>7186</p> <p>1 that Ms. Heard -- my understanding is he got this 2 information from Ms. Heard, which wouldn't be 3 hearsay, as it's a statement of party opponent. 4 MR. ROTTENBORN: Well, we can take it 5 as it comes. 6 THE COURT: Take it one at a time. 7 MR. ROTTENBORN: Okay. Appreciate it. 8 (Open court.) 9 BY MS. MEYERS: 10 Q I apologize, Mr. Depp. Could you 11 please continue. 12 What happened after Ms. Heard 13 auditioned for Aquaman? 14 A I was informed by Ms. Heard that the 15 film was going to be shooting in Australia. And 16 that was of concern to her and -- because it was 17 of concern to Warner Brothers. So she asked if I 18 would -- because I had had a multi -- for a few 19 years, I had had a multi-film deal with Warner 20 Brothers, and so we'd been in business together. 21 So I knew these people, I'd been in -- on films 22 with them. So I -- she asked me if I would speak</p>	<p>7188</p> <p>1 Q Mr. Depp, do you recall Ms. Heard 2 testifying that she saw you consume eight to ten 3 MDMA pills at once while you were in Australia in 4 March of 2015? 5 A Yes, I do remember that. 6 Q How many -- 7 A I also remember her saying that I took 8 a handful. 9 MR. ROTTENBORN: Objection. Beyond the 10 scope of the question. 11 A Sorry, that was extra. 12 THE COURT: I'll sustain the objection. 13 Next question. 14 Q How many times have you done MDMA in 15 your life, Mr. Depp? 16 A Actually, not many. Not that many 17 times. I would say, in my lifetime, maybe -- in 18 my lifetime, MDMA, six, seven, maybe. 19 Q And how much MDMA have you done on 20 those occasions? 21 A Not enough to properly -- well, not 22 enough to properly experience the -- what the</p>
<p>7187</p> <p>1 to them. I made a phone call and I spoke to -- 2 MR. ROTTENBORN: Objection. Hearsay, 3 Your Honor. 4 MS. MEYERS: I don't believe he said 5 anything yet. I think he was going to say who he 6 spoke to. 7 THE COURT: All right. Let's see. 8 Overruled at this point. 9 A I spoke to three -- the three upper 10 echelon, Disney's executive -- excuse me, Warner 11 executives, Kevin Tsujihara, Sue Kroll, and Greg 12 Silverstein. And I told them that -- 13 MR. ROTTENBORN: Objection. Your 14 Honor, hearsay. 15 THE COURT: All right. I'll sustain 16 the objection. 17 Next question. 18 Q What was the result of you speaking 19 with those individuals? 20 A Well, I can only say that ultimately 21 she did get the job in the film. So hopefully, I 22 suppose, I had curbed the worries to some degree.</p>	<p>7189</p> <p>1 chemicals are supposed to do to you. 2 Q Have you ever consumed eight to 10 MDMA 3 pills at once? 4 A No, ma'am, no, I have not. 5 Q And why is that? 6 A Because I'd be dead. I'm pretty sure 7 I'd be dead. I think one would die, yes. 8 Probably rather quickly. 9 Q Mr. Depp, I'd like to show you some 10 pictures from the home in Australia that Ms. Heard 11 testified about. 12 A Sure. 13 MS. MEYERS: Could we, please, pull up 14 Defendant's Exhibit 1817, which is already in 15 evidence. 16 Q Mr. Depp, do you recognize what's 17 depicted in this photograph? 18 A Yes, I do. That's the downstairs bar 19 of the house we rented in Australia. 20 Q And can you, please, show the jury 21 where you were sitting when Ms. Heard threw the 22 two vodka bottles at you?</p>

<p>7190</p> <p>1 A If I touch this thing, will it make a 2 mark? 3 Q Yes, it will. 4 A Okay. So this chair, that one, here, 5 was over here, and it was in pretty much -- when I 6 was turned around, toward -- they were on swivel, 7 so when I was turned around toward the bar, they 8 faced the bar. When I turn this way, this chair, 9 here, was in pretty much exactly this same 10 position as this chair. It was face -- well, I 11 was facing Ms. Heard, who was -- let's see. She 12 was -- if you're looking at the photograph, she 13 would be about here (indicating). 14 Q Could you draw a line in the direction 15 where Ms. Heard was, relative to where you were 16 sitting? 17 A Yes. Absolutely. So if I'm sitting 18 here, she was over here, back here (indicating). 19 Q Approximately how far away from 20 Ms. Heard -- from you was Ms. Heard, if you can 21 recall? 22 A I would say it was probably ten, 12,</p>	<p>7192</p> <p>1 A This is behind that very bar. 2 Q And what do you see on the floor in 3 this picture? 4 A I see what looks, to me, like a -- some 5 kind of napkin. It looks sullied, soiled, blood, 6 I don't know. And I see glass in the corner, 7 blood, obviously, on the floor, and a towel 8 leaning up on some cab -- something. 9 Q Do you know how that bloody tissue got 10 on the floor? 11 A My best guess -- 12 MR. ROTTENBORN: Objection. Calls for 13 speculation. 14 THE COURT: Sustained. 15 Q Do you know how the blood got on the 16 floor, Mr. Depp? 17 A I'm pretty -- well, I know how the 18 blood got on the floor. It came from my dripping 19 finger. So that's why the tissue is -- I'm 20 99.9 percent sure, since it is, it looks like it's 21 got blood on it as well, is what I held my 22 finger -- held my finger with.</p>
<p>7191</p> <p>1 15 feet, maybe. 10 feet, 12 feet. 2 Q And approximately where was your hand 3 when the vodka bottle hit it? 4 A It was leaning, my arm was -- sorry, my 5 arm was leaning on the marble bar, that was 6 imaginary, see this, leaning kind of just leaning 7 back and looking at Ms. Heard. She just walked 8 away with the second bottle. I mean, she walked 9 this way when she threw the first bottle, which 10 is, actually, visible in the background, on the 11 floor. 12 Q Could you please circle where the first 13 bottle is? 14 A Oh, excuse me. Yeah. All that is the 15 exploded first bottle (indicating) that went past 16 my -- that went past my head. 17 And the second bottle hit right up 18 here, where my hand is resting on the marble bar. 19 MS. MEYERS: Can we, please, pull up 20 Defendant's Exhibit 1820. 21 Q Mr. Depp, do you recognize what's 22 depicted in this photograph?</p>	<p>7193</p> <p>1 Q Do you see the wall to the -- on the 2 left side of the photograph? 3 A I do. 4 Q Was there a wall-mounted phone on that 5 wall? 6 A On the left side of the photo? No, I 7 didn't -- no. Not that I recall, no. 8 MS. MEYERS: Could we, please, pull up 9 Defendant's Exhibit 394, which is already in 10 evidence. 11 THE COURT: Yes, ma'am. 12 Q Mr. Depp, do you recognize this text 13 message? 14 A I do. 15 Q And what is this message? 16 A It's a text to Dr. Kipper. 17 Q And -- 18 A I'm sorry, I'm just reading through. 19 Q Sure. 20 A Yeah, this is my text to the -- to 21 Dr. Kipper, who had just happened to be in town, 22 telling him that I've had it and that I just lost</p>

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37 (7194 to
7197)

<p>7194</p> <p>1 a finger, fingertip.</p> <p>2 Q How long after your finger had been</p> <p>3 injured did you send this text message, if you can</p> <p>4 recall?</p> <p>5 A It's hard to tell because looking at</p> <p>6 the time stamp -- because it's 3/7/2015, 5:00, but</p> <p>7 I know that, because of Australia time, it was the</p> <p>8 8th, and it was probably -- this was -- the whole</p> <p>9 thing lasted probably until about 2:00 p.m. or so,</p> <p>10 when -- that was when Kipper was called, Jerry was</p> <p>11 brought in, Jerry Judge, sorry, excuse me.</p> <p>12 Q So do you have an estimate as to how</p> <p>13 long after your finger had actually been injured</p> <p>14 that you sent this message?</p> <p>15 A I don't think it was very long. I</p> <p>16 think it was probably within the next -- I'm sure</p> <p>17 it was in the next half hour or so. I would have</p> <p>18 had to sneak into a bathroom, lock myself in to</p> <p>19 type this out.</p> <p>20 Q And how were you able to send this text</p> <p>21 message to Dr. Kipper in the state that you were</p> <p>22 in?</p>	<p>7196</p> <p>1 crossed Mr. Depp, they impeached him multiple</p> <p>2 times with prior inconsistent statements about the</p> <p>3 loss of his fingers. They showed him multiple</p> <p>4 text messages where they intimated that he was</p> <p>5 suggesting he had cut it off himself. There is a</p> <p>6 prior consistent statement.</p> <p>7 MR. ROTTENBORN: This is no different</p> <p>8 from Ms. Heard's prior consistent statement that</p> <p>9 we argued and Your Honor didn't let it in about</p> <p>10 the abuse and certain times when she told her</p> <p>11 doctors that she had abused at certain times.</p> <p>12 Your Honor will remember in the designation</p> <p>13 argument on Dr. Kipper, Your Honor clearly -- Your</p> <p>14 Honor limited this, and I understand the argument</p> <p>15 is well, they've attacked this, so now we get to</p> <p>16 use it. To be consistent, Your Honor, Your</p> <p>17 Honor's kept out Ms. Heard's reports to her</p> <p>18 medical providers of abuse.</p> <p>19 THE COURT: Well, you were putting your</p> <p>20 points in evidence.</p> <p>21 MR. ROTTENBORN: I'm sorry?</p> <p>22 THE COURT: You were putting those</p>
<p>7195</p> <p>1 A Well, he wasn't available at the time,</p> <p>2 so you just sort of find your way through, don't</p> <p>3 you?</p> <p>4 Q How long after sending this text</p> <p>5 message did you see Dr. Kipper?</p> <p>6 A I don't recall, but I think it took</p> <p>7 them probably 30 minutes or more; 30 to 40 minutes</p> <p>8 to get there.</p> <p>9 Q And what did Dr. Kipper do when he</p> <p>10 first arrived at the home?</p> <p>11 A The first thing he wanted to do was</p> <p>12 inspect the damage of my finger and try and figure</p> <p>13 out exactly what had happened, how it happened.</p> <p>14 Q And what did you tell Dr. Kipper about</p> <p>15 how your finger had been injured?</p> <p>16 MR. ROTTENBORN: Objection, Your Honor.</p> <p>17 MS. MEYERS: May we approach?</p> <p>18 MR. ROTTENBORN: We've discussed this</p> <p>19 several times.</p> <p>20 THE COURT: Okay.</p> <p>21 (Sidebar.)</p> <p>22 MS. MEYERS: Your Honor, when they</p>	<p>7197</p> <p>1 points into evidence at that point.</p> <p>2 MR. ROTTENBORN: No, even letting her</p> <p>3 testify that she had told, like, contemporaneous,</p> <p>4 consistent statements, consistent reports of abuse</p> <p>5 about -- after certain incidents, Your Honor has</p> <p>6 kept out. If Your Honor lets this in, tomorrow's</p> <p>7 examination of Ms. Heard goes way longer</p> <p>8 because --</p> <p>9 THE COURT: You have two hours.</p> <p>10 MR. ROTTENBORN: Yeah, thank goodness.</p> <p>11 MS. MEYERS: May I?</p> <p>12 THE COURT: You're not getting it into</p> <p>13 evidence, you're just asking him about it?</p> <p>14 MS. MEYERS: Well, Your Honor, first of</p> <p>15 all, I think that they tried to get Ms. Heard's</p> <p>16 prior consistent statements in on her direct</p> <p>17 testimony, and I believe on her -- on the</p> <p>18 redirect, you actually allowed her to say what she</p> <p>19 told Nurse Boerum, under the theory that it was a</p> <p>20 prior consistent statement. This is the exact</p> <p>21 same principal. He's been impeached with a prior</p> <p>22 inconsistent statement, and we're offering what he</p>

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38 (7198 to
7201)

<p>7198</p> <p>1 told Dr. Kipper as a prior consistent statement. 2 THE COURT: Tomorrow, the roles will be 3 reversed. 4 MR. ROTTENBORN: Right. 5 THE COURT: So I'll overrule the 6 objection. 7 MR. ROTTENBORN: Okay. 8 THE COURT: You can handle it on 9 rebuttal. 10 MR. ROTTENBORN: Okay. All right. 11 THE COURT: Thanks. 12 (Open court.) 13 BY MS. MEYERS: 14 Q Mr. Depp, when Dr. Kipper was treating 15 your finger, what did you tell him about how your 16 finger became injured? 17 A I told him that there was obviously -- 18 I mean, when you saw the damage in the house and 19 the blood everywhere, I mean, obviously, there's 20 serious damage done. There would be no point in 21 lying to the man. He'd been through it with me 22 and Ms. Heard before. I told him that she had</p>	<p>7200</p> <p>1 A There were times when it was very 2 agreeable, very nice, and then there were times 3 when something had become dissatisfactory for her, 4 and she would start the rant, the blooming of 5 the -- of a fight would be on deck there. And at 6 one point, it didn't -- I don't remember it 7 lasting long at all. I just remember that I took 8 a pretty good shot to the face, to the eye, to 9 somewhere up here (indicating), so I had a bit of 10 a shiner. 11 But the -- it all ended and then 12 everything got fine again. We'd go to dinner, and 13 it was all fine. 14 Q Did Ms. Heard ever apologize to you for 15 giving you the shiner? 16 A I don't recall. 17 MS. MEYERS: Can we, please, pull up 18 Plaintiff's Exhibit 162, which is already in 19 evidence. 20 Q Mr. Depp, do you recognize this 21 photograph? 22 A I do. It was with the -- yes, the chef</p>
<p>7199</p> <p>1 thrown a bottle of vodka and smashed my -- or 2 smashed and cut my finger off, the tip of my 3 finger, just the -- a good chunk. I miss it. 4 Q Mr. Depp, you heard Ms. Heard testify 5 about an alleged incident of abuse on your 6 honeymoon. 7 Do you remember that? 8 A I remember her testifying to that, yes. 9 Q And when did you and Ms. Heard go on 10 your honeymoon together? 11 A I believe it was somewhere in the 12 neighborhood of August, because I had just 13 finished the film, maybe end of July, August. I'm 14 not quite good on the exact date. 15 Q Do you recall the year? 16 A It was 2015, I believe. 17 Q And where did you and Ms. Heard go on 18 your honeymoon? 19 A We took the Orient Express from 20 Bangkok, Thailand to Singapore. 21 Q And what happened while you and 22 Ms. Heard were together on the Orient Express?</p>	<p>7201</p> <p>1 and the maître d' and the staff were asking if 2 they could take a photo with us, and they'd been 3 very kind and given us a private dinner car. 4 Q So where was this photograph taken? 5 A That was in the -- that looks like -- 6 yes, that's toward the back of the Orient Express, 7 that's in the back train, bar compartment. And 8 just out back, you could smoke on the sort of 9 caboose or whatever. 10 Q And what, if any, injuries do you have 11 in this photograph? 12 A I think the eye's a little bit bugged 13 out, if you will. Yeah. 14 Q How did that happen? 15 A These things could happen very quickly 16 if you disagreed. 17 MR. ROTTENBORN: Objection, Your Honor. 18 Nonresponsive. She just asked how did that 19 happen. 20 THE COURT: All right. 21 MS. MEYERS: I believe he was about to 22 explain.</p>

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39 (7202 to
7205)

<p>1 THE COURT: Well, I'll sustain the 2 objection. 3 Go ahead. 4 Q Mr. Depp, specifically, how did the 5 injury in this photograph occur? 6 A Ms. Heard hit me. Is that better? 7 Q Does this picture accurately reflect 8 what you looked like on that date? 9 A I don't look at myself much, but it 10 certainly looks like me with a black eye, yeah. 11 Q Does this picture appear to have been 12 photographed -- Photoshopped in any way? 13 A No. No. Think it would be difficult 14 to photograph -- or to start getting into sort of 15 digital processing with a number of people in the 16 shot, especially in a wide shot. 17 MS. MEYERS: Could we, please, pull up 18 Plaintiff's Exhibit 1301, and this is a new one, 19 Your Honor, so this is not in evidence. 20 THE COURT: Okay. Thank you. 21 Q Mr. Depp, do you recognize what's 22 reflected in this photograph?</p>	<p>7202</p> <p>1 Q Mr. Depp, what, if any, injuries do you 2 see on your face in this photograph? 3 A I see pretty much the same. I see that 4 the area in here has been -- well, is swollen 5 and -- yeah, there's a bit of a shiner there. 6 MS. MEYERS: Thank you. We can take 7 this down. 8 Q Mr. Depp, do you recall Ms. Heard 9 testifying that she punched you in the staircase 10 incident because she thought of Kate Moss and the 11 stairs? 12 A Do I remember her saying that? 13 Q Yes. 14 A Yes, I do. Three times. Yes, I do. 15 Q Do you have any understanding as to 16 what Ms. Heard was referring to? 17 A Yes, I do. 18 Q And -- 19 A As Kate Moss, Kate testified, it was 20 many, many years ago, and exactly what happened is 21 what she said happened. 22 I recall speaking with Ms. Heard about</p> <p>7204</p>
<p>1 A Yes. This is the staff, it's the 2 manager and his staff at the Raffles hotel in 3 Singapore. Before we left, they asked if they 4 could take a photograph with us. 5 Q And when was this photograph taken? 6 A Well, that would have been -- we were 7 off the Orient Express. We stayed in Raffles, I 8 believe, a couple of days, a few days. And then 9 from there, we flew to San Francisco. 10 Q So this photograph was taken after the 11 photograph we just looked at? 12 A This photograph was taken after the 13 photograph in the dining car of the train, yes. 14 MS. MEYERS: Your Honor, I'd move 15 Plaintiff's Exhibit 1301 into evidence. 16 THE COURT: Any objection? 17 A Oh, happy honeymoon. 31st of October. 18 THE COURT: Any objection? 19 MR. ROTTENBORN: No objection, Your 20 Honor. 21 THE COURT: All right. 1301 in is 22 evidence and can be published to the jury.</p>	<p>7203</p> <p>1 that very incident because of the down-pouring of 2 rain because it was raining very heavily that day 3 that Kate slipped. And I recalled the story to 4 her -- 5 MR. ROTTENBORN: Objection, Your Honor. 6 Hearsay. 7 MS. MEYERS: May we approach, Your 8 Honor? 9 THE COURT: Okay. 10 (Sidebar.) 11 MS. MEYERS: Your Honor, this goes to 12 Ms. Heard's knowledge. It's not being offered for 13 the truth, but the fact that he told it to her. 14 And she testified that she -- I mean, she implied 15 very strongly that Mr. Depp had thrown Ms. Moss 16 down the stairs, and if she knew that that was not 17 true, that's certainly relevant to assessing her 18 credibility. 19 MR. ROTTENBORN: She didn't imply that 20 at all. You just saw the testimony this morning. 21 She said she heard rumors that that happened and 22 that went through her head.</p> <p>7205</p>

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40 (7206 to
7209)

<p>7206</p> <p>1 THE COURT: I'll overrule the 2 objection. 3 MR. ROTTENBORN: Okay. 4 (Open court.) 5 Q Please, continue, Mr. Depp, what did 6 you tell Ms. Heard about staircase -- or Kate 7 Moss? 8 A I'll make it easy for Mr. Rottenborn. 9 Ms. Heard took the story and turned it 10 into a very ugly incident, all in her mind. 11 There was never a moment where I pushed 12 Kate down any set of stairs. Yet, she's skewed 13 this three times before. 14 MR. ROTTENBORN: Objection, Your Honor. 15 Ms. Heard simply testified she heard a rumor, and 16 that's nonresponsive to the question. 17 THE WITNESS: What's the rumor? 18 THE COURT: Sir, hold on. There's an 19 objection. 20 THE WITNESS: Sorry. 21 THE COURT: I'll overrule the 22 objection.</p>	<p>7208</p> <p>1 ever -- that's the whole story. 2 But then the rumor of it, I'd never 3 heard a rumor of that before Ms. Heard grabbed 4 hold of it. Like that. I'm sorry. 5 Q Mr. Depp, we heard testimony from 6 Ms. Heard's sister, Whitney during this trial. 7 Do you remember that? 8 A Yes. 9 Q And how would you describe your 10 relationship with Whitney when you were in a 11 relationship with Ms. Heard? 12 A I liked Whitney very much. Initially, 13 I mean, when I first met her, I liked her very 14 much, and grew to love Whitney, very much. 15 Because I was -- it seemed -- Whitney, Amber's 16 sister Whitney, seemed to always get the sort of 17 dirty end of the stick, and I felt bad for her, 18 for that. Because it wasn't new. It had been 19 there for life. And that was -- seemed pretty 20 obvious. 21 So I took to Whitney very, very 22 quickly, very easily. She was a very sweet kid.</p>
<p>7207</p> <p>1 MR. ROTTENBORN: Misstates the facts in 2 evidence. 3 THE COURT: I'll overrule the 4 objection. 5 A Sorry, I was drawn by Mr. Rottenborn's 6 voice. What would you like? 7 Q So, what, specifically, had you 8 actually told Ms. Heard about the incident with 9 Ms. Moss and the stairs? 10 A Very simply that she had -- we were in 11 Jamaica, I had left our bungalow about 12 three minutes prior to her, I was standing 13 outside, and suddenly rain starts just coming down 14 like it's, you know, a monsoon, and then I 15 remembered looking and seeing Kate coming out the 16 door, and there were three little wooden stairs. 17 And she slipped, her legs went up (indicating), 18 and she landed directly on her coccyx, on her 19 lower back, and she was obviously physically in 20 pain. She was hurt, she was crying. So I ran 21 over and grabbed her to make sure she was all 22 right. That's it. That's the -- that's all I</p>	<p>7209</p> <p>1 She was wonderful. 2 Q What do you mean that Whitney got the 3 dirty end of the stick? 4 A It was kind of a strange combination of 5 loving sister, trusted sister and friend, and 6 then, lackey. And then, you know, either the 7 punching bag or the dart board, or the recipient 8 of some rather demeaning and ugly words. Or she 9 would have wine thrown in her face. 10 Q And who was the source of those 11 demeaning words and the wine that you just 12 referenced? 13 A Oh, it would be Amber Heard, her 14 sister. 15 Q And how do you know that? 16 A Well, I witnessed quite a lot of it. 17 The wine in the face was something that happened 18 in New York, which I think that even made it into 19 the papers. I believe that even made it into the 20 papers. It was in an elevator. 21 Q How did you first learn about that 22 incident?</p>

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41 (7210 to
7213)

<p>7210</p> <p>1 A Ms. Heard told me, in detail.</p> <p>2 Q What else did you observe of Ms. Heard</p> <p>3 and her sister Whitney's interactions during your</p> <p>4 relationship with Ms. Heard?</p> <p>5 A They were just constantly up and down.</p> <p>6 But I, you know, I could sense, I could feel that</p> <p>7 Whitney was trying to please her sister, trying to</p> <p>8 be up to snuff, and it just seemed like she got</p> <p>9 shot down.</p> <p>10 MR. ROTTENBORN: Objection, Your Honor.</p> <p>11 This has gone beyond the scope of the question and</p> <p>12 his foundation for knowledge of that.</p> <p>13 MS. MEYERS: Your Honor, I asked what</p> <p>14 he observed, you know, between them. I think this</p> <p>15 is responsive to that.</p> <p>16 MR. ROTTENBORN: And his testimony as</p> <p>17 to what Whitney felt is...</p> <p>18 THE COURT: I'll sustain the objection.</p> <p>19 Next question.</p> <p>20 MS. MEYERS: Okay.</p> <p>21 Q Did you ever see Ms. Heard physically</p> <p>22 attack Whitney?</p>	<p>7212</p> <p>1 Whitney around, do you mean physically push her or</p> <p>2 metaphorically?</p> <p>3 A Both.</p> <p>4 Q You heard Whitney testify that she</p> <p>5 lived in penthouse 4 at the Eastern Columbia</p> <p>6 Building for a time, correct?</p> <p>7 A That is correct. Yes.</p> <p>8 Q How did Whitney come to live in</p> <p>9 penthouse 4?</p> <p>10 A My recollection, when Whitney first</p> <p>11 came to stay at the Eastern Columbia Building, in</p> <p>12 penthouse 4, was she and her boyfriend, Sean, had</p> <p>13 broken up and she needed a place to go. And so,</p> <p>14 Amber asked if she could stay in penthouse 4, and</p> <p>15 I said, well, of course she -- of course, you</p> <p>16 know.</p> <p>17 Q How long did Whitney live in penthouse</p> <p>18 4?</p> <p>19 A It was well over a year, on and off.</p> <p>20 Q Did you ever ask Whitney to move out of</p> <p>21 penthouse 4?</p> <p>22 A No, I did not. No.</p>
<p>7211</p> <p>1 A No, I've never seen any full-on</p> <p>2 blowouts, physical blowouts between them. Tons of</p> <p>3 verbal blowouts.</p> <p>4 MR. ROTTENBORN: Objection. Beyond the</p> <p>5 scope.</p> <p>6 THE COURT: Overruled.</p> <p>7 A I've certainly seen Ms. Heard grab</p> <p>8 Whitney, push her, push her around. There were a</p> <p>9 number of -- number. There were half a dozen</p> <p>10 times when we -- some of us, whoever was in the</p> <p>11 general vicinity, would have to leave. This is at</p> <p>12 Orange, when Whitney and Amber were living at</p> <p>13 Orange.</p> <p>14 Whitney and her boyfriend, at the time,</p> <p>15 Sean Krasinski, we actually had to leave the</p> <p>16 apartment --</p> <p>17 Q Why was that?</p> <p>18 A -- and wait in the car while they</p> <p>19 fought.</p> <p>20 Q When you say "fought," do you mean --</p> <p>21 A Physical, physical.</p> <p>22 Q When you said Ms. Heard would push</p>	<p>7213</p> <p>1 Q Why did Whitney ultimately move out of</p> <p>2 penthouse 4?</p> <p>3 MR. ROTTENBORN: Objection.</p> <p>4 Foundation.</p> <p>5 MS. MEYERS: It's his apartment, Your</p> <p>6 Honor. He was living there.</p> <p>7 THE COURT: Overruled.</p> <p>8 A Whitney moved out of penthouse 4 long</p> <p>9 before the marriage. And it was due to an</p> <p>10 argument that Ms. Heard and Whitney had had, which</p> <p>11 had to do with Whitney working at the Art of</p> <p>12 Elysium with Jennifer Howell and those people.</p> <p>13 And Amber asked her to leave, get out.</p> <p>14 Q Where did Whitney live when she moved</p> <p>15 out of penthouse 4?</p> <p>16 A My understanding, she went to live with</p> <p>17 Jennifer Howell.</p> <p>18 MS. MEYERS: Your Honor, I know you</p> <p>19 anticipated having a motion at noon.</p> <p>20 THE COURT: You can keep going. That's</p> <p>21 fine. We can keep going. How much longer on</p> <p>22 direct do you have?</p>

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42 (7214 to
7217)

<p>7214</p> <p>1 MS. MEYERS: I have a bit. 2 THE COURT: Okay. That's okay. 3 Q Mr. Depp, do you recall hearing 4 testimony during Ms. Heard's case from Mr. Mandel? 5 A Yes, I do. 6 Q And who is that? 7 A Mr. Mandel is my former business 8 manager of 17 1/2 years, who, at a certain point, 9 I discovered had been embezzling quite a lot of 10 money, so I had to take action against him, and he 11 and my lawyers, 17 1/2 years, as they were in 12 cahoots, as it were, and, so, yes, Joel Mandel is 13 a -- and in which they settled their case with me. 14 They made their settlement. 15 But, yes, it was the -- that was a 16 very -- yeah, Joel Mandel is a very bitter man who 17 ended up with a lot of money that I worked hard 18 for over the years. 19 Q Do you recall Mr. Mandel testifying in 20 this case that you do not spend very much money on 21 charity? 22 A That I don't, sorry?</p>	<p>7216</p> <p>1 question, I have no objection to it. But if they 2 try to go beyond that, I think it runs afoul of 3 the motion. 4 MS. MEYERS: My question is, what is 5 your response to that? 6 MR. ROTTENBORN: That's fine. I have 7 no objection. 8 (Open court.) 9 BY MS. MEYERS: 10 Q Mr. Depp, just to remind you, my 11 question was, what is your response to 12 Mr. Mandel's testimony that you do not spend very 13 much on charity? 14 A My response is that Mr. Mandel is a 15 very bitter man. And one thing about me, myself, 16 personally, with regard to charity donations, 17 sending money to a charity, I'd prefer -- I 18 don't -- I would rather that my name were not on 19 it. I don't want the name to be the important 20 thing or the thing that people talk about. So 21 when I donate money, I donate without my name 22 being involved because I don't see that that's</p>
<p>7215</p> <p>1 Q That you do not spend very much money 2 on charity? 3 MR. ROTTENBORN: Objection, Your Honor. 4 THE COURT: Do you want to approach? 5 MR. ROTTENBORN: May we approach? 6 THE COURT: Okay. 7 (Sidebar.) 8 MR. ROTTENBORN: This was covered in 9 the Motions in Limine. 10 MS. MEYERS: Your Honor, they put in 11 testimony in their case-in-chief from Mr. Mandel 12 where he said Mr. Depp does not spend very much 13 money on charity. I believe that opens the door 14 for him to rebut that. 15 MR. ROTTENBORN: I have no objection to 16 that. I don't remember that testimony. But I'm 17 not doubting her. But if that came in, I have no 18 objection to that limited thing. But if he's 19 going to talk about some, you know -- 20 THE COURT: Is that the only question 21 on this? 22 MR. ROTTENBORN: If that's the only</p>	<p>7217</p> <p>1 important, my name being there, in terms of money. 2 Now, if I am able to visit hospitals, 3 or if I'm able to meet with Make-A-Wish children, 4 I've held onto the relationships that I've held 5 onto within the Make-A-Wish Foundation and the 6 Children's Hospital and the various, various other 7 places, then, obviously, my name is involved. 8 When we held premieres in Lester Square 9 for several films of Charlie and the Chocolate 10 Factory -- 11 MR. ROTTENBORN: Objection, Your Honor. 12 This is, again, beyond the scope of his response 13 to Mr. Mandel's testimony. 14 MS. MEYERS: I believe this is in 15 response to Mr. Mandel. 16 THE COURT: Overrule the objection. 17 A Basically, when it was a public, let's 18 call it a donation or whatever, I would talk to 19 the studio. I would talk to Disney, I would talk 20 to Warner Brothers, I would talk to whoever the 21 studio was well before the premiere and make the 22 premiere a benefit that would -- once we did, we</p>

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43 (7218 to
7221)

<p style="text-align: right;">7218</p> <p>1 benefited -- we did a benefit premiere for Great 2 Omond Street Hospital. We did a couple of benefit 3 premieres for the Make-A-Wish Foundation. 4 I mean, if you can turn a premiere with 5 that many thousands and thousands and thousands of 6 people there into a benefit, it works and it 7 helps. But it wasn't presented under my name, you 8 know. It was Disney's doing this or Warner 9 Brothers is doing this. I'm not looking for the 10 pat on the back, as it were. If I can make it 11 happen, great. But I don't need the pat on the 12 back. I don't need the adulation. I don't need 13 the attention. 14 Q Did you hear Ms. Heard testify that one 15 of the charities she donated a portion of your 16 divorce settlement to was the Children's Hospital 17 of Los Angeles? 18 A Yes. 19 Q What is your relationship with the 20 CHLA? 21 MR. ROTTENBORN: Objection, Your Honor. 22 Irrelevant to the issues.</p>	<p style="text-align: right;">7220</p> <p>1 direct, though. 2 MR. ROTTENBORN: Understood. But the 3 statement where Ms. Meyers is referring to, I 4 believe came in on Ms. Vasquez's cross. I'm not 5 going to say I'm a hundred percent certain of 6 that, but I believe it did. 7 Number two, this is kind of what we've 8 been afraid of this whole time, which is they're 9 going to talk about him going into the CHLA in 10 pirate costumes, and you've heard Mr. Chew talk 11 about how she doesn't care about sick kids and all 12 that nonsense. It's totally unrelated. They're 13 going to try to get to, you know, have him to say 14 that he marches around in a pirate costume. 15 That's so far beyond the scope of rebuttal. 16 THE COURT: I haven't heard any of that 17 testimony yet. There was evidence in your 18 examination about these issues. I'll allow. 19 MR. ROTTENBORN: There's evidence about 20 what? Her donating to the CHLA. 21 THE COURT: She's saying that when he 22 made his donation in the area that's how it was</p>
<p style="text-align: right;">7219</p> <p>1 MS. MEYERS: May we approach, Your 2 Honor. 3 THE COURT: Yes, ma'am. 4 (Sidebar.) 5 MS. MEYERS: Your Honor, this is a 6 different rebuttal point. This is -- Mr. Depp had 7 a previous relationship with the CHLA when 8 Ms. Heard selected that as one of the places to 9 make a donation, and I think we saw her statement 10 about the donation, when he donated the money to 11 the CHLA, she said this was a newfound interest in 12 the charity. 13 MR. ROTTENBORN: That's really an 14 attenuated attempt to rebuttal. It's not 15 relevant. 16 THE COURT: Well, she testified. 17 MR. ROTTENBORN: It's not relevant, and 18 also -- they brought that out on cross-examination 19 of her, first of all. They brought out that 20 statement, didn't they? I believe it was during a 21 cross of Ms. Heard. 22 MS. MEYERS: The CHLA came in on her</p>	<p style="text-align: right;">7221</p> <p>1 made, something along those lines. 2 MR. ROTTENBORN: I mean, I guess I 3 don't have -- I guess if it's going to be like, 4 hey, I gave to the CHLA in the past, that's fine. 5 But if he's going to be talking about walking 6 around in the pirate costumes and what a great guy 7 he is with respect to CHLA, I think that goes 8 beyond the scope of any sort of impeachment. 9 MS. MEYERS: Your Honor, I would also 10 note that in Ms. Heard's affirmative testimony, 11 she did testify about, in her youth, volunteering 12 at soup kitchens. This is really -- if they're 13 going to bring in this to bolster her character -- 14 THE COURT: That's not allowed. 15 MS. MEYERS: I understand. 16 THE COURT: I'll allow that question. 17 MS. MEYERS: Okay. Understood. 18 MR. ROTTENBORN: Thank you. 19 BY MS. MEYERS: 20 Q Mr. Depp, what is your relationship 21 with the CHLA? 22 A I've had a relationship with the CHLA</p>

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44 (7222 to
7225)

<p>7222</p> <p>1 for probably 20 years or so.</p> <p>2 Q And what's the nature of that</p> <p>3 relationship?</p> <p>4 A Well, since, you know, sometimes there</p> <p>5 are Make-A-Wish kids who are in the hospital</p> <p>6 there, and their wish is to --</p> <p>7 MR. ROTTENBORN: Objection, Your Honor.</p> <p>8 MS. MEYERS: Your Honor, may we</p> <p>9 approach?</p> <p>10 THE COURT: Okay. Sure.</p> <p>11 (Sidebar.)</p> <p>12 MS. MEYERS: Your Honor.</p> <p>13 MR. ROTTENBORN: This is why I --</p> <p>14 MS. MEYERS: This is his relationship</p> <p>15 with the CHLA. I mean this is how --</p> <p>16 THE COURT: You can ask limited</p> <p>17 questions. That was the rebuttal part.</p> <p>18 MS. MEYERS: Okay.</p> <p>19 THE COURT: 20 years. Now let's move</p> <p>20 on.</p> <p>21 MR. ROTTENBORN: That's kind of the</p> <p>22 problem with the limited question with him, is she</p>	<p>7224</p> <p>1 exactly six years prior to this week, the week of</p> <p>2 May 21st, through May 27th, 2016.</p> <p>3 What happened at the beginning of that</p> <p>4 week?</p> <p>5 A May 21st?</p> <p>6 Q Excuse me, May 20th.</p> <p>7 A May 20th. We're talking 2016 here?</p> <p>8 Q Yes.</p> <p>9 A May 20th, the afternoon of May 20th,</p> <p>10 afternoon/evening, my mom made her exit. She --</p> <p>11 she'd been fighting cancer numerous times, and for</p> <p>12 many years, and she fought all the way to the end.</p> <p>13 And, so, my mother passed away on the 20th of May.</p> <p>14 I -- which does bring instant</p> <p>15 perspective into one's mind.</p> <p>16 I spoke to Amber that night, called her</p> <p>17 on the telephone, explained to her that my mom had</p> <p>18 passed, that Betty Sue had passed, and that I felt</p> <p>19 that the best thing we could do was to --</p> <p>20 MR. ROTTENBORN: Objection, Your Honor.</p> <p>21 Hearsay. What Mr. Depp told Ms. Heard.</p> <p>22 MS. MEYERS: We can move on, Your</p>
<p>7223</p> <p>1 can say what happened, and we all know where his</p> <p>2 testimony is going.</p> <p>3 THE COURT: We're working on one</p> <p>4 question at a time.</p> <p>5 MR. ROTTENBORN: All right.</p> <p>6 MS. MEYERS: If I may.</p> <p>7 THE COURT: Okay.</p> <p>8 MS. MEYERS: In anticipation.</p> <p>9 THE COURT: I appreciate that.</p> <p>10 MS. MEYERS: I was going to ask whether</p> <p>11 Ms. Heard knew about that, the relationship with</p> <p>12 the CHLA.</p> <p>13 MR. ROTTENBORN: Irrelevant.</p> <p>14 THE COURT: What would be the relevance</p> <p>15 of it?</p> <p>16 MS. MEYERS: She testified he was not</p> <p>17 charitable.</p> <p>18 THE COURT: I'll sustain the objection</p> <p>19 at this time, okay?</p> <p>20 MR. ROTTENBORN: Okay. Thank you.</p> <p>21 BY MS. MEYERS:</p> <p>22 Q Mr. Depp, I'd like to take you back to</p>	<p>7225</p> <p>1 Honor.</p> <p>2 THE COURT: Okay. Yes, ma'am.</p> <p>3 Q Mr. Depp, what happened at the end of</p> <p>4 that week, on May 27th, 2016?</p> <p>5 A May 27th, my daughter's birthday.</p> <p>6 May 27th, I was not in Los Angeles. I was on the</p> <p>7 way to on tour. That was when Ms. Heard went for</p> <p>8 the restraining order. And, oh, yeah, also that</p> <p>9 was the day that Alice, Alice Through the Looking</p> <p>10 Glass, a film I had done, was opening.</p> <p>11 Q Did Ms. Heard know that you were out of</p> <p>12 town on May 27th?</p> <p>13 A Yes.</p> <p>14 Q How would she have known that?</p> <p>15 A Well, I told her I was going on tour.</p> <p>16 I mean, that was well established.</p> <p>17 Q How long were you going to be out of</p> <p>18 town on that tour?</p> <p>19 A Two to three months.</p> <p>20 Q And did Ms. Heard know how long you'd</p> <p>21 be out of town?</p> <p>22 A I don't know if she knew exactly how</p>

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45 (7226 to
7229)

<p style="text-align: right;">7226</p> <p>1 long I'd be out of town, but it was a pretty 2 extensive tour of Europe. 3 Q How did Ms. Heard's actions on 4 May 27th, 2016, affect you? 5 A Changed everything. 6 MR. ROTTENBORN: Objection, Your Honor. 7 Relevance -- 8 THE WITNESS: Oh, it didn't change 9 everything? 10 MR. ROTTENBORN: -- to this lawsuit. 11 THE COURT: Sir, if you could wait 12 until the objection, please. 13 THE WITNESS: I'm sorry. 14 MS. MEYERS: Your Honor, this is one of 15 the key -- 16 THE COURT: If you want to approach. 17 (Sidebar.) 18 MR. ROTTENBORN: How -- they're trying 19 to bootstrap what she said on May 27th into the 20 lawsuit. How what she did on May 27th affected 21 him? That's not relevant. 22 MS. MEYERS: Your Honor, this is one of</p>	<p style="text-align: right;">7228</p> <p>1 case, Your Honor. I think we've made it very 2 clear. 3 MR. ROTTENBORN: -- liable for 4 traditionally immune statements that were made in 5 2016. 6 MS. MEYERS: I think we've made it very 7 clear that the op-ed that is at issue in this case 8 is -- the defamatory statements are understood in 9 the context of what happened in May of 2016. 10 THE COURT: You need to get to 11 relevance. The objection is relevance. 12 MR. ROTTENBORN: Right. Because this 13 case is about the statements made in 2018, and 14 it's not a republication case. The jury cannot 15 find Ms. Heard liable for statements she made in 16 2016, and that's exactly what Ms. Meyers is trying 17 to get the jury to do through this testimony. So, 18 therefore, how did it affect you is irrelevant. 19 Yeah. 20 MS. MEYERS: Your Honor, I think that 21 we've been very clear that what happened in May of 22 2016, when she made these statements public for</p>
<p style="text-align: right;">7227</p> <p>1 the key dates in this. And this is the date that 2 the allegations essentially came out and the 3 allegations that we contend were republished in 4 the op-ed that she published in 2018. That op-ed 5 is understood against the backdrop on what 6 happened on May 27th. 7 MR. ROTTENBORN: This isn't a 8 republication case, except their theory is that 9 the tweet is republication, but 2018, this is not 10 a republication of 2016. That's not what this 11 case is about. That's not the theory of the case. 12 The law doesn't support that. That's not what the 13 case is about. 14 MS. MEYERS: It's her repeating what we 15 contend are false statements she first made 16 two years prior to. 17 MR. ROTTENBORN: That's exactly the 18 point I was trying to make when I walked up here. 19 That's what they're trying to do, and that's 20 inappropriate. They're trying to get the jury to 21 hold him -- 22 MS. MEYERS: That's our theory of the</p>	<p style="text-align: right;">7229</p> <p>1 the first time, color how the op-ed was understood 2 by people. And I think that what happened on that 3 date -- 4 THE COURT: The statements made in 2018 5 in context with 2016? 6 MS. MEYERS: Well, our contention is 7 that people understood the statements in the op-ed 8 to be about Mr. Depp and to imply that he had been 9 physically abusive because there had been a media 10 circus around Ms. Heard's walking into court in 11 May of 2016. 12 THE COURT: Right. You can ask those 13 questions. That's not the question you just 14 asked. So I'll sustain the question as to that. 15 MS. MEYERS: Okay. 16 MR. ROTTENBORN: I'll also ask that 17 Your Honor consider -- I don't want say it in open 18 court, for obvious reasons, but admonishing 19 Mr. Depp the next time he makes a -- 20 THE COURT: I just did. 21 MR. ROTTENBORN: Oh, okay. I didn't 22 hear that.</p>

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46 (7230 to
7233)

<p>7230</p> <p>1 THE COURT: I did.</p> <p>2 MR. ROTTENBORN: I didn't want to say</p> <p>3 that. Thank you.</p> <p>4 (Open court.)</p> <p>5 BY MS. MEYERS:</p> <p>6 Q Mr. Depp, what has it been like for you</p> <p>7 to listen to Ms. Heard's testimony at this trial?</p> <p>8 A I'm sorry?</p> <p>9 Q What has it been like for you to listen</p> <p>10 to Ms. Heard's testimony at this trial?</p> <p>11 MR. ROTTENBORN: Objection. Relevance,</p> <p>12 Your Honor.</p> <p>13 THE COURT: Overruled.</p> <p>14 A Insane. It's insane to hear heinous</p> <p>15 accusations of violence, sexual violence that</p> <p>16 she's attributed to me, that she's accused me of.</p> <p>17 I don't think anyone enjoys having to split</p> <p>18 themselves open and tell the truth, but there are</p> <p>19 times when one just simply has to because it's</p> <p>20 gotten out of control. It -- horrible.</p> <p>21 Ridiculous, humiliating, ludicrous, painful,</p> <p>22 savage, unimaginably brutal, cruel, and all false.</p>	<p>7232</p> <p>1 anything on your way out. Thank you.</p> <p>2 (Whereupon, the jury exited the</p> <p>3 courtroom and the following proceedings took</p> <p>4 place.)</p> <p>5 THE COURT: All right. Sir, just a</p> <p>6 reminder that since you are back on the stand, do</p> <p>7 not discuss this case with anybody, to include</p> <p>8 your attorneys at this point.</p> <p>9 THE WITNESS: Sure. Thank you, Your</p> <p>10 Honor.</p> <p>11 THE COURT: If you can have a seat back</p> <p>12 there. We do have some other issues to take care</p> <p>13 of.</p> <p>14 Before we take care of the third-party</p> <p>15 motion, can I have attorneys come forward on our</p> <p>16 other issue.</p> <p>17 (Sidebar.)</p> <p>18 THE COURT: All right. Did you do</p> <p>19 research? I want to know where you're at, at this</p> <p>20 point. So in rebuttal, designated rebuttal</p> <p>21 evidence -- rebuttal expert in this matter, not</p> <p>22 just to rebut certain expert but also all of the</p>
<p>7231</p> <p>1 All false.</p> <p>2 I want -- no human being's perfect,</p> <p>3 certainly not. None of us. But I have never, in</p> <p>4 my life, committed sexual battery, physical abuse,</p> <p>5 all these outlandish, outrageous stories of me</p> <p>6 committing these things, and living with it for</p> <p>7 six years and waiting to be able to bring the</p> <p>8 truth out.</p> <p>9 So this is not easy for any of us. I</p> <p>10 know that. But no matter what happens, I did get</p> <p>11 here, and I did tell the truth, and I have spoken</p> <p>12 up for what I've been carrying on my back,</p> <p>13 reluctantly, for six years.</p> <p>14 MS. MEYERS: Thank you. I have no</p> <p>15 further questions.</p> <p>16 THE COURT: All right. Did you want to</p> <p>17 take a lunch at this point? Okay. All right.</p> <p>18 Let's do that.</p> <p>19 Ladies and gentlemen, let's go ahead</p> <p>20 and take lunch at this time. Do not discuss this</p> <p>21 case with anybody, and do not do any outside</p> <p>22 research, okay? Thank you. And don't break</p>	<p>7233</p> <p>1 designations from the case-in-chief -- in the</p> <p>2 case-in-chief were also incorporated. I</p> <p>3 understand that.</p> <p>4 The difference I see with Ms. Heard's</p> <p>5 expert on the police policy was that that was just</p> <p>6 a rebuttal expert designated just to rebut a</p> <p>7 certain expert who did not testify. And I know</p> <p>8 you had an argument with that Oxford comma. I</p> <p>9 just don't agree with the Oxford comma. That's</p> <p>10 where we are.</p> <p>11 Looking at this matter, an expert,</p> <p>12 rebuttal expert cannot testify just to a lay</p> <p>13 testimony as to witnesses; however, in this case,</p> <p>14 which I wanted to look into when you brought it</p> <p>15 up, is that we're talking about photographs and</p> <p>16 not testimony that came into evidence, and that</p> <p>17 the expert should be able to opine as to those, to</p> <p>18 rebut those particular photographs that are in</p> <p>19 evidence as to their authenticity. So that's</p> <p>20 where I'm at.</p> <p>21 MR. MURPHY: May I be heard on that?</p> <p>22 THE COURT: Just wanted to let you know</p>

Transcript of Jury Trial - Day 23
Conducted on May 25, 2022

47 (7234 to
7237)

<p style="text-align: right;">7234</p> <p>1 where I was.</p> <p>2 MR. MURPHY: Absolutely, Your Honor. I</p> <p>3 did research over the past hour.</p> <p>4 THE COURT: I think we all have.</p> <p>5 MR. MURPHY: Yes. And what the cases</p> <p>6 say, Your Honor, is that exactly what Your Honor</p> <p>7 was saying before, the rebuttal expert is here to</p> <p>8 testify to an expert opinion. I've got four cases</p> <p>9 holding that backwards, forwards, left and right.</p> <p>10 THE COURT: Right. Okay.</p> <p>11 MR. MURPHY: So this first one, which</p> <p>12 is Middle Northern District of California, 1985,</p> <p>13 defines a supplemental rebuttal cannot --</p> <p>14 THE COURT: We can view cases -- I</p> <p>15 found cases in Virginia.</p> <p>16 MR. MURPHY: I wasn't able to find</p> <p>17 anything in Virginia.</p> <p>18 THE COURT: I did -- well, Sammy did,</p> <p>19 I'm sorry. I apologize. I like to incorporate</p> <p>20 Sammy into my findings.</p> <p>21 MS. BREDEHOFT: There is one point</p> <p>22 here. None of those photographs were objected to</p>	<p style="text-align: right;">7236</p> <p>1 had to object to them as inauthentic at the time,</p> <p>2 Your Honor. One of the things is we have asked</p> <p>3 through discovery and our request for admissions</p> <p>4 is that they identify any that they claim were not</p> <p>5 authentic, and they did not do that. And then</p> <p>6 when we moved the admission of them, there was no</p> <p>7 objection, whatsoever, other than the metadata,</p> <p>8 which came out.</p> <p>9 THE COURT: How come they --</p> <p>10 MR. MURPHY: I'm sorry, Your Honor?</p> <p>11 MS. BREDEHOFT: So, how can they now</p> <p>12 say, oh, these unobjected to photographs, we're</p> <p>13 going to object to them now and say they're not</p> <p>14 authentic. I don't know how they can do that.</p> <p>15 And they didn't identify them. David's got a lot</p> <p>16 on the different arguments for Neumeister separate</p> <p>17 than that, but I don't know how that -- why your</p> <p>18 ruling should change, Your Honor, and let him come</p> <p>19 in to rebut what nobody --</p> <p>20 THE COURT: I still stand --</p> <p>21 MS. BREDEHOFT: -- challenged.</p> <p>22 THE COURT: -- that a rebuttal witness</p>
<p style="text-align: right;">7235</p> <p>1 when they came into evidence. They call came into</p> <p>2 evidence, authenticated and came in.</p> <p>3 THE COURT: But --</p> <p>4 MS. BREDEHOFT: What are they</p> <p>5 rebutting? Are they now challenging to what was</p> <p>6 not objected to?</p> <p>7 THE COURT: No, they're saying they</p> <p>8 can't do metadata.</p> <p>9 MS. BREDEHOFT: Well, Your Honor didn't</p> <p>10 let in the metadata.</p> <p>11 THE COURT: I understand that.</p> <p>12 MS. BREDEHOFT: But the photographs --</p> <p>13 THE COURT: I'm sorry. I let in the</p> <p>14 dates, and she said this is when it happened.</p> <p>15 These are different photographs. I mean...</p> <p>16 MS. BREDEHOFT: But nobody objected to</p> <p>17 them when they came in, so...</p> <p>18 THE COURT: I don't think you have to</p> <p>19 object to them. Now they're in evidence, so an</p> <p>20 expert can opine as to an issue that will help the</p> <p>21 jury.</p> <p>22 MS. BREDEHOFT: I think they would have</p>	<p style="text-align: right;">7237</p> <p>1 can't come in to rebut lay testimony, unless</p> <p>2 somebody gives a medical opinion.</p> <p>3 MS. BREDEHOFT: Right.</p> <p>4 THE COURT: Right. My knee is sore,</p> <p>5 and an expert in medmal case can come in and say,</p> <p>6 well, no, actually the knee should be whatever,</p> <p>7 so --</p> <p>8 MS. BREDEHOFT: Right. My point here</p> <p>9 is that he's not rebutting anything because nobody</p> <p>10 challenged it. These were unobjected to. All the</p> <p>11 photographs came in unobjected to after the</p> <p>12 metadata came out.</p> <p>13 THE COURT: Well, you don't -- rebuttal</p> <p>14 testimony doesn't have to be challenged. To bring</p> <p>15 in rebuttal testimony, you don't have to object to</p> <p>16 everything. They're rebutting your evidence.</p> <p>17 MS. BREDEHOFT: If they didn't object</p> <p>18 to it, I don't think they deserve to be able to</p> <p>19 object.</p> <p>20 THE COURT: You're saying if you don't</p> <p>21 object, you can't bring any rebuttal testimony in?</p> <p>22 MS. BREDEHOFT: To challenge something</p>

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<p style="text-align: right;">7238</p> <p>1 you didn't object to.</p> <p>2 MR. MURPHY: Essentially, Your Honor, I</p> <p>3 understand it as evidence requires authenticity</p> <p>4 under Rule 9, whatever it is to be admitted, it</p> <p>5 was admitted, therefore, it's been authenticated;</p> <p>6 therefore, the authenticity is not an issue, is</p> <p>7 what I understand Ms. Bredehoft to be arguing.</p> <p>8 THE COURT: That's the weight of it,</p> <p>9 right? They can argue the weight of anything in</p> <p>10 evidence.</p> <p>11 MR. MURPHY: But that returns to the</p> <p>12 overall point. Granted I'm not looking at</p> <p>13 Virginia case, Your Honor has. Time and time</p> <p>14 again, in these cases, they talk about rebuttal</p> <p>15 experts are here to oppose previous expert</p> <p>16 testimony. Over and over again.</p> <p>17 THE COURT: But it doesn't have to be</p> <p>18 just expert testimony.</p> <p>19 MR. MURPHY: I understand. I don't</p> <p>20 have the Virginia cite, Your Honor, but these</p> <p>21 cases, 4th Circuit, it's saying that's exactly</p> <p>22 what a rebuttal expert does, and, actually, not</p>	<p style="text-align: right;">7240</p> <p>1 evaluated Greer at the request of his counsel. We</p> <p>2 find no merit to Greer's contention that the trial</p> <p>3 court erred in allowing this testimony. The</p> <p>4 evidence was relevant because it provided</p> <p>5 background information about the experts and</p> <p>6 showed how they became involved in the case. So,</p> <p>7 there, Your Honor, we have Virginia Supreme Court</p> <p>8 saying it was not error to allow experts in</p> <p>9 rebuttal that had not been called in the</p> <p>10 case-in-chief.</p> <p>11 MR. MURPHY: Your Honor, what I see</p> <p>12 here is this is talking about relevance. We're</p> <p>13 talking about an expert disclosure issue, the</p> <p>14 mechanism of disclosure and the defined roles of</p> <p>15 experts. That a much different issue than a</p> <p>16 relevance issue. What I see here is the relevance</p> <p>17 because it provided --</p> <p>18 THE COURT: But they did disclose him</p> <p>19 as a rebuttal expert.</p> <p>20 MR. MURPHY: Right. But it's talking</p> <p>21 about relevance. Not talking about purpose.</p> <p>22 THE COURT: I think this is relevance.</p>
<p style="text-align: right;">7239</p> <p>1 exactly, that's only what a rebuttal expert can</p> <p>2 do.</p> <p>3 THE COURT: If they're only designated</p> <p>4 to rebut a certain expert, I agree with you.</p> <p>5 MR. ROTTENBORN: What's the Virginia</p> <p>6 cite, Your Honor?</p> <p>7 THE COURT: I have a few of them here.</p> <p>8 You might be able to get them from Sammy faster.</p> <p>9 MR. ROTTENBORN: We can get them from</p> <p>10 Sammy.</p> <p>11 MS. LECARAZ: We have Greer v.</p> <p>12 Commonwealth, Your Honor.</p> <p>13 THE COURT: Okay. I think mine was</p> <p>14 Hodges v. Commonwealth.</p> <p>15 MS. VASQUEZ: We have that one as well,</p> <p>16 I believe so. I've read Hodges v. Commonwealth.</p> <p>17 MS. LECARAZ: So I have Greer here.</p> <p>18 So in Greer, at trial, after Greer, the</p> <p>19 defendant, rested, the Commonwealth called the</p> <p>20 three experts as rebuttal witnesses. Over Greer's</p> <p>21 objections, the Court allowed the Commonwealth to</p> <p>22 elicit testimony from the experts that they</p>	<p style="text-align: right;">7241</p> <p>1 MR. MURPHY: It doesn't seem like, from</p> <p>2 what I'm seeing here, Your Honor, that the</p> <p>3 argument we're having right now was made. So I</p> <p>4 would say this case is not on point. There isn't</p> <p>5 any relevance to the testimony.</p> <p>6 MS. LECARAZ: I think that's all we</p> <p>7 have from Virginia, Your Honor. We do have a</p> <p>8 District of Colorado case. We didn't have Hodges,</p> <p>9 I don't think.</p> <p>10 THE COURT: That was not a Commonwealth</p> <p>11 case where the expert was DNA -- gave testimony on</p> <p>12 DNA.</p> <p>13 MR. ROTTENBORN: Your Honor, just to be</p> <p>14 clear, Your Honor's made the ruling that</p> <p>15 Dr. Collins is out; is that correct?</p> <p>16 THE COURT: That's correct.</p> <p>17 MS. VASQUEZ: She's opining on just</p> <p>18 pictures as well, Your Honor.</p> <p>19 THE COURT: No, that's not in the</p> <p>20 designation.</p> <p>21 MR. ROTTENBORN: Your Honor, she</p> <p>22 reviewed pictures, but she's saying Amber's</p>

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<p>7242</p> <p>1 account doesn't match the pictures. That's 2 totally different. 3 MS. VASQUEZ: She has reviewed 4 photographs. 5 THE COURT: But that's -- that's just 6 commenting on Ms. Heard's plain testimony. 7 MR. ROTTENBORN: Yes. 8 MR. MURPHY: Actually, her testimony is 9 she opines as to whether the injuries reflected in 10 the photographs aren't consistent with -- 11 THE COURT: No, I'm not going to keep 12 going over that. I'll sustain the objection as to 13 that expert. 14 MR. MURPHY: Your Honor, I recognize 15 this is out of state, but if I can send you one 16 federal case. It really addresses this issue. 17 THE COURT: Yes, sir, if you'd like to. 18 MR. MURPHY: So this is Boles v. United 19 States Middle District of North Carolina. 20 Literally, "rebuttal experts cannot put forth 21 their own theories; they must restrict their 22 testimony to attacking the theories offered by the</p>	<p>7244</p> <p>1 really holds any sway. And, again, it's 2 essentially, their expert cannot rebut a fact 3 witness, and I don't see this case holding that. 4 That's essentially what their argument is. I did 5 not find any Virginia law that said an expert 6 witness, in rebuttal, can rebut a fact witness's 7 testimony. Your Honor actually said Ms. Heard 8 cannot testify to the metadata because that's 9 expert testimony. 10 THE COURT: They're not rebutting a 11 fact witness. That's -- they're rebutting 12 photographs themselves. 13 MR. MURPHY: Right. So if Mr. Ackert 14 had been called in our defense and said these 15 photographs are authentic, I wouldn't have this 16 argument right now. 17 THE COURT: You can call him in 18 rebuttal. 19 MR. MURPHY: He hasn't been called yet, 20 Your Honor. 21 THE COURT: Yes. 22 MR. MURPHY: And I would also point out</p>
<p>7243</p> <p>1 adversary's experts." 2 That's exactly what I understood Your 3 Honor's ruling earlier to mean, and that's exactly 4 what we're arguing now. And then, on the next 5 page, talks about they don't address any of the 6 defendant's expert reports, they offer their own 7 theories. And that's exactly what our argument is 8 here, Your Honor. They could have called 9 Mr. Neumeister in their case-in-chief, as that's 10 how he was designated. They chose not to do that. 11 They fought against the photographs and 12 our summary of the metadata coming into evidence. 13 Your Honor sustained that objection. And then, 14 additionally, they could have called Ms. Heard. 15 They chose not to do that, as is their right. But 16 for them to say they didn't have the opportunity, 17 or I heard earlier the argument that trials are 18 fluid, they don't know what evidence is going to 19 come in. I mean, come on, the whole forensic 20 order process, they knew these photographs were 21 going to come in. They've known that for 22 five years. So that argument, I don't think,</p>	<p>7245</p> <p>1 that Mr. Bercovici actually was designated in the 2 opposition expert disclosure, it just had the 3 language Your Honor said. I'm not trying to 4 revisit that, I'm just trying to point out -- 5 THE COURT: He was just rebutting that 6 particular -- 7 MR. MURPHY: I'm not trying to revisit 8 that ruling. My point is, he was even included in 9 the opposition expert disclosure, whereas 10 Mr. Neumeister isn't mentioned, period, in that 11 opposition expert disclosure. I wanted to point 12 that out as well. 13 THE COURT: They're not using it as 14 opposition; they're just using it as rebuttal. 15 MR. MURPHY: So then I will focus my 16 arguments on rebuttal and this case law. And 17 there's no Virginia case law I have found, a 18 least, that said a rebuttal expert can rebut 19 anything but expert testimony. That's their 20 purpose. 21 THE COURT: I understand. I think in 22 this particular case, just the photographs, in</p>

<p style="text-align: right;">7246</p> <p>1 this limited, it's going to be extremely limited, 2 as far as only photographs that are in evidence 3 that he can opine on. There's not going to be 4 talk about any discovery issues, period. General. 5 No software issues. We have that. So it's just 6 literally going to be photographs that are in 7 evidence and his opinions on those photographs. 8 MS. LECAROZ: So, Your Honor, just so I 9 understand your ruling, because of the way that 10 they entered the photographs into evidence, they 11 submitted them as screen grabs of a photo. So, 12 what Mr. Neumeister will testify to are the 13 photographs that underlie the screen grabs, which 14 are not necessarily the trial exhibits, but they 15 are the underlying photo that is a part of the 16 trial exhibit. 17 THE COURT: What is he going to testify 18 to? 19 MS. LECAROZ: To issues with the 20 underlying photos and the authenticity and issues 21 with the photo-editing applications that the 22 underlying photos --</p>	<p style="text-align: right;">7248</p> <p>1 heard on that one point. I believe I called them 2 screenshots, not screen grabs, when I objected 3 because the metadata -- 4 THE COURT: We dealt with that. 5 MS. VASQUEZ: It was a picture of a 6 picture. When I made my objection that it was a 7 screenshot, that was -- my objection was that it 8 is a screenshot. It will not -- I should have 9 articulated that. When I said it was a 10 screenshot, I was trying to articulate that it 11 wasn't authentic. 12 THE COURT: You didn't say that. 13 MS. VASQUEZ: I did say that. I said 14 it's a picture of a picture, Your Honor. 15 MR. MURPHY: All I would respond to 16 that is, Your Honor, it doesn't matter what she 17 argued, what matters is Your Honor's ruling, and 18 what matters is what came into evidence -- 19 THE COURT: Well, if she objected to 20 it. She did object to it because she did say it 21 was a picture of a picture. 22 MR. MURPHY: There's nothing in</p>
<p style="text-align: right;">7247</p> <p>1 MR. MURPHY: The word "screen grab" 2 does not appear in the disclosure. I don't even 3 know what they are talking about. They are not 4 screen grabs, Your Honor. 5 MS. LECAROZ: You can look at them, 6 Your Honor. They are in our opposition. You can 7 see. And Your Honor obviously dealt with this -- 8 THE COURT: He's not going to opine 9 about the ones that are in evidence? 10 MS. LECAROZ: He's going to opine about 11 the -- 12 THE COURT: There was no objection 13 about them being screen grabs at the time of 14 trial, so we are not going to go back to that 15 because they are in evidence as they are. So 16 there is no objection. You could have objected to 17 the authenticity of them as being screen grabs, I 18 would have addressed that issue. But now you 19 can't just let them in evidence and then say, oh, 20 well, now those are screen grabs. I can't do 21 that. 22 MS. VASQUEZ: Your Honor, may I just be</p>	<p style="text-align: right;">7249</p> <p>1 evidence for him to opine to because of their 2 objection. 3 THE COURT: But I overruled their 4 objection and allowed it into evidence. 5 MR. MURPHY: Without the metadata. 6 THE COURT: Without the metadata. But 7 she wasn't saying about the metadata. She was 8 saying it was a screenshot of a shot, so taking a 9 picture from a computer or -- 10 MS. VASQUEZ: An iPad. 11 THE COURT: And I allowed it in. 12 MR. MURPHY: I want to make sure I 13 understand your scope clearly. Are they saying 14 he's only going to be opining to photographs that, 15 due to Your Honor's ruling, now have the black box 16 over the metadata? Because what I will -- his 17 disclosure doesn't have any of those pictures in 18 it. There was -- none of those pictures with the 19 metadata are in his disclosure. This is the first 20 time hearing that's what he's going to testify to. 21 THE COURT: Well -- 22 MS. LECAROZ: The photographs that he</p>

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51 (7250 to
7253)

<p>7250</p> <p>1 look at matched the photographs that came into 2 evidence. 3 MR. MURPHY: That's their brief, not 4 their disclosure. 5 MS. LECARAZ: I understand that. But 6 those pictures came from Bryan's disclosure and 7 his report -- Mr. Neumeister, and same with the 8 photo, obviously came in. He can talk about all 9 the versions of that photo. 10 THE COURT: The ones that are in 11 evidence over objection with screenshots, and he's 12 going to testify that they are screenshots and 13 that the original photo, fill in the blank? 14 MS. LECARAZ: Right. So he's not going 15 to say original photo because of the way that the 16 collection was done. There's an issue with the 17 way the collection was done, so you can't say 18 which of the photos is the original. This is the 19 authenticity issue. 20 THE COURT: So he's saying you can't 21 tell when they were taken? 22 MS. LECARAZ: He's saying you can't</p>	<p>7252</p> <p>1 MS. VASQUEZ: He can -- just to 2 confirm, he can opine as to the metadata that's in 3 the underlying photographs? 4 THE COURT: In the underlying 5 photographs. 6 MS. VASQUEZ: Yeah, that is part of the 7 screenshot. 8 THE COURT: Then they can redirect -- 9 or cross-examine on it in their expert as well. 10 MR. MURPHY: That raises another 11 related issue, Your Honor. Our expert, 12 Mr. Ackert, as they know from the expert 13 disclosure, has found versions of the photographs 14 that do not have this metadata issue. 15 THE COURT: Okay. 16 MR. MURPHY: And if they are now 17 allowed to bring Mr. Neumeister to talk about 18 that, I want to make sure that there's no reason 19 that our expert cannot rebut that saying, I found 20 X, Y and Z. I'm looking at Your Honor's earlier 21 ruling of the disclosure and the timing of the 22 photographs --</p>
<p>7251</p> <p>1 confirm it, based on the way that -- 2 MR. MURPHY: Additionally, Your Honor, 3 again, the photos she's showing you in their 4 brief, with the metadata on them. I have lived in 5 this disclosure. Then -- that is not in his 6 disclosure, so it's outside of the scope of his 7 disclosure to testify about the photographs with 8 the metadata on them. 9 MS. LECARAZ: This is his disclosure, 10 Your Honor. 11 MR. MURPHY: That's not. Do you see 12 metadata on these photographs in the -- 13 THE COURT: It wouldn't matter if it's 14 there or not. 15 MR. MURPHY: But that's what's in 16 evidence. 17 MS. VASQUEZ: It's the underlying. 18 MS. LECARAZ: This is EXIF data that 19 that is the photograph. 20 THE COURT: I'm going to allow that. 21 We're going to allow that, very limited, and then 22 you can have your rebuttal.</p>	<p>7253</p> <p>1 MS. LECARAZ: Mr. Ackert testified, at 2 his deposition, that he couldn't opine as to any 3 specific photographs to which he was going to 4 offer an opinion that they were originals. 5 MR. MURPHY: That's not true, Your 6 Honor. 7 THE COURT: That's fine. I mean, he's 8 going to be your rebuttal expert, so he can opine 9 to that. That's fine. Okay? 10 MR. CHEW: Thank you, Your Honor. 11 THE COURT: So does that resolve that 12 issue? You have another issue? 13 MR. ROTTENBORN: One brief issue. 14 THE COURT: Okay. You were actually 15 very quiet. 16 MR. CHEW: Thank you. 17 MR. ROTTENBORN: Mr. Depp testified, at 18 the end of his testimony, just now, he said I've 19 been living it -- living with it for six years and 20 waiting to be able to get the truth out. I've 21 spoken up for what I've been carrying on my back. 22 THE COURT: Uh-huh.</p>

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52 (7254 to
7257)

<p>7254</p> <p>1 MR. ROTTENBORN: All out of us up here 2 know that that's not true, because of the U.K. 3 trial. He has had his chance and we believe we 4 should be able to get in the U.K. judgment on that 5 basis. 6 THE COURT: No. 7 MR. CHEW: Thank you, Your Honor. 8 MR. ROTTENBORN: It's a question about 9 everything other than that -- 10 THE COURT: Not to the judgment. 11 MR. ROTTENBORN: -- not the U.K. trial. 12 MS. BREDEHOFT: But he can testify to 13 anything else? 14 THE COURT: Right. Are you ready for 15 the other motion? 16 MS. VASQUEZ: Yes. 17 MR. CHEW: Yes, Your Honor. 18 (Open court.) 19 THE COURT: Okay. Got that matter. 20 Then let me take up the emergency motion for 21 Mr. Tobin. 22 MR. TOBIN: Yes, Your Honor.</p>	<p>7256</p> <p>1 MR. TOBIN: Please. Thank you, Your 2 Honor. 3 THE COURT: All right. Yes, sir. As 4 far as your comments about Virginia Rule of 5 Evidence 2:508, that's a criminal Rule of 6 Evidence, so that's not. 7 MR. TOBIN: Understood. 8 THE COURT: Not your strongest 9 argument. And as far as what goes on when the -- 10 if the witness testifies, whether it's hearsay or 11 it's third-party knowledge, that's something I'll 12 deal with at trial. So, again, not what I'm 13 concerned with. 14 As far as Supreme Court Rule 314, which 15 I would like you to talk a little bit about that, 16 as far as intervention, and I've got to tell you 17 where I'm at right now, the concern -- the issue I 18 have with your argument is intervention, 19 obviously, would make you a plaintiff or defendant 20 in the case, and it has to deal with an issue 21 that's germane to this case, and this is a 22 defamation case. So if you could just tailor your</p>
<p>7255</p> <p>1 THE COURT: How are you doing, sir? 2 MR. TOBIN: Very well, Your Honor. 3 THE COURT: Thank you. Mr. Tobin, if 4 you could just come to the center. 5 MR. CHEW: Your Honor, before we begin, 6 I would just -- may I approach. 7 THE COURT: Sure. 8 MR. CHEW: Thank you, Your Honor. 9 THE COURT: Thank you, sir. Give it to 10 the other side. 11 Mr. Tobin, if you want to. 12 MR. TOBIN: Certainly, Your Honor. 13 THE COURT: I've got to make this 14 relatively short, as you can understand, but I 15 wanted to take up your motion. I had read your 16 motion and the declaration and everything attached 17 to it and all the cases. And I have reviewed it, 18 so I'd rather you not regurgitate that, based on 19 our time limit, but anything you wish to add to 20 that is fine. 21 If you want to -- if I could focus you 22 a little bit.</p>	<p>7257</p> <p>1 argument to that issue, sir. 2 MR. TOBIN: Sure. I'm happy to address 3 the intervention. For the record, Your Honor, 4 Charles Tobin, from the law firm of Ballard Spahr, 5 here representing TMZ, which is the publisher for 6 news and entertainment for the celebrity and 7 entertainment industry. 8 And, Your Honor, we're seeking to 9 intervene simply to protect the relationship 10 between reporters and their sources when it comes 11 to reporting news in the public interest. As the 12 Court noted, we really don't have a dog in this 13 hunt, as far as Mr. Depp, Ms. Heard. We're really 14 here purely to the First Amendment-based issues, 15 reporters' privilege and reporters and their 16 sources. The intervention rule, as the Court is 17 aware, allows intervention by anybody where the 18 issue is germane to the subject matter of the 19 proceeding. And certainly, Your Honor, the 20 purported testimony, the proffered testimony of a 21 former employee of TMZ, who purports to be in a 22 position to disclose confidential information</p>

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53 (7258 to
7261)

<p style="text-align: right;">7258</p> <p>1 learned during the operation of journalism, during 2 his work as a journalist, is a germane issue that 3 is being raised in this case. 4 And, Your Honor, we would point the 5 Court to the Tavss Fletcher Maiden & Reed v. 6 Southern Bank & Trust case, 2013 Va. Cir. LEXIS 7 253. It's a Norfolk Circuit Court decision from 8 2013. And there, it was an interpleader action, 9 the funds had been interpleaded into the court by 10 two trust companies that were fighting over it. 11 And the man who had sold his property, who had no 12 interest in the funds themselves, intervened in 13 the case because he was uncertain as to his 14 liability for excess funds, which was an issue 15 that was not directly in litigation between the 16 two parties; it was not part of the cause of 17 action between the two trusts fighting over the 18 money that had been pleaded into the court. The 19 Circuit Court held that, certainly, the rights of 20 that man was going to be affected by the 21 decision-making in the case. He would be 22 prejudiced if he didn't have an opportunity to</p>	<p style="text-align: right;">7260</p> <p>1 MR. CHEW: That is incorrect, Your 2 Honor. He's voluntarily here. A subpoena from 3 this court would not be enforceable. 4 MR. TOBIN: Your Honor, I have a copy 5 of a subpoena that entered last night compelling 6 Mr. Tremaine to give testimony in this case, and 7 so he is coming under a compulsion under subpoena. 8 THE COURT: If he takes the stand and 9 he asserts some sort of privilege, then that's 10 something I will deal with at that time. 11 MR. TOBIN: Sure. But I'm here because 12 of the scenario where he may not assert that 13 privilege. 14 THE COURT: Right. Exactly. That's 15 what I'm saying. All your cases that you showed 16 were the opposite, where they did assert the 17 privilege. 18 MR. TOBIN: Well, it is a unique 19 situation. 20 THE COURT: Right. And I understand 21 you might have some issues with a former employee 22 and you have some avenues to go deal with that.</p>
<p style="text-align: right;">7259</p> <p>1 intervene, and no party was in the position to 2 assert his rights. 3 So, similarly, here, Your Honor, TMZ is 4 a news organization, it routinely accepts 5 information, as is common in journalism, under 6 exchanges of promises of confidentiality. If it 7 is not able to intervene in this action and 8 neither of the parties is going to be in a 9 position to assert the reporter's privilege, it is 10 TMZ's journalist privilege that we're talking 11 about, then the rights are certainly going to be 12 prejudiced. 13 THE COURT: But the witness -- in all 14 the cases, and I've reviewed the cases that you 15 have, in those cases, the witness was compelled to 16 testify and came and was forced to testify, so 17 there was an issue about the privilege of the 18 witness. It's my understanding, this case, this 19 witness wants to testify and is not under 20 subpoena. 21 MR. TOBIN: He has been subpoenaed, 22 Your Honor.</p>	<p style="text-align: right;">7261</p> <p>1 MR. TOBIN: Once he testifies and the 2 privileged is waived, we've lost our opportunity 3 to intervene and proceed. And, Your Honor, the 4 privilege -- I know Your Honor, you said you read 5 the case law. I appreciate that. 6 THE COURT: Yes. 7 MR. TOBIN: But the privilege, it has 8 by the Virginia Supreme Court in the Brown case 9 and applied by the Circuit Courts uniformly. It 10 is very important unpinning of the relationship 11 between reporters and sources and reporters and 12 the public. Without the ability to enforce its 13 promises by current employees or former employees, 14 news organizations have absolutely no control over 15 being able to enforce its promises. And so, we 16 would ask the Court to permit us to intervene and 17 to assert the privilege that belongs to TMZ, which 18 is the organization, after all, Your Honor, that 19 would be responsible to the source if the 20 privilege were waived. 21 THE COURT: I understand, Mr. Tobin, 22 your argument. I appreciate it very much.</p>

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54 (7262 to
7265)

<p>1 Okay. Do the attorneys wish to be 2 heard? 3 MR. CHEW: Yes, Your Honor. Good 4 morning, your -- good afternoon, Your Honor, I 5 would like to begin where Your Honor began. As a 6 threshold matter, the Court should deny TMZ's 7 motion to intervene. Intervention is not 8 appropriate for the reasons suggested in Your 9 Honor's questions. As Your Honor is well aware, 10 intervention is only appropriate with leave of 11 court, where a third party seeks to "file a 12 pleading to intervene as a plaintiff or as a 13 defendant to assert any claim or defense germane 14 to the subject matter of the proceeding." Virginia 15 Supreme Court Rule 3:14. 16 As Mr. Tobin, to his credit, has 17 conceded, TMZ is not asking to file a pleading, it 18 cannot properly categorize itself either as 19 plaintiff nor defendant, and it seeks to assert no 20 claim or defense germane to the subject matter of 21 this action. 22 Moreover, even if the privilege were</p>	<p>7262 1 litigation. 2 Finally, Your Honor, TMZ lacks standing 3 to object to testimony by a third party in this 4 action because TMZ, as Your Honor pointed out, is 5 not being compelled to testify. TMZ's reliance on 6 the Philip Morris case for the proposition that 7 the privilege cannot be circumvented by seeking 8 confidential source information from an employee 9 is inapposite, 36 Va. Cir. at 1. One thing is 10 noted, in that case, there's no testimonial 11 privilege akin to that being enjoyed under the 12 Fifth Amendment, which would allow a reporter to 13 refuse to appear before a grand jury and answer 14 questions. In Philip Morris, as Your Honor is 15 aware, the party issued a third-party subpoena for 16 records to trace confidential sources. Philip 17 Morris is inapposite here as that case related 18 to -- as this case is related to witness 19 testimony, not records. 20 As Your Honor suggested, TMZ's quarrel, 21 if any, is with Mr. Tremaine, to the extent that 22 he had an NDA that was enforceable, applicable,</p>
<p>7263 1 applicable, which is not the case here, the 2 testimony intended is directly relevant and would 3 outweigh any qualified privilege as "an intervener 4 must be asserting an interest that is part of the 5 subject matter of the litigation." Hudson v. 6 Jarrett, 269 Va. 24 at 32. 7 Here, as Mr. Tobin stated, TMZ seeks to 8 protect a potential -- seeks to protect potential 9 information solicited from the third-party 10 witness. Which is in no way a matter before this 11 court. Citing Commonwealth v. Gill, 89 Va. Cir. 12 323, a 2014 case denying a motion to intervene 13 where the intervener filed it "to protect a 14 property right not a matter before the Court." 15 The outcome of this trial will not 16 affect TMZ and it does not have a sufficient 17 interest in the subject matter of this suit to 18 intervene. See Tavss Fletcher Maiden & Reed, PC 19 v. Bank National Trust, Co., 2013 Westlaw 5849140, 20 granting -- and this is distinguishing. Granting 21 the motion to intervene where the intervener's 22 liability would be affected by the outcome of the</p>	<p>7265 1 and that's not what we're hearing from Mr. Tobin. 2 So, to the extent that TMZ, which is not exactly 3 Edward R. Murrow, Your Honor, to the extent they 4 have a beef, as it were, a cognizable beef, it is 5 with Mr. Tremaine, it is not with Mr. Depp. And 6 they clearly do not have standing to assert or to 7 intervene because they are not intervening as a 8 party, plaintiff or defendant. So we respectfully 9 submit -- to the extent the Court disagrees, I can 10 go into the arguments -- 11 THE COURT: That's okay. 12 MR. CHEW: -- why the privilege is 13 inapplicable, but I will reserve that. 14 THE COURT: That's okay. All right. 15 Yes, ma'am. 16 MS. BREDEHOFT: Your Honor, I would 17 like to just weigh in from just a different 18 perspective. 19 THE COURT: Okay. 20 MS. BREDEHOFT: That is because we're 21 trying to deal with some important issues of 22 privileged, et cetera, but from our perspective,</p>

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55 (7266 to
7269)

<p>7266</p> <p>1 representing Ms. Heard, we have issues with this 2 witness separately, and I want to make them very 3 clear for the record. This is somebody who should 4 have been identified in discovery, was never. 5 Second of all, it's not relevant whether -- 6 apparently, what they're saying he's going to 7 testify, and we have not had the opportunity to 8 discover that, is he's going to claim that someone 9 leaked to TMZ that Ms. Heard was going to obtain 10 the TRO on that Friday, and, also, leaked the 11 video, the kitchen video with Mr. Depp being 12 rather violent. And I'm almost certain he's not 13 going to claim it's Ms. Heard, so I think it's 14 never going to come in. 15 THE COURT: Ms. Bredehopt, I understand 16 all that. Do you have any argument as to this 17 particular motion? 18 MS. BREDEHOPT: No. My -- 19 THE COURT: Okay. Then we can address 20 yours -- 21 MS. BREDEHOPT: My point is, though, if 22 you balance the prejudice versus the probative</p>	<p>7268</p> <p>1 interesting procedural issue for appeal, Your 2 Honor, whether a journalist organization or 3 anybody else who's a First Amendment holder would 4 be denied intervention on a constitutional-based 5 privileged. 6 I also, just for the record, and for 7 the merits of the case, if I understood Mr. Chew 8 correctly, he said this is not an issue in the 9 litigation. This does not relate to an issue in 10 the litigation. Well, if it's not an issue in the 11 litigation, if it's not part of a prima facie part 12 of the defense, part of the allegations of the 13 complaint, if it's impeachment evidence, if it's 14 collateral to the main issues in the case, under 15 the Brown v. Commonwealth decision of the Virginia 16 Supreme Court, under the application of that 17 privilege, in the Philip Morris v. ABC News, is 18 not supposed to be compelled in this case. 19 THE COURT: Which, again, it's not 20 being compelled, it appears. 21 MR. TOBIN: Well, he is appearing by 22 subpoena, and it is a compulsory process, and will</p>
<p>7267</p> <p>1 value, I don't even see how he can come in on 2 foundation or hearsay or relevancy. 3 THE COURT: That's just not part of 4 this motion at this time. Thank you, ma'am. 5 Mr. Tobin, your motion, you get the 6 last word, sir. 7 MR. TOBIN: Thank you, Your Honor. I 8 appreciate that the Court shook your head when he 9 made the snarky comment, that this is not Edward 10 R. Murrow. Obviously, the First Amendment applies 11 to everyone, citizens, New York Times, or TMZ, and 12 this is a First Amendment-based privilege. 13 Your Honor, the Philip Morris case is 14 actually a very good case to answer Your Honor's 15 question about the intervention of somebody else 16 in order to assert the privilege. Their ABC was a 17 defendant in the case, and it moved in order to 18 prevent other people, a phone company. 19 THE COURT: Right. But they were 20 already in the case in that particular matter. 21 MR. TOBIN: I understand. There is no 22 other mechanic, though, so it would be an</p>	<p>7269</p> <p>1 have an obligation, unless he asserts privilege 2 under oath, but it is our privilege, Your Honor, 3 it's not an employee -- a loyal or a rogue 4 employee's privilege to waive on behalf of its 5 employer. This is an unusual situation. 6 THE COURT: You don't have to tell me 7 about that. 8 MR. TOBIN: But the answers are there 9 in law, and it is a First Amendment concern. 10 THE COURT: This is not the first 11 unusual situation in this case -- 12 MR. TOBIN: For anybody here. 13 THE COURT: I appreciate you coming in 14 today, and I appreciate your arguments. Yes, sir. 15 In this matter, under Virginia Rules 16 Supreme Court 3:14, a new party may intervene as a 17 plaintiff or defendant to assert any claim or 18 defense germane to the subject matter of the 19 proceeding. A new party may not intervene unless 20 they assert some right involved in the underlying 21 litigation. A party is not entitled to intervene 22 merely because a byproduct of the litigation</p>

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56 (7270 to
7273)

<p style="text-align: right;">7270</p> <p>1 adversely impacts them, and the decision to allow 2 intervention is within the broad discretion of the 3 trial court. Here, the rights asserted are not 4 germane to the trial. The central issues in this 5 case are whether defendant defamed plaintiff and 6 whether plaintiff defamed defendant through a 7 theory of vicarious liability. 8 The issue of the confidentiality of 9 source has not come up as in other cases cited by 10 EHM, which is the corporation that TMZ belongs to, 11 is under their umbrella. In Brown v. the 12 Commonwealth, there is an attempt by the criminal 13 defendant to subpoena institutions in order to 14 obtain the name of the confidential source. When 15 the author of the article was subpoenaed, she 16 refused to identify her confidential source on the 17 stand. And in this case, it appears that the 18 witness is willing to state the name of the 19 confidential source without being compelled, 20 voluntarily. Whether that breaches a 21 nondisclosure agreement between Mr. Tremaine and 22 EHM is not germane to this matter and can be</p>	<p style="text-align: right;">7272</p> <p>1 THE COURT: No, sir. You're not a 2 party to this case. However, I will note, for 3 your record, your objection to his complete 4 testimony, on behalf of your client. 5 MR. TOBIN: All right. Thank you, Your 6 Honor. 7 MS. BREDEHOFT: Your Honor. 8 THE COURT: Microphone. 9 MS. BREDEHOFT: As with the Hicksville 10 witness, Your Honor I would ask that we can voir 11 dire him before the jury to find out when he 12 contacted counsel and when they became aware. But 13 I think, also, under the circumstances, in 14 fairness, I think we should at least be able to 15 ask him what he's going to claim. 16 THE COURT: Response. 17 MR. CHEW: Your Honor, I don't think 18 that's appropriate. Certainly, I don't think a 19 proffer is necessary or appropriate in this case. 20 THE COURT: I'm not going to do a 21 proffer, Ms. Bredehoft, okay? 22 MR. ROTTENBORN: I'm sorry, so sorry.</p>
<p style="text-align: right;">7271</p> <p>1 litigated in a separate matter, if EHM so chooses. 2 And while breaches of contract must be 3 taken seriously, and the court does, any alleged 4 breach is not germane to the underlying litigation 5 here. That contractual action has no bearing on 6 this case and is thus not germane to this 7 litigation; therefore, I'll deny the nonparty, EHM 8 Production's, motion to intervene. 9 MR. CHEW: Thank you, Your Honor. For 10 the record, I've known Mr. Tobin for several 11 years. I meant no snarkiness toward him. 12 THE COURT: You're just a snarky guy. 13 MR. TOBIN: Your Honor, may I just ask 14 one more procedural issue for the record? 15 THE COURT: Yes. 16 MR. TOBIN: Your Honor, I am concerned 17 that we preserve the issue fully, and so -- 18 THE COURT: For the record, yes. 19 MR. TOBIN: For the record. So, I 20 would ask, may I have the opportunity to object 21 when Mr. Tremaine is questioned, question by 22 question.</p>	<p style="text-align: right;">7273</p> <p>1 THE COURT: Mr. Rottenborn, almost at 2 lunch. 3 MR. ROTTENBORN: But I truly am the 4 messenger here. 5 MR. MURPHY: Can we just have one 6 clarification? 7 THE COURT: That's fine. I think we 8 need Ms. Meyers. 9 (Sidebar.) 10 THE COURT: Well, if somebody could 11 just represent her here. 12 MR. MURPHY: I'm not trying to keep 13 Your Honor. 14 THE COURT: No, I know you want to know 15 what to do for witness. 16 MR. MURPHY: Yes. I heard that Your 17 Honor said he can to the metadata. I would like 18 to know what exactly that means because there's 19 hundreds and hundreds of lines of metadata. And 20 let me just say why this is important, Your Honor. 21 I just read the brief, because I was off 22 researching their opposition, and it talks about</p>

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57 (7274 to
7277)

<p style="text-align: right;">7274</p> <p>1 the metadata indicating this photo is 3. Your 2 Honor, I have to say, Mr. Neumeister said, in his 3 report, literally, "none of the photographs in 4 Ms. Heard's" -- 5 THE COURT: You can cross-examine on 6 that. 7 MR. MURPHY: It's not in evidence, Your 8 Honor. He literally said they're not in the trial 9 exhibits, period, so how can he testify to that? 10 THE COURT: Mr. Murphy, we're going to 11 see what's going to happen with the testimony, but 12 if you want to get with counsel during the lunch 13 break and see exactly which photos we're talking 14 about which -- what, he's going to testify to. 15 MS. VASQUEZ: The one's in his report, 16 Your Honor, part of this disclosure. 17 THE COURT: If you want to get with 18 him, you can work it out. 19 MR. MURPHY: Who's my partner on that? 20 MS. VASQUEZ: Rebecca. 21 MR. ROTTENBORN: Would it be possible 22 to get an updated time?</p>	<p style="text-align: right;">7276</p> <p>1 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND 2 COUNTERCLAIM PLAINTIFF 3 BY MR. ROTTENBORN: 4 Q Mr. Depp, I'd like to start with the 5 honeymoon that you and Ms. Heard took in late 6 July 2015. 7 A Certainly. 8 Q You testified that you took a train 9 ride from Bangkok to Singapore; is that right? 10 A That's correct. 11 Q And you claim that on this train ride, 12 that Ms. Heard hit you in the face, correct? 13 A Yes. 14 Q And left a black eye, correct? 15 A Yes. 16 Q And -- 17 MR. ROTTENBORN: Michelle, could you 18 please pull up PX162. 19 THE COURT: Is that already in 20 evidence? 21 MR. ROTTENBORN: Yes, Your Honor. 22 THE COURT: Okay. Publish to the jury.</p>
<p style="text-align: right;">7275</p> <p>1 THE COURT: You can get it from Sammy. 2 Let's just announce to everybody after lunch. Get 3 back just one second. 4 All right. So court will be in recess. 5 Let's come back at 2, so everybody gets an hour 6 for lunch, okay? 2:00. 7 THE BAILIFF: All rise. 8 (Recess taken from 12:58 p.m. to 9 2:00 p.m.) 10 THE BAILIFF: All rise. Please be 11 seated and come to order. 12 THE COURT: All right. Are we ready 13 for the jury? 14 MR. CHEW: Yes, Your Honor. 15 THE COURT: Okay. Mr. Depp, if you 16 could, come back to the stand, please. 17 (Whereupon, the jury entered the 18 courtroom and the following proceedings took 19 place.) 20 THE COURT: All right. Have a seat. 21 All right. Cross-examination. 22 MR. ROTTENBORN: Thank you, Your Honor.</p>	<p style="text-align: right;">7277</p> <p>1 MR. ROTTENBORN: Thank you. 2 Q Mr. Depp, this is the picture that your 3 counsel showed you both in your prior -- or showed 4 you this morning, correct? 5 A Yes, sir. 6 Q Okay. And that mark under your left 7 eye is what you claim to be a black eye caused by 8 Ms. Heard, correct? 9 A Seems to be. There's some scratches 10 around my nose as well. 11 Q Okay. All right. But it's your left 12 eye, the one close to the chef, that's what you 13 said is your black eye, correct? 14 A Yes, sir. 15 Q Okay. And that was the picture your 16 team chose to show you, right? 17 A That's a picture someone showed me, 18 yes. 19 MR. ROTTENBORN: Pull up Exhibit 1905, 20 Michelle, please. 21 THE COURT: I'm sorry. Which number 22 was it?</p>

Transcript of Jury Trial - Day 23
Conducted on May 25, 2022

58 (7278 to
7281)

<p>7278</p> <p>1 MR. ROTTENBORN: This is a new exhibit, 2 Your Honor, 1905. 3 THE COURT: And that's defendant's? 4 MR. ROTTENBORN: Defendant's 5 Exhibit 1905. 6 THE COURT: Okay. Thank you. 7 MR. ROTTENBORN: Ask for permission to 8 publish it. 9 THE COURT: Oh. You want to put it in 10 evidence? 11 MR. ROTTENBORN: Uh-huh. 12 THE COURT: Okay. Any objection to 13 1905? 14 MS. MEYERS: With the comments -- we 15 have no objection to the photograph itself; we 16 would ask the comments be redacted as hearsay. 17 MR. ROTTENBORN: Well, I would like to 18 question the witness about the comments. 19 MS. MEYERS: I have to objection to the 20 photograph being published. 21 MR. ROTTENBORN: Okay. Well, then 22 let's wait a minute.</p>	<p>7280</p> <p>1 redact the -- just have the photographs in it? 2 MR. ROTTENBORN: Sure. We'll do 3 nineteen-oh -- yeah, 1905. 4 THE COURT: 1905, just with redactions, 5 will be fine. 6 MR. ROTTENBORN: Thank you, Michelle. 7 THE COURT: All right. Publish. 8 MR. ROTTENBORN: Thank you, Your Honor. 9 Michelle, could you please scroll down 10 to the bottom two pictures there. 11 Q Mr. Depp, in these pictures that were 12 taken before you got on the train ride for your 13 honeymoon, where you claim that Ms. Heard hit you 14 and gave you a black eye, you have the exact same 15 shadow or sunburn or mark under your left eye, the 16 exact same mark, don't you? 17 A That's the -- when you get a side 18 light, you see the occipital bone, so that is the 19 exact area. 20 Q Yep. And it's actually -- 21 A A side light will cause that as well. 22 Q Yeah. But the picture is not being</p>
<p>7279</p> <p>1 Q Mr. Depp, you see here, this -- these 2 are four pictures of you, right? 3 A Yes. 4 Q And below it they indicate that they 5 were taken on July 24th, 2015, in Bangkok, 6 Thailand, correct? 7 MS. MEYERS: Objection. Lack of 8 foundation. Calls for speculation. 9 THE COURT: Overruled. 10 A In Bangkok, Thailand, so before the 11 train ride. 12 Q Correct, before the train ride. 13 Because you didn't get on the train ride until the 14 25th; is that right? 15 A Somewhere in that area, I guess. 16 Q Okay. 17 MR. ROTTENBORN: Your Honor, I'd ask 18 for permission to publish this to the jury. 19 THE COURT: All right. Do you -- 20 MS. MEYERS: If it's just the 21 photographs, we have no objection. 22 THE COURT: All right. Do you want to</p>	<p>7281</p> <p>1 taken from the side, is it? It's been taken head 2 on? 3 A No, no, no, no. The camera's in front. 4 Q Yeah. 5 A Light on the side -- 6 Q Right. 7 A -- will cause that occipital bone, I 8 believe it's called -- 9 Q Uh-huh. 10 A -- to appear sunken and -- 11 Q Just like lights on the side of a train 12 car, correct? 13 A -- where -- 14 MS. MEYERS: Objection. Calls for 15 speculation. 16 MR. ROTTENBORN: You can take that 17 down, Michelle. 18 A That was, in fact, in the dark, and I 19 had a chef -- I had -- 20 THE COURT: Sustained. 21 A -- people on either side of me. 22 THE COURT: It would be great if you --</p>

Transcript of Jury Trial - Day 23
Conducted on May 25, 2022

59 (7282 to
7285)

<p>7282</p> <p>1 A So, I don't see where the light fill is 2 from the side there. 3 THE COURT: Mr. Depp, if you can, wait 4 for the next question. 5 Next question. 6 THE WITNESS: Sorry, Your Honor. 7 Q Even the picture your team chose to 8 show you on the train isn't accurate, is it? 9 MS. MEYERS: Objection. Calls for 10 speculation. 11 MR. ROTTENBORN: Let's pull up 12 Exhibit 1859, please. 13 THE COURT: 1859, is that in evidence? 14 MR. ROTTENBORN: No, Your Honor. 15 Q Mr. Depp, this is the same picture of 16 the same -- the exact same scene displayed in 17 PX 162 that you looked at this morning, correct? 18 A That looks like my face has been -- the 19 eyes have been Photoshopped. 20 Q Okay. So this -- this post from the 21 Eastern and Oriental Express's Facebook page, 22 you're saying that that's Photoshopped?</p>	<p>7284</p> <p>1 authentication. Lack of foundation. 2 THE COURT: All right. Over objection, 3 I'll allow 1859 in evidence. 4 MR. ROTTENBORN: Thank you, Your Honor. 5 Michelle, could I please get you to -- 6 THE COURT: You need to redact it 7 first. 8 MR. ROTTENBORN: We actually have one 9 that we'll admit or ask to be admitted as 1858 10 that is just the picture. 11 THE COURT: I already have -- 12 MR. ROTTENBORN: Okay. So we'll call 13 this 1859, then. 14 THE COURT: So this is 1859? 15 MR. ROTTENBORN: Yeah. We just need 16 to -- 17 THE COURT: Okay. 18 MR. ROTTENBORN: We'll fix that exhibit 19 sticker on the bottom and get you that. Correct, 20 1859. 21 THE COURT: 1859. 22 MR. ROTTENBORN: And, Michelle, what</p>
<p>7283</p> <p>1 A Is that from that page? Sure. Why 2 wouldn't they? 3 MR. ROTTENBORN: Let's pull them up 4 side by side, please. 5 Your Honor, I move for the admission of 6 this exhibit. We can just have the pictures. We 7 don't need the... 8 THE COURT: Any objection to the 9 pictures? 10 MS. MEYERS: Objection. Lack of 11 foundation. Lack of authentication. 12 Q Is that you in the photo, Mr. Depp? 13 A It is me, but it's clearly -- it's 14 been -- 15 MR. ROTTENBORN: Your Honor, I'd move 16 to strike anything after that, first of all. 17 THE COURT: Okay. 18 MR. ROTTENBORN: And would ask for 19 admission of this photograph. 20 THE COURT: All right. Just the 21 photograph? Are you going to -- 22 MS. MEYERS: We maintain our lack of</p>	<p>7285</p> <p>1 I'd like to ask you to do, please, is to put the 2 picture displayed as Exhibit 1859, just was 3 admitted into evidence, next to PX 162 that was 4 shown to Mr. Depp this morning. 5 THE COURT: Okay. You can pub -- those 6 are both in evidence. 7 MR. ROTTENBORN: Yeah. Can you try to 8 make them the same size, please? 9 Q This is the exact same picture, isn't 10 it, Mr. Depp? 11 A With radically different quality and -- 12 Q No. You answered my question. 13 A No. I wasn't done answering. 14 Q You answered my question, sir, thank 15 you. Appreciate it. 16 A You're very welcome. 17 Q Mr. Depp, you had that whatever mark it 18 is, whether it's a sunburn, whether it's a shadow, 19 whether it's the light reflecting, you had that 20 same mark on your eye before you got on that 21 train? 22 A Well, it's pretty difficult to get a</p>

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Conducted on May 25, 2022

60 (7286 to
7289)

<p style="text-align: right;">7286</p> <p>1 sunburn on a train. And the photo that was with 2 the child -- 3 Q Well, let's go -- 4 A -- I don't look particularly sunburned. 5 Can we see those again? 6 MR. ROTTENBORN: Let's pull up 7 Exhibit 1 -- actually, no. 8 Q Let's talk about Australia for a little 9 bit. 10 A Oh, good. 11 Q You testified you've never done ecstasy 12 more than a handful of times in your life, 13 correct? 14 A Six, seven times. 15 Q Now, you heard Ms. Heard's testimony; 16 you've been sitting here. And I know you didn't 17 look at her, but you heard her testimony. And you 18 didn't hear her say you ingested eight to ten all 19 at once? She says she came after being apart from 20 you for some time, and there were eight to 10 gone 21 from the bag, correct? 22 MS. MEYERS: Objection. Form.</p>	<p style="text-align: right;">7288</p> <p>1 Q You just said you don't recall you were 2 begging for any drugs? 3 A No, I don't. But I do recall being in 4 great pain and great distress. So -- 5 Q Okay. 6 A -- I could have asked for a teddy bear. 7 Q Okay. 8 MR. ROTTENBORN: So this has been 9 admitted, Your Honor. 10 THE COURT: This is in evidence? Okay. 11 You can publish. 12 MR. ROTTENBORN: And if you can, blow 13 up the text, please, Michelle. 14 Q In this text message, Mr. Depp, after 15 you suffered your finger injury, you just 16 testified you don't recall asking for any drugs. 17 You're texting Nathan Holmes, your personal 18 assistant, "Need more whitey stuff ASAP, brother 19 man and the E business." 20 Now, we went over this in your 21 cross-examination, didn't we? 22 THE COURT: I'm sorry.</p>
<p style="text-align: right;">7287</p> <p>1 Compound. 2 THE COURT: Overruled. 3 A I also heard Ms. Heard say I reached 4 into a bag and threw them, poured a bunch of -- 5 Q Yep. 6 A -- MDMA down my mouth. 7 Q Correct, correct, that's right. She 8 didn't say threw ten at one time? 9 A No, she said a handful, which is more 10 than ten, I believe. 11 Q Okay. The fact is, Mr. Depp, you were 12 asking for ecstasy, you who have only done it six 13 times in your life, you were asking for ecstasy 14 and cocaine within minutes of being admitted to 15 the hospital after suffering your finger injury, 16 weren't you? 17 MS. MEYERS: Objection. Compound. 18 A I don't recall that I was -- 19 THE COURT: Overruled. 20 A -- taking any drugs. 21 MR. ROTTENBORN: Yeah. Let's pull up 22 Plaintiff's Exhibit 393, please.</p>	<p style="text-align: right;">7289</p> <p>1 A If you say so, sir. 2 Q And "whitey stuff" is cocaine? 3 A I would say. 4 Q And "the E business" is ecstasy? 5 A Likely, yes. So I didn't recall that. 6 But... 7 Q Thank you. 8 MR. ROTTENBORN: Can you pull up 9 Exhibit 1817, please. 10 Q This is a picture that you were 11 showed -- shown this morning, Mr. Depp. 12 A Yes, sir. 13 Q And you kind of made some illustrations 14 on the picture and gave your account of what you 15 see here. 16 Mr. Depp, you testified previously that 17 the vodka bottle that you allege cut off your 18 finger was a handle of vodka, correct? 19 A Yes. 20 Q You already testified to that. 21 A Second bottle, though, was a handle on 22 that bottle, yes.</p>

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61 (7290 to
7293)

<p>1 Q Right. This bottle, whatever it is, to 2 the extent it's glass at all, that's in the corner 3 of this room, that's not a handle of vodka? 4 MS. MEYERS: Objection. Calls for 5 speculation. 6 A I think you'll find that -- 7 THE COURT: Overruled. 8 A -- I said two bottles. 9 Q Well, actually what you testified to 10 this morning, Mr. Depp, was that the bottle in the 11 corner was the handle. And there is no other 12 bottle in the picture, is there? 13 A No, that's not what I testified. I 14 testified that -- may I touch the screen? 15 THE COURT: Yes. 16 A This is glass. This is glass. 17 Q Yep. And that's not a handle. Neither 18 of those are handles of vodka? 19 A Well, it's that big. It's broken. The 20 handle's at the top on those vodka bottles, sir. 21 I mean -- 22 Q If you combine all of that glass on the</p>	<p>7290 1 A I don't recall a phone in the bar area. 2 Q Okay. 3 A I don't recall a Bakelite phone in the 4 bar area where I... 5 Q Okay. Let's pull up, Michelle, please, 6 U.K. day 3, page 421. 7 Mr. Depp, we've done this drill before. 8 This is your testimony from the U.K., correct? 9 MS. MEYERS: Can I please have -- 10 MR. ROTTENBORN: We don't have copies 11 for everyone. It's on the screen right there. 12 MS. MEYERS: Your Honor, may I 13 please -- I would like to have what he's -- the 14 testimony of the witness. 15 MR. ROTTENBORN: Here, you can have my 16 copy. 17 MS. MEYERS: Thank you. 18 Q Mr. Depp, you remember giving testimony 19 in the U.K. trial for several days, correct? 20 A Okay. Yeah. So I do remember a 21 telephone in the bar area, and it was -- 22 MR. ROTTENBORN: Your Honor, I --</p>
<p>7291 1 floor, that doesn't make up the amount of glass in 2 a handle of vodka, does it? 3 MS. MEYERS: Objection. Calls for 4 speculation. 5 A I don't know. 6 THE COURT: Wait. There's an 7 objection. Hold on. I'll sustain the objection. 8 Next question. 9 Q There's no handle of vodka broken on 10 that floor, is there, Mr. Depp? 11 A No. I don't see it. I see glass under 12 this chair here. 13 Q Well, you testified this morning that 14 you did see it, so it's good to get that 15 clarification. Let's move on. 16 A No, I didn't say I saw a handle. 17 Q You also testified this morning that -- 18 and I want to get this -- I want to make sure that 19 we're on the same page here. You testified 20 earlier this morning that there was no phone in 21 the bar area downstairs; is that what you 22 testified to?</p>	<p>7293 1 A -- Bakelite -- 2 Q This is my turn to do this, Mr. Depp. 3 A I'm sorry. 4 Q On page 421, line 19, you were asked 5 the question "And this telephone that you picked 6 up was made of" -- I'm sorry, I'm going to go up 7 one, line 15. 8 "QUESTION: At one stage when you were 9 in the kitchen screaming at Ms. Heard, you picked 10 up a wall-mounted telephone. Do you remember a 11 telephone in the kitchen? 12 "ANSWER: No, ma'am. I remember a 13 telephone in the bar area. 14 "QUESTION: And this telephone that you 15 picked up was made of Bakelite. Do you know what 16 I mean by that? A retro telephone, wall-mounted 17 but retro. 18 "ANSWER: It was a wall-mounted 19 telephone, but it was not Bakelite; it was a 20 modern phone. It was plastic. 21 "QUESTION: A phone that was a 22 wall-mounted phone that was picked up" --</p>

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Conducted on May 25, 2022

62 (7294 to
7297)

<p>7294</p> <p>1 MR. ROTTENBORN: Will you scroll down, 2 please. 3 Q "QUESTION: A phone that was a 4 wall-mounted phone that was picked up by you, held 5 in your right hand, and you were repeatedly 6 smashing it against the wall in your right hand? 7 "ANSWER: That is possible. But I do 8 not -- if that is the case, I do not believe I 9 spent very much time on the phone. I remember 10 ripping the phone off the wall." 11 That was your testimony, correct? 12 A It seems to be, yes. 13 Q Thank you. 14 A I -- 15 Q You answered my question. Thank you. 16 Mr. Depp, you've claimed before -- 17 you've said, "If I'm angry and I've got to lash 18 out or hit somebody, I'm going to do it. And I 19 don't care what the repercussions are. Anger 20 doesn't pay rent. It's got to go. It's got to be 21 evicted." You've said that before, haven't you? 22 A Have you a quote from me somewhere</p>	<p>7296</p> <p>1 doesn't pay rent. It's got to go. It's got to be 2 evicted." 3 Did I read that right? 4 A You did read that right, yes. 5 Q Thank you. 6 MR. ROTTENBORN: You can take that 7 down, Michelle, please. 8 Q Now, Mr. Depp, you've also claimed 9 that -- you've said before that if you want to be 10 with a woman sexually, that she is rightfully 11 yours, haven't you? 12 A Could you repeat that? 13 Q And you've also said -- 14 A Could you repeat that, please? 15 Q Yeah. That if you want to be with a 16 woman sexually, that she is rightfully yours. 17 A That's ludicrous. 18 Q You've also said that with respect to 19 women that you want to be with, you've remarked, 20 "I need, I want, I take," haven't you? 21 A Equally as ludicrous. No. 22 MR. ROTTENBORN: Can you pull up DX883,</p>
<p>7295</p> <p>1 saying that? 2 Q That's my question to you. You've said 3 that before, haven't you? Well, actually, let's 4 refresh your recollection. 5 A That'd be good. 6 MR. ROTTENBORN: Can you pull up -- and 7 then get us to the Machine article, please. 8 A Possibly about paparazzis. 9 Q Mr. Depp, you see the picture of you on 10 the lower left -- 11 A Yes. 12 Q -- supposedly shirtless and wearing a 13 crown, I believe? You see the long paragraph 14 above that that starts with "In the Mark Hotel"? 15 A Yes, yes. 16 Q You see that? At the bottom of that, 17 does this refresh your recollection that you said, 18 "I have a lot of love inside me and a lot of anger 19 inside me as well. If I love somebody, then I'm 20 going to love them. If I'm angry and I've got to 21 lash out or hit somebody, I'm going to do it, and 22 I don't care what the repercussions are. Anger</p>	<p>7297</p> <p>1 please. 2 A You can pull what you like. I've never 3 said those words. There's not enough hubris in me 4 to say anything like that. 5 THE COURT: 883? 6 MR. ROTTENBORN: 883, Your Honor. 7 THE COURT: It's not -- is it -- 8 MR. ROTTENBORN: It's not admitted yet. 9 THE COURT: Okay. 883. 10 Q Mr. Depp, these are text messages from 11 you to Stephen Deuters on February 22nd, 2017, 12 correct? 13 A This -- no. This looks nothing like 14 me. You might have mistaken -- 15 Q Mr. Depp, we can show the full, 16 redacted. You looked at a number of text messages 17 in this case, and the words "him" as identifier, 18 that's you, correct, in every text message we've 19 seen in this case? 20 A Yeah, sure. It still doesn't mean it 21 hasn't been screwed with. That's not anything 22 that I've ever said or written.</p>

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63 (7298 to
7301)

<p>7298</p> <p>1 Q Do you want to see the whole thing 2 unredacted? We can look at that too. 3 A No. Because you could have typed it up 4 last night, no. 5 Q I can assure you, I didn't type it up 6 last night, Mr. Depp. 7 MR. ROTTENBORN: Your Honor, I move for 8 the admission of Exhibit 883. 9 THE COURT: All right. Any objection? 10 MS. MEYERS: Objection on relevance 11 grounds, Your Honor. 12 THE COURT: All right. Relevance. You 13 want to approach for a moment? Let's just take a 14 look. 15 (Sidebar.) 16 THE COURT: All right. 17 MR. ROTTENBORN: He testified to 18 Ms. Meyers that he would never commit sexual 19 battery. He just testified to me, "Those words 20 would never come out of my mouth. I would never 21 say that." 22 It's relevant and it's impeachment.</p>	<p>7300</p> <p>1 THE COURT: Okay. 2 (Open court.) 3 THE COURT: All right. 883 in evidence 4 as redacted. 5 MR. ROTTENBORN: Thank you. 6 BY MR. ROTTENBORN: 7 Q Mr. Depp, you're aware that these text 8 messages -- you can see the bottom right where it 9 says "Depp," and then it has a number, 8129, those 10 are produced by you in this litigation; you 11 understand that, right? 12 A I understand that, sir, yes. 13 Q Okay. 14 MR. ROTTENBORN: All right. Michelle, 15 could you please -- let's take a look at the top 16 text first. 17 Q Mr. Depp, on February 22nd, 2017, you 18 texted Mr. Deuters, "Right, exactly. Molly's 19 pussy is rightfully mine. Should I not just bust 20 in and remove its hinges tonight?" 21 Did I read that right? 22 A You read it right, yeah.</p>
<p>7299</p> <p>1 MS. MEYERS: This is not -- there is no 2 foundation that that's what he's talking about 3 here. The words "sexual violence" or "assault" 4 are not in that text message. 5 MR. ROTTENBORN: Your Honor, the jury 6 can draw the inference from it that they want. 7 MS. MEYERS: This is not -- it's 8 unclear what he's talking about. It's not -- 9 MR. ROTTENBORN: I'm happy to admit the 10 whole chain. I just figured every other time, 11 they wanted to redact those words, so... 12 THE COURT: Do you want to see it 13 unredacted to see the context of it for a 14 redirect? 15 MS. MEYERS: I would like that 16 opportunity, but I suspect I would like it 17 admitted in redacted form. 18 MR. ROTTENBORN: I was just trying to 19 do you a favor, Counsel. 20 THE COURT: I mean, it's impeachment to 21 what he said, so I'll allow it. 22 MR. ROTTENBORN: Thank you, Your Honor.</p>	<p>7301</p> <p>1 Q And the one beneath that, you say, "I 2 want to change her understanding of what it is 3 like to be thrashed about like a pleading 4 mackerel." And then in all caps, you write, "I 5 NEED, I WANT, I TAKE." 6 Did I read that right? 7 A You read it right. But I did not write 8 that. 9 Q Okay. 10 A Perhaps some other -- 11 Q You wrote every other text that you 12 produced that came from you in this litigation, 13 didn't you? 14 A Not necessarily. Sometimes you can 15 give people your phone to people, and they text -- 16 Q Now, when you got off that plane from 17 Boston -- 18 A Excuse me? I'm sorry. 19 Q When you got off the plane from Boston, 20 you knew Ms. Heard was angry with you, didn't you? 21 A It was pretty much a given. 22 MS. MEYERS: Objection. Calls for</p>

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64 (7302 to
7305)

7302	7304
<p>1 speculation.</p> <p>2 THE COURT: Overruled.</p> <p>3 Q And you understood her to be angry,</p> <p>4 right?</p> <p>5 A She was always angry, yes.</p> <p>6 Q And you asked Mr. Deuters, same</p> <p>7 person --</p> <p>8 MR. ROTTENBORN: You can take this</p> <p>9 down, Michelle, please. Thank you.</p> <p>10 Q -- same person that you texted in that</p> <p>11 last exhibit, you asked Mr. Deuters to communicate</p> <p>12 with her on your behalf, correct?</p> <p>13 A I don't know what you're talking about.</p> <p>14 You'll have to explain.</p> <p>15 Q You asked Mr. Deuters to communicate</p> <p>16 with Ms. Heard by text to speak to her about the</p> <p>17 incident, correct?</p> <p>18 A About what incident?</p> <p>19 Q To speak to her about the plane flight.</p> <p>20 A The plane plane?</p> <p>21 Q The Boston plane.</p> <p>22 A The Boston plane. So you're saying</p>	<p>1 fight, you would sometimes have them communicate</p> <p>2 with Ms. Heard on your behalf, correct?</p> <p>3 A I think I caught on very quickly</p> <p>4 that --</p> <p>5 Q Just a yes or no, Mr. Depp.</p> <p>6 A -- would be necessary for them to --</p> <p>7 Q No. Just a yes or no.</p> <p>8 It was not uncommon for after you and</p> <p>9 Ms. Heard had --</p> <p>10 MS. MEYERS: Objection, Your Honor.</p> <p>11 I'd ask that he be allowed to finish his answer.</p> <p>12 MR. ROTTENBORN: It's a yes-or-no</p> <p>13 question, Your Honor.</p> <p>14 THE COURT: All right. Go ahead and</p> <p>15 ask your question again.</p> <p>16 MR. ROTTENBORN: Thank you, Your Honor.</p> <p>17 Q It wasn't uncommon for you to have one</p> <p>18 of your personal assistants communicate with</p> <p>19 Ms. Heard after you and her had a fight?</p> <p>20 A I disagree. Because you are assuming</p> <p>21 that I had them do it, then you don't know that.</p> <p>22 Q After the Boston plane fight, you had</p>
7303	7305
<p>1 that I influenced Mr. Deuters, I told him that he</p> <p>2 had to write this, and I had -- told him that he</p> <p>3 had to write that? Is that what you're saying?</p> <p>4 Q No, no. It wasn't uncommon for</p> <p>5 Mr. Deuters to text -- to communicate with</p> <p>6 Ms. Heard on your behalf, correct?</p> <p>7 MS. MEYERS: Objection. Calls for</p> <p>8 speculation.</p> <p>9 Q He was your personal assistant;</p> <p>10 Mr. Deuters was your personal assistant, correct?</p> <p>11 A I had two personal assistants at the</p> <p>12 time.</p> <p>13 Q Right. He was one of them, right?</p> <p>14 A Yeah, Mr. Deuters was one of them, yes,</p> <p>15 sir.</p> <p>16 Q Right. And it wasn't uncommon for you</p> <p>17 to ask Mr. Deuters to communicate with Ms. Heard</p> <p>18 on your behalf, correct?</p> <p>19 A It wasn't uncommon for any of them to</p> <p>20 communicate with Ms. Heard on my behalf if I were</p> <p>21 on set or unavailable or any of that.</p> <p>22 Q Or if Ms. Heard and you had had a</p>	<p>1 Mr. Deuters communicate with Ms. Heard, correct?</p> <p>2 A When asked what to do, I said, "Placate</p> <p>3 her, just placate her like we always do."</p> <p>4 Q And you told him, "Send her whatever</p> <p>5 message you need to send to placate" --</p> <p>6 A "I'm sorry. He's sorry. He feels</p> <p>7 bad," yes, because any other answer, you know, it</p> <p>8 would turn into with World War III.</p> <p>9 Q Okay.</p> <p>10 MR. ROTTENBORN: Can you pull up</p> <p>11 Exhibit 229, please.</p> <p>12 Your Honor, I think you know where I'm</p> <p>13 going here, and based on Mr. Depp's testimony, I'd</p> <p>14 ask to move for the admission of Exhibit 229.</p> <p>15 MS. MEYERS: Your Honor, I -- can we</p> <p>16 please approach?</p> <p>17 THE COURT: Sure.</p> <p>18 (Sidebar.)</p> <p>19 MS. MEYERS: Your Honor, these are not</p> <p>20 Mr. Depp's words. These are the words of --</p> <p>21 THE COURT: He's saying, "Just placate</p> <p>22 her."</p>

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65 (7306 to
7309)

<p>7306</p> <p>1 MR. ROTTENBORN: He said, "Tell her 2 what she needs to hear." 3 THE COURT: Sustained. 4 MR. ROTTENBORN: Okay. All right. 5 Thank you. 6 THE COURT: Appreciate the try. 7 (Open court.) 8 BY MR. ROTTENBORN: 9 Q Mr. Depp, you were pretty angry after 10 Ms. Heard got her temporary restraining order, 11 weren't you? 12 A Angry? I was -- more than anything, I 13 was hurt. 14 Q And yet, you testified earlier this 15 morning -- you claimed that you somehow were 16 responsible for her getting the role with Warner 17 Brothers, correct? That's what you testified to 18 this morning. 19 You also tried to get her fired from 20 Aquaman, didn't you, after the temporary 21 restraining order? 22 A Which question would you like me to</p>	<p>7308</p> <p>1 she can't fire Amber. 2 Q Yeah. This is a text message you had 3 with her on June 4th, 2016, isn't it? 4 A June 4th, yes. 5 MR. ROTTENBORN: Your Honor, move for 6 the admission of Exhibit 821 as redacted. 7 THE COURT: Any objection? 8 MS. MEYERS: We would object on 9 relevance grounds, Your Honor. 10 THE COURT: I'll overrule that 11 objection. 821 in evidence. 12 Q And on June 4th, 2016, Mr. Depp, you 13 texted your sister, "I want her replaced on that 14 WB film." 15 Did I read that right? 16 A You did. 17 Q "Her" is referring to Amber, right? 18 A That's correct. 19 Q And "WB" is Warner Brothers, correct? 20 A Again, correct. Yes. 21 Q And then after you sent this text to 22 your sister following the temporary restraining</p>
<p>7307</p> <p>1 handle first, sir? 2 Q One question, sir. You tried to get 3 her fired from Aquaman after the temporary 4 restraining order, didn't you? 5 A Well, what is related to the story 6 about me getting her -- 7 Q Just yes or no, Mr. Depp. I don't -- 8 A Sir, I can't get it down to yes or no 9 at all times. I can't please you with a yes or a 10 no every single time. 11 Q It's a yes-or-no question, Mr. Depp: 12 You tried to get Ms. Heard fired, didn't you? 13 A The answer's no. 14 Q All right. 15 MR. ROTTENBORN: Let's pull up 16 Exhibit 821. 17 Q Mr. Depp, is this -- 18 A Is that me trying to get her fired? 19 Q This is a text message that you had 20 with your sister, Christi Dembrowski. She was the 21 first witness in this case, right? 22 A She doesn't work at Warner Brothers;</p>	<p>7309</p> <p>1 order, you reached out to Guy Silverstein to have 2 him fire Amber, correct? 3 A Who? 4 Q Greg Silverstein, I'm sorry. 5 A Oh. I don't recall reaching out to 6 Greg Silverstein -- 7 Q You reached out to Sue Kroll to get her 8 to fire Ms. Heard? 9 A -- particularly. 10 I had vetted Ms. Heard -- I vetted Ms. 11 Heard -- 12 Q Mr. Depp, you got your chance to speak 13 this morning. 14 A One of us had -- 15 MR. ROTTENBORN: Your Honor -- 16 A One of us had two friends -- 17 THE COURT: Mr. Depp, if you could just 18 answer the question, sir, all right? 19 Next question. 20 Q You reached out to Greg Silverstein to 21 get him -- to try to get Amber fired from Aquaman, 22 didn't you?</p>

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66 (7310 to
7313)

<p>7310</p> <p>1 MS. MEYERS: Asked and answered. 2 THE COURT: Excuse me? 3 MS. MEYERS: Asked and answered. 4 MR. ROTTENBORN: It's a yes-or-no 5 question that he hasn't answered yes or no. 6 THE COURT: All right. 7 Q Yes or no, sir? You reached out to 8 Greg Silverstein to try to get Amber fired from 9 Aquaman? 10 A Second half of your question is wrong, 11 sir. 12 Q You reached out to Sue Kroll -- 13 A I reached out to them because I vetted 14 her. 15 Q No, no, no. Mr. Depp, you reached out 16 to Sue Kroll to get her -- to try to get her to 17 help you get Amber fired from Aquaman, didn't you? 18 A No. 19 Q And you reached out to Kevin Tsujihara 20 to try to get him to help you get Amber fired from 21 Aquaman, didn't you? 22 A No.</p>	<p>7312</p> <p>1 Q Okay. And in this text that you sent 2 to Christian Carino -- Christian Carino is the 3 person that used to be Amber's agent and then was 4 your agent for a time, correct? 5 A That is correct. 6 Q And in this text, you -- 7 MR. ROTTENBORN: Oh. Your Honor, 8 permission to publish, please. 9 THE COURT: You want to put it in 10 evidence first? 11 MR. ROTTENBORN: Yeah. Move for 12 admission of 857A. 13 THE COURT: Any objection? 14 MR. ROTTENBORN: No objection. 15 THE COURT: 857A, as redacted, will be 16 in evidence. 17 MR. ROTTENBORN: Thank you, Your Honor. 18 Q And in this text, Mr. Depp, you said, 19 "She's begging for total global humiliation. 20 She's going to get it. I'm going to need your 21 text about San Francisco, brother. I'm even sorry 22 to ask, but she sucked Mollusk's crooked dick, and</p>
<p>7311</p> <p>1 MR. ROTTENBORN: Can you pull up 2 Exhibit 857, please. 3 Q Mr. Depp, this is a text message that 4 you sent to Christian Carino on August 15th, 2016, 5 correct? 6 THE COURT: This is already in 7 evidence, correct? Or if it's -- 8 MR. ROTTENBORN: Parts of it are. 9 THE COURT: Oh, so not this -- 10 MR. ROTTENBORN: Not this version. 11 THE COURT: Well, this can't be 857, 12 then. Mr. Rottenborn, you can't do this to me. 13 MR. ROTTENBORN: I'm sorry, Your Honor. 14 Understood. 15 We'll call it 857A. 16 THE COURT: 857A, okay. All right. 17 Yes, sir. Thank you. 18 MR. ROTTENBORN: My apologies, Your 19 Honor. 20 Q Mr. Depp, you sent this text to 21 Christian Carino on August 15th? 22 A I most certainly did.</p>	<p>7313</p> <p>1 he gave her some shitty lawyers. I have no mercy, 2 no fear, and not an ounce of emotion for what I 3 once thought was love for the gold-digging, 4 low-level, dime-a-dozen, mushy, pointless, 5 dangling, overused, flappy fish market. I'm so 6 fucking happy she wants to go to fight this out. 7 "She will hit the wall hard, and I 8 cannot wait to have this waste of a cum guzzler 9 out of my life. I met a fucking sublime little 10 Russian here which made me realize the time I blew 11 on that fifty-cent stripper. I wouldn't touch her 12 with a goddamned glove. I can only hope that 13 Karma kicks in and takes the gift of breath from 14 her. Sorry, man, but now I will stop at nothing. 15 "Let's see if Mollusk has a pair. Come 16 see me face to face. I'll show him things he's 17 never seen before, like the other side of his dick 18 when I slice it off." 19 Did I read that right? 20 A You did. 21 Q Now, not long after this -- 22 MR. ROTTENBORN: You can take that</p>

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67 (7314 to
7317)

<p style="text-align: right;">7314</p> <p>1 down, Michelle. Thank you. 2 Q Not long after this, you met 3 Mr. Waldman in the late summer or fall of 2016, 4 correct? 5 A I believe, yeah. September, October, 6 somewhere in there, whatever. 7 Q And he's been your attorney since then, 8 correct? 9 A Yes, sir. 10 Q And you met with him with the Daily 11 Mail in London in February 2020, didn't you? 12 A I'm sorry. Again. 13 Q You and Mr. Waldman, together, met with 14 the Daily Mail in London in February 2020, didn't 15 you? 16 A Are you asking me a question about my 17 attorney and I? 18 Q Yeah. That you two met with people 19 from the Daily Mail in London in February 2020. 20 A Was that during the London trial? 21 Q No. 22 A No?</p>	<p style="text-align: right;">7316</p> <p>1 A Alleged tapes? 2 THE COURT: I'll sustain the objection. 3 Next question. 4 Q Now, Mr. Depp, you testified -- and I 5 wrote it down before lunch -- you said, when 6 Ms. Meyers asked you something about, you know, 7 "How does it feel to make you" -- or "how does it 8 feel to be here?" you said, "I've been living with 9 it for six years and waiting to be able to get the 10 truth out." 11 Do you remember saying that? 12 A Yes. 13 Q You also said, "I've spoken up for what 14 I've been carrying on my back," something to that 15 effect. 16 Do you remember saying that? 17 A Yes. 18 Q And you've claimed several times in 19 this proceeding, Mr. Depp, that this trial is your 20 first chance to tell your story, haven't you? 21 A Yes, sir. 22 Q But that's just not true, is it,</p>
<p style="text-align: right;">7315</p> <p>1 Q Nope. In February. 2 A I don't recall it, then. 3 Q Okay. To the extent Mr. Waldman 4 testified that you did, you don't dispute that, 5 correct? 6 A I just don't -- I don't recall it. 7 Q Okay. You don't disagree with 8 Mr. Waldman's testimony that you and he met with 9 people from the Daily Mail in London in February 10 2020, correct? 11 A If that's Mr. Waldman's testimony, 12 then -- 13 Q Okay. 14 A But I just didn't necessarily know who 15 these people were. 16 Q Right. 17 A I guess. 18 Q The same month that the Daily Mail 19 released alleged tapes between you and Amber, 20 correct? 21 MS. MEYERS: Objection. Calls for 22 speculation. Lack of personal knowledge.</p>	<p style="text-align: right;">7317</p> <p>1 Mr. Depp? That is not true. 2 A No. For me it is true. 3 Q Okay. Well, here's the thing: You -- 4 the fact is, Mr. Depp, when Dan Wootton wrote an 5 article that was published in The Sun calling you 6 a wife beater, you brought a lawsuit against The 7 Sun in June of 2018, correct? 8 A Yes, I brought a lawsuit. 9 Q And that was six months before 10 Ms. Heard ever wrote her op-ed, correct? 11 A I don't know. 12 Q And in the summer of 2020, there was a 13 several-week trial in London against The Sun, 14 correct? 15 A Ms. Heard wasn't a party to that trial. 16 Q That's not my question, Mr. Depp. 17 In the article that The Sun wrote that 18 you sued over, you sued for Mr. Wootton calling you 19 a wife beater, correct? 20 MS. MEYERS: Objection. Asked and 21 answered. 22 THE COURT: Sustained.</p>

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68 (7318 to
7321)

<p>7318</p> <p>1 Next question.</p> <p>2 Q And in the trial that you subsequently</p> <p>3 brought, you called a lot of witnesses, right?</p> <p>4 A I don't know what a lot is. I don't</p> <p>5 know.</p> <p>6 Q Many people testified on both sides of</p> <p>7 the trial, correct?</p> <p>8 A Yes, many people.</p> <p>9 Q And many exhibits were introduced,</p> <p>10 correct?</p> <p>11 A Like a trial, yes.</p> <p>12 Q And you, just like in this trial, you</p> <p>13 were on the stand for several days in that trial,</p> <p>14 correct?</p> <p>15 A Yes, sir, I was.</p> <p>16 Q And that trial involved the same</p> <p>17 factual issues that you are litigating here, which</p> <p>18 is whether you committed domestic violence against</p> <p>19 Amber Heard?</p> <p>20 MS. MEYERS: Objection. Calls for a</p> <p>21 legal --</p> <p>22 THE COURT: Sustain the objection.</p>	<p>7320</p> <p>1 BY MS. MEYERS:</p> <p>2 Q Mr. Depp, Mr. Rottenborn asked you some</p> <p>3 questions about the U.K. trial. Why do you feel</p> <p>4 that this is the first time that you've actually</p> <p>5 had an opportunity to tell your story and, as you</p> <p>6 said, get off -- get the load off your back?</p> <p>7 A As the U.K. trial was me suing Dan</p> <p>8 Wootton and The Sun for defamation for calling me</p> <p>9 a wife beater, the U.K. have different -- well,</p> <p>10 there are different laws; there are different ways</p> <p>11 they handle things. There are also limitations in</p> <p>12 evidence. Some things can be brought up; some</p> <p>13 things cannot be brought up, Mr. Rottenborn.</p> <p>14 MR. ROTTENBORN: Your Honor, this calls</p> <p>15 for a legal conclusion. He's talking about</p> <p>16 limitations in evidence in English --</p> <p>17 MS. MEYERS: Your Honor, he's talking</p> <p>18 about his experience testifying.</p> <p>19 THE COURT: Overruled.</p> <p>20 A He'll be okay.</p> <p>21 Yes. There was a very -- everything is</p> <p>22 quite boxed-in with regard to what can be said,</p>
<p>7319</p> <p>1 Next question.</p> <p>2 Q You brought that case against The Sun</p> <p>3 because you were angry at The Sun for calling you</p> <p>4 a wife beater, correct?</p> <p>5 A Yeah. That's probably a pretty good</p> <p>6 reason.</p> <p>7 Q And you went through that trial in</p> <p>8 London, correct?</p> <p>9 A I did indeed, yes.</p> <p>10 Q Mr. Depp, you've had a chance to tell</p> <p>11 your story, haven't you?</p> <p>12 A No. There were many limitations in the</p> <p>13 U.K. trial.</p> <p>14 MS. MEYERS: Objection. Asked and</p> <p>15 answered.</p> <p>16 MR. ROTTENBORN: No further questions,</p> <p>17 Your Honor.</p> <p>18 THE COURT: All right. Redirect.</p> <p>19 MS. MEYERS: Thank you.</p> <p>20 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND</p> <p>21 COUNTERCLAIM DEFENDANT</p> <p>22</p>	<p>7321</p> <p>1 what can be spoken about. So Ms. Heard provided</p> <p>2 information to The Sun as their star witness, but</p> <p>3 the case was not brought against Ms. Heard; it was</p> <p>4 brought against The Sun newspaper, journal,</p> <p>5 whatever it is.</p> <p>6 Q Mr. Rottenborn referenced that you were</p> <p>7 on the stand for multiple days.</p> <p>8 A Four and a half, I believe, yes.</p> <p>9 Q Yeah. What was the nature of that</p> <p>10 examination -- or excuse me. Who was conducting</p> <p>11 that examination of you?</p> <p>12 A QC Sasha Wass.</p> <p>13 Q And whose attorney was that?</p> <p>14 A The Sun's.</p> <p>15 MS. MEYERS: Can we please pull up</p> <p>16 DX857A.</p> <p>17 THE COURT: All right. It's already in</p> <p>18 evidence, so you can publish it.</p> <p>19 Q Mr. Depp, do you recall seeing this</p> <p>20 text message when Mr. Rottenborn was questioning</p> <p>21 you?</p> <p>22 A Oh, yes, I do.</p>

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69 (7322 to
7325)

<p style="text-align: right;">7322</p> <p>1 Q Can you explain what you're conveying</p> <p>2 to Mr. Carino in this text message?</p> <p>3 A I mean, I'm in total shock that this is</p> <p>4 happening to me, that my entire life on the planet</p> <p>5 has been brought to the head of a pin with all</p> <p>6 this completely utterly false information. So I</p> <p>7 am -- yeah. When you're accused of horrific acts</p> <p>8 and things that you have not done, when it's</p> <p>9 actually some very ugly things that are going out</p> <p>10 there into the world about you on a nonstop basis</p> <p>11 by Ms. Heard and her team, you have a tendency, as</p> <p>12 humans, to get very, very irate and angry, not to</p> <p>13 the point where you go out and hurt someone. Not</p> <p>14 to the point even where you assault a cabinet, but</p> <p>15 you do get irate. You do wonder why this person</p> <p>16 is doing this to me.</p> <p>17 So, yeah, many things go through your</p> <p>18 head, and then you've got your family. You've got</p> <p>19 your kids. You've got your parents -- well, my</p> <p>20 mom, thankfully, didn't get to read any of this</p> <p>21 because that would have killed her. But my father</p> <p>22 and my family might. Everyone that I've met, the</p>	<p style="text-align: right;">7324</p> <p>1 Next question.</p> <p>2 Q Mr. Depp, without explaining what</p> <p>3 Warner Brothers felt, why did you send this text</p> <p>4 message to your sister, and what were -- excuse</p> <p>5 me -- strike that.</p> <p>6 What were you trying to convey to your</p> <p>7 sister when you sent this text message?</p> <p>8 A Honestly, I felt responsibility for</p> <p>9 having gone to those people and, you know, painted</p> <p>10 such a beautiful picture.</p> <p>11 MR. ROTTENBORN: Objection. Hearsay,</p> <p>12 Your Honor. Now he's talking about what he said</p> <p>13 to Warner Brothers.</p> <p>14 THE COURT: Overruled.</p> <p>15 Q Please continue.</p> <p>16 A Change seats? Huh?</p> <p>17 Q So, sorry. You can continue.</p> <p>18 A I felt it was my responsibility to get</p> <p>19 the truth to Warner Brothers about they were going</p> <p>20 to -- what they were going to end up facing down</p> <p>21 the line, which is two franchises that would be --</p> <p>22 would be causing problems for one another,</p>
<p style="text-align: right;">7323</p> <p>1 people that supported me, suddenly I'm scum. And</p> <p>2 why? Never had to happen. One little lie.</p> <p>3 So, yes, very angry.</p> <p>4 MS. MEYERS: Could we please pull up</p> <p>5 Defendant's Exhibit 821.</p> <p>6 Q Mr. Depp, do you recall seeing this</p> <p>7 text message when Mr. Rottenborn was asking you</p> <p>8 questions?</p> <p>9 A Yes. He loves this one. Yes.</p> <p>10 Q Yes. Would you care to explain what</p> <p>11 you're trying to convey in this text message?</p> <p>12 A Well, Warner Brothers was about to</p> <p>13 find -- they were about to find themselves in</p> <p>14 quite a dilemma, as the person that they had just</p> <p>15 cast --</p> <p>16 MR. ROTTENBORN: Objection, Your Honor.</p> <p>17 Lack of foundation as to what Warner Brothers knew</p> <p>18 or thought.</p> <p>19 A Didn't I meet with them?</p> <p>20 THE COURT: All right. If you could,</p> <p>21 just wait for the question.</p> <p>22 I'll sustain the objection.</p>	<p style="text-align: right;">7325</p> <p>1 especially as all the -- any news, any press, any</p> <p>2 media that came out about me at that time had been</p> <p>3 turned into, you know, I was Charles Manson, you</p> <p>4 know, I was the worst thing on Earth. And they</p> <p>5 just kept coming. It was like a -- it was like a</p> <p>6 nonstop fire.</p> <p>7 So my responsibility, after having</p> <p>8 painted a beautiful picture of her for them, was</p> <p>9 to tell them, "I think you'd better" --</p> <p>10 MR. ROTTENBORN: Objection, Your Honor.</p> <p>11 He's getting into what he claims he told Warner</p> <p>12 Brothers or wanted to.</p> <p>13 MS. MEYERS: He's saying what he wanted</p> <p>14 to tell them. He's not saying what he actually</p> <p>15 told them.</p> <p>16 THE COURT: I'll sustain the objection.</p> <p>17 Next question.</p> <p>18 Q Mr. Depp, you mentioned two franchise</p> <p>19 films with Warner Brothers. What two franchise</p> <p>20 films were you referring to?</p> <p>21 A There was Aquanet -- I mean Aquaman,</p> <p>22 sorry -- Aquaman and Fantastic Beasts, the one</p>

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70 (7326 to
7329)

<p style="text-align: right;">7326</p> <p>1 that I was in.</p> <p>2 Q And why did you feel a responsibility</p> <p>3 with respect to those two franchise films?</p> <p>4 A Warner Brothers was starting to get</p> <p>5 quite upset about some of the things that were</p> <p>6 being said about me in the press that were</p> <p>7 constant, constant, constant hit pieces, and, you</p> <p>8 know, on one level, yes, it's just acting. It's</p> <p>9 just movies. But it's business and it's your</p> <p>10 word, and I had given my word to them and I had</p> <p>11 to -- I felt responsible in -- that I had to tell</p> <p>12 them exactly what was going on and to -- that it</p> <p>13 was going to end up helping.</p> <p>14 Q And which of those two film franchises</p> <p>15 were you a part of?</p> <p>16 A I'm sorry?</p> <p>17 Q Which of those two film franchises were</p> <p>18 you a part of?</p> <p>19 A I was in Fantastic Beasts and Where to</p> <p>20 Find Them, and I was in Fantastic Beasts: The</p> <p>21 Crimes of Grindelwald.</p> <p>22 MS. MEYERS: Could we please pull up</p>	<p style="text-align: right;">7328</p> <p>1 please.</p> <p>2 Can we please pull up Defendant's</p> <p>3 Exhibit 1821.</p> <p>4 Q Mr. Depp, do you recognize this</p> <p>5 document?</p> <p>6 A That is behind the bar, yes.</p> <p>7 Q Okay. And do you see -- Mr. Rottenborn</p> <p>8 asked you some questions about whether there was a</p> <p>9 telephone in Australia.</p> <p>10 A Yes. And I -- I see a telephone there</p> <p>11 now.</p> <p>12 Q And you recall that telephone being</p> <p>13 there?</p> <p>14 A I don't recall the telephone being</p> <p>15 there, but I can see it now.</p> <p>16 MS. MEYERS: Can we please pull up</p> <p>17 Defendant's Exhibit 1820.</p> <p>18 Q Do you recall me showing you this text</p> <p>19 message earlier on? Or excuse me. Do you recall</p> <p>20 me showing you this picture --</p> <p>21 A Yes.</p> <p>22 Q -- during your examination?</p>
<p style="text-align: right;">7327</p> <p>1 DX883.</p> <p>2 Q Now, Mr. Depp, do you recall seeing</p> <p>3 these text messages during Mr. Rottenborn's</p> <p>4 examination?</p> <p>5 A Oh, God. Yeah. Yes, I remember.</p> <p>6 Q And you didn't seem to recall these</p> <p>7 text messages; is that fair?</p> <p>8 A It truly is fair. It's not -- I've not</p> <p>9 seen those.</p> <p>10 Q Do you remember --</p> <p>11 A I don't know who Molly is. I don't</p> <p>12 know any -- I don't know nothing about these.</p> <p>13 Q Do you have any understanding of what</p> <p>14 you're referring to in this text message or these</p> <p>15 two text messages?</p> <p>16 A No. Honestly, if somebody else had</p> <p>17 borrowed my phone or something and made this text</p> <p>18 to Stephen, possibly. But I don't understand -- I</p> <p>19 don't have that kind of -- I don't write like -- I</p> <p>20 don't have that kind of hubris or expectation.</p> <p>21 That's quite grotesque text.</p> <p>22 MS. MEYERS: Can we take that down,</p>	<p style="text-align: right;">7329</p> <p>1 A Yes, yes, yeah.</p> <p>2 Q Okay. And I think I asked you whether</p> <p>3 you recall a phone being mounted on the wall in</p> <p>4 the left of this picture.</p> <p>5 Do you remember that?</p> <p>6 A Yes.</p> <p>7 Q And what was your answer to that?</p> <p>8 A No.</p> <p>9 Q Mr. Depp, Mr. Rottenborn asked you some</p> <p>10 questions about your honeymoon.</p> <p>11 Do you remember that?</p> <p>12 A Yes.</p> <p>13 Q And I believe you had testified that</p> <p>14 you and Ms. Heard were on the Orient Express</p> <p>15 together?</p> <p>16 A That's correct, yes.</p> <p>17 Q Where had you been prior to being on</p> <p>18 the Orient Express?</p> <p>19 A We had been in Australia and then made</p> <p>20 it over to Thailand to catch the Orient Express.</p> <p>21 MS. MEYERS: If we could, bring up</p> <p>22 Plaintiff's Exhibit 162 again.</p>

Transcript of Jury Trial - Day 23
Conducted on May 25, 2022

71 (7330 to
7333)

<p>7330</p> <p>1 Q Mr. Depp, do you know who took this 2 picture? 3 A Malcolm Connolly. 4 Q And despite what Mr. Rottenborn showed 5 you about the -- of the picture of you prior to 6 this, do you see a bruise on your face in this 7 picture? 8 A I see, like, what looks like a pretty 9 decent shiner and kind of scratched-up nose, yes. 10 Q And do you recall how you got the 11 scratches and the shiner? 12 A There was a very brief freakout that 13 Ms. Heard had in our cabin just before this 14 dinner. I can't remember why, but there were 15 many. I remember taking the photograph, though. 16 I mean, I remember being there. I remember 17 meeting the chef and all, but I -- I mean, the 18 quality of the photo's not great. The quality of 19 the other photo that he shows is prettied-up. 20 Q Mr. Depp, did you ever physically abuse 21 Ms. Heard during your relationship? 22 A Never. Never.</p>	<p>7332</p> <p>1 BY MS. VASQUEZ: 2 Q Good afternoon, Mr. Tremaine. 3 A Hello. 4 Q Would you please state your full name 5 for the record. 6 A Morgan Cliff Tremaine. 7 Q What do you do for a living? 8 A I produce esports events and design 9 video games. 10 Q And in 2016, what did you do for a 11 living? 12 A I worked as the field assignment 13 manager at TMZ. 14 Q What is TMZ? 15 A TMZ is an entertainment news website 16 and television show. 17 Q And what were your responsibilities as 18 a field assignment manager for TMZ? 19 A I was the go-between, the news desk in 20 the office, and the reporters in the field, which 21 you might know as paparazzi. 22 Q Approximately how many paparazzis were</p>
<p>7331</p> <p>1 MS. MEYERS: No further questions. 2 THE COURT: All right. Sir, you can 3 have a seat next to your attorneys. Thank you. 4 THE WITNESS: Thank you very much. 5 Thank you. 6 THE COURT: Your next witness. 7 MS. VASQUEZ: Mr. Depp calls Morgan 8 Tremaine. 9 THE COURT: I didn't quite get that. 10 I'm sorry. 11 MS. VASQUEZ: Mr. Depp calls Morgan 12 Tremaine. 13 THE COURT: All right. Morgan 14 Tremaine. 15 MORGAN TREMAINE, 16 a witness called on behalf of the 17 plaintiff and counterclaim defendant, having been 18 first duly sworn by the Clerk, testified as 19 follows: 20 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND 21 COUNTERCLAIM DEFENDANT 22 THE COURT: Yes, ma'am.</p>	<p>7333</p> <p>1 you in charge of? 2 A At the time, it was about 20 in LA; a 3 handful, maybe three, in New York; and then one in 4 D.C. 5 Q And what were your responsibilities 6 specifically as to the paparazzi? 7 A It would be to dispatch paparazzi to 8 various locations based on tips or just direction 9 dictated by having a list of sort of hot spots 10 where celebrities would be. 11 Q And how were those tips received? 12 A They're received either through tips 13 that we received through our tip line or directly 14 through news producers in the office. 15 Q And were tips frequently received 16 directly from sources? 17 A Very often the case, yeah. 18 Q And who were the type of sources that 19 TMZ received tips from? 20 A They received tips from -- oftentimes, 21 it would be publicists, managers, agents, or 22 B-list celebrities.</p>

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Conducted on May 25, 2022

72 (7334 to
7337)

<p>1 Q Lawyers?</p> <p>2 A And lawyers, definitely.</p> <p>3 Q How are tips verified?</p> <p>4 A Tips are verified by an extensive</p> <p>5 process. If they come in through our tip line, we</p> <p>6 have to verify who sent it, that they -- that the</p> <p>7 source is truthful, and so they have to add their</p> <p>8 contact information which is a field in that -- on</p> <p>9 that website for, like, name, phone number, things</p> <p>10 like that.</p> <p>11 Q And how long did that process typically</p> <p>12 take?</p> <p>13 A If we receive a tip through the tip</p> <p>14 line, it could take a while because that would</p> <p>15 need to be -- if it was a tip, we would need to</p> <p>16 verify it. If it was media such as photos or</p> <p>17 videos, that would need to be extensively verified</p> <p>18 to ensure the person sending it is the copyright</p> <p>19 holder and that we would have the legal ability to</p> <p>20 air it and distribute it.</p> <p>21 Q And while working for TMZ, were you</p> <p>22 involved in any assignments related to Ms. Heard?</p>	<p>1 Q What was your team of paparazzis</p> <p>2 supposed to do while they were at the LA</p> <p>3 courthouse on May 27th, 2016?</p> <p>4 MS. BREDEHOFT: Objection, Your Honor.</p> <p>5 Hearsay and foundation.</p> <p>6 THE COURT: What were they supposed to</p> <p>7 do?</p> <p>8 MS. BREDEHOFT: Right. She's asking</p> <p>9 for -- I don't think there's a foundation laid.</p> <p>10 THE COURT: I'll overrule the objection</p> <p>11 at this point. We'll see.</p> <p>12 Q Go ahead, Mr. Tremaine.</p> <p>13 A Can you re -- state the question again?</p> <p>14 Q What was your team of paparazzi</p> <p>15 supposed to do while they were at the Los Angeles</p> <p>16 courthouse on the May 27th, 2016?</p> <p>17 A Their objective was to capture her</p> <p>18 leaving the courthouse, and then she was going to</p> <p>19 sort of stop and turn towards the camera to</p> <p>20 display the bruise on the right side of her face,</p> <p>21 the alleged bruise.</p> <p>22 Q Did your team of videographers get the</p>
<p>1 A I was.</p> <p>2 Q When was the first time you recall</p> <p>3 working on an assignment related to Ms. Heard?</p> <p>4 A I believe it was May 27th, 2016.</p> <p>5 Q And what was your role in that</p> <p>6 assignment?</p> <p>7 A For that, Ms. Heard was filing a</p> <p>8 restraining order at a courthouse in downtown</p> <p>9 Los Angeles. So I dispatched camera people to</p> <p>10 that location.</p> <p>11 Q Under what circumstances would you</p> <p>12 normally send paparazzi to a courthouse?</p> <p>13 A Only if we had been informed prior.</p> <p>14 It's not by any means a celebrity hot spot. We</p> <p>15 would only ever send people there if we had been</p> <p>16 tipped off that something was occurring and there</p> <p>17 was somebody present there.</p> <p>18 Q And what footage was TMZ trying to</p> <p>19 capture at the LA courthouse on May 27th, 2016?</p> <p>20 A We were trying to capture Amber leaving</p> <p>21 the courthouse and an alleged bruise on the right</p> <p>22 side of her face.</p>	<p>1 shot of Amber Heard?</p> <p>2 A We did.</p> <p>3 Q What is the difference between</p> <p>4 receiving a tip from a news producer and any other</p> <p>5 source?</p> <p>6 A If it's any other source, it would have</p> <p>7 to be verified by copyright. If it was anything</p> <p>8 that was received directly through a news</p> <p>9 producer, then they go through that process to</p> <p>10 verify the source.</p> <p>11 Q Did you do anything to verify the tip</p> <p>12 on May 27th, 2016, related to Amber Heard?</p> <p>13 A I did not.</p> <p>14 Q Why not?</p> <p>15 A Because it had come directly from a</p> <p>16 news producer.</p> <p>17 Q Does that mean it had been verified?</p> <p>18 A It means that they had verified that</p> <p>19 tip and deemed that it was credible, and,</p> <p>20 therefore, a camera person needed to be</p> <p>21 dispatched.</p> <p>22 Q After May 27th, 2016, were you involved</p>

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73 (7338 to
7341)

<p>7338</p> <p>1 in any other assignments related to Amber Heard?</p> <p>2 A Yes.</p> <p>3 Q Can you tell me about those</p> <p>4 assignments?</p> <p>5 A The next one would have been</p> <p>6 August 6th, 2016, where she was giving a</p> <p>7 deposition.</p> <p>8 Q So what did you do in relation to that</p> <p>9 tip?</p> <p>10 A I dispatched camera people to a parking</p> <p>11 lot adjacent to a law office in which she would be</p> <p>12 arriving to so we could get the footage of her</p> <p>13 arriving for the deposition.</p> <p>14 Q Do you typically send paparazzis to</p> <p>15 parking lots of law offices?</p> <p>16 A No, not at all.</p> <p>17 Q Did you get the shot of Ms. Heard on</p> <p>18 August 6th, 2016?</p> <p>19 A We did.</p> <p>20 Q After August 6th, 2016, were you</p> <p>21 involved in any other stories involving Ms. Heard?</p> <p>22 A Yes, I was.</p>	<p>7340</p> <p>1 Let's see where it goes.</p> <p>2 Q Please continue.</p> <p>3 A So I received that email, and it</p> <p>4 included a link from some unknown Dropbox-type</p> <p>5 public website in which it can be --</p> <p>6 MS. BREDEHOFT: Objection, Your Honor.</p> <p>7 Hearsay. He's about to describe what comes from</p> <p>8 the Dropbox website, and that's...</p> <p>9 THE COURT: So far he's just said it</p> <p>10 was a link from the Dropbox. We'll see with the</p> <p>11 next question.</p> <p>12 Go ahead with your next question.</p> <p>13 Q So you received a link. Was in that</p> <p>14 link?</p> <p>15 A A video of Johnny Depp smashing the</p> <p>16 cabinets.</p> <p>17 Q And you received this video in your</p> <p>18 inbox, correct?</p> <p>19 A I did.</p> <p>20 Q What did you do once you received that</p> <p>21 video?</p> <p>22 A We downloaded it. We alerted the web</p>
<p>7339</p> <p>1 Q And what story was that?</p> <p>2 A On the 12th, we received a video</p> <p>3 depicting Johnny Depp slamming some cabinets that</p> <p>4 was captured by Ms. Heard.</p> <p>5 Q And what day was that?</p> <p>6 A I believe that was the -- August 12th.</p> <p>7 Q Of 2016?</p> <p>8 A Of 2016, yes.</p> <p>9 Q Can you describe to the jury how you</p> <p>10 received the video on August 12th, 2016?</p> <p>11 A Yes. The video was sent in through our</p> <p>12 email tip line, which is an email distribution</p> <p>13 that goes to all the producers and to myself as</p> <p>14 the field assignment manager because it often</p> <p>15 included celebrity locations. It came in as, as I</p> <p>16 recall, a --</p> <p>17 MS. BREDEHOFT: Objection. Hearsay.</p> <p>18 MS. VASQUEZ: He's just describing how</p> <p>19 it came in.</p> <p>20 MS. BREDEHOFT: I think he's about to</p> <p>21 reveal hearsay, Your Honor.</p> <p>22 THE COURT: I'll overrule for now.</p>	<p>7341</p> <p>1 editor, who was sitting next to me at the time.</p> <p>2 We downloaded and then were instructed by the news</p> <p>3 producer to do what we call "slap bumpers and a</p> <p>4 bug on it," which is putting a "dun-dun-dun" at</p> <p>5 the beginning and end and then putting a</p> <p>6 translucent watermark over it which indicates</p> <p>7 copyright ownership.</p> <p>8 Q After you did that, was it posted?</p> <p>9 A It was posted, yes.</p> <p>10 Q Where was it posted?</p> <p>11 A It was posted to tmz.com.</p> <p>12 Q Did you do anything else related to</p> <p>13 Amber Heard on August 12th, 2016?</p> <p>14 A Yes. I received a tip that Amber Heard</p> <p>15 would be arriving at LAX, and so I dispatched</p> <p>16 camera people to film that exit -- or her arrival</p> <p>17 to LAX, rather.</p> <p>18 Q Why did you do that?</p> <p>19 A I was instructed to.</p> <p>20 Q How long does it take to post a story</p> <p>21 after media's been received by TMZ?</p> <p>22 A After media's been received, it could</p>

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<p style="text-align: right;">7342</p> <p>1 take any length of time, depending on who owns the 2 copyright. 3 Q How does TMZ obtain copyright over 4 images and videos? 5 A The only way to obtain copyright over 6 video would be if we shot it ourselves. If it was 7 sent to the tip line, source verified, it was the 8 original copyright owner and then either purchase 9 from that person or given to us. And then the 10 third option would be if it was directly given to 11 us by the copyright holder like a direct source. 12 Q And how long does it take to copyright 13 something TMZ has received through the tip line? 14 A It can take a while because you have to 15 extensively verify that that person owns the 16 copyright, and then possibly it depends also if 17 they -- you can even get in contact with the 18 person because they might not be super responsive 19 immediately via phone or email that they provided. 20 And then potentially, you'd have to enter 21 negotiation with our clips and clearances 22 department to figure out the cost of that media.</p>	<p style="text-align: right;">7344</p> <p>1 A It means that TMZ owns the copyright to 2 it, so it can't be distributed by any other media 3 source without back-linking to TMZ, and they 4 wouldn't be able to upload that media without 5 getting a copyright strike. 6 Q Have you seen the kitchen cabinet video 7 that was played in this trial? 8 A I have. 9 Q How does that video that was played in 10 this trial compare to the one you received on 11 August 12, 2016? 12 A When I had clicked the direct link that 13 we received and watched the video in its entirety, 14 it was much shorter than the video we had 15 received -- than the video that's been played in 16 this trial. There was a bit at the beginning that 17 was played here in which Ms. Heard is seemingly 18 sort of setting up the camera and getting it in a 19 position, and then there's a bit at the end where 20 she's seemingly snickering and looks at the 21 camera. That part was not present in what we 22 received.</p>
<p style="text-align: right;">7343</p> <p>1 Q How long does it take for TMZ to obtain 2 a copyright of something received directly from a 3 source? 4 A Something in the realm of 15 minutes, 5 just to do what I described before, which is 6 putting bumpers and a bug on something, and write 7 the article and post it. It's pretty fast. 8 Q How much time had passed from the time 9 you received the kitchen cabinet video to the time 10 it was posted on TMZ? 11 A About 15 minutes. 12 Q Did any other tabloids other than TMZ 13 post this video? 14 MS. BREDEHOFT: Objection. Leading and 15 calls for hearsay. 16 MS. VASQUEZ: "Did any other." 17 THE COURT: Overruled. 18 Q Mr. Tremaine, go ahead. 19 A No, they did not. 20 Q And why not? 21 A Because it was a TMZ exclusive. 22 Q And what does that mean?</p>	<p style="text-align: right;">7345</p> <p>1 Q Did TMZ edit the video? 2 A No. Not even a little. When we 3 receive something and it's edited, there's a clear 4 indicator because there's a sort of journalistic 5 practice that uses -- when there's an edit, you do 6 what's called, like, a white flash transition, 7 which covers the entire screen with white to very 8 clearly indicate to everybody, "There was an edit 9 here for -- time -- or whatever," just to make it 10 a little more compelling. But in this case it was 11 not edited, as I was staring at the machine that 12 edited it and present for the entirety of receipt 13 to publishing. 14 Q When was the next time you worked on an 15 assignment related to Amber Heard? 16 A It was -- well, there was the time 17 where we went to the airport, and then the day 18 after that, because she had flown in for the 19 deposition because I think the first time it 20 didn't work out. So she was arriving again for a 21 deposition in that same parking lot adjacent to a 22 law office.</p>

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75 (7346 to
7349)

<p>7346</p> <p>1 Q And was that August 13th, 2016?</p> <p>2 A That was August 13th, yeah.</p> <p>3 Q And what was your assignment on</p> <p>4 August 13th, 2016?</p> <p>5 A To dispatch camera people to that</p> <p>6 parking lot at a specific time in order to film</p> <p>7 Amber Heard arriving for the deposition.</p> <p>8 Q How did you know that tip was</p> <p>9 legitimate?</p> <p>10 A It came from a news producer.</p> <p>11 Q While you worked at TMZ, did you ever</p> <p>12 receive any communications from Mr. Depp or his</p> <p>13 camp?</p> <p>14 A I did not.</p> <p>15 MS. VASQUEZ: Nothing further, Your</p> <p>16 Honor.</p> <p>17 THE COURT: Cross-examination?</p> <p>18 MS. BREDEHOFT: Yes.</p> <p>19 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND</p> <p>20 COUNTERCLAIM PLAINTIFF</p> <p>21 BY MS. BREDEHOFT:</p> <p>22 Q So how did you know what video was</p>	<p>7348</p> <p>1 Q Now, if you don't have information</p> <p>2 that's helpful to this case, then you wouldn't be</p> <p>3 a witness, correct?</p> <p>4 MS. VASQUEZ: Objection. Calls for</p> <p>5 speculation.</p> <p>6 A I can't.</p> <p>7 THE COURT: Sustained. Sustained.</p> <p>8 Next question.</p> <p>9 A I'm not lawyer.</p> <p>10 Q You do know this case is being</p> <p>11 televised, right?</p> <p>12 A I am aware that there are cameras.</p> <p>13 Q And so this gets you your 15 minutes of</p> <p>14 fame, doesn't it?</p> <p>15 MS. VASQUEZ: Objection, Your Honor.</p> <p>16 Argumentative.</p> <p>17 MS. BREDEHOFT: I can ask that</p> <p>18 question.</p> <p>19 THE COURT: Overruled.</p> <p>20 A So I stand to gain nothing from this.</p> <p>21 I'm actually putting myself kind of in the target</p> <p>22 of TMZ, a very litigious organization, and I'm not</p>
<p>7347</p> <p>1 shown at this trial?</p> <p>2 A I was alerted by a friend that TMZ was</p> <p>3 being kind of talked about in this trial, and so I</p> <p>4 had seen a clip of that.</p> <p>5 Q So you watched some of this trial?</p> <p>6 A Correct.</p> <p>7 Q Okay. When did you first reach out to</p> <p>8 counsel for Mr. Depp?</p> <p>9 A I believe that was six days ago,</p> <p>10 whatever that date would be. I would have to do</p> <p>11 the --</p> <p>12 Q All right. And then you received a</p> <p>13 subpoena, I think yesterday, in care of your</p> <p>14 attorney, Cindy Hickox, right?</p> <p>15 A Yes.</p> <p>16 Q Okay. And Cindy Hickox represents</p> <p>17 Christi Dembrowski, Kate James, Robin Baum --</p> <p>18 MS. VASQUEZ: Objection, Your Honor.</p> <p>19 Calls for speculation.</p> <p>20 THE COURT: Overruled.</p> <p>21 Q Were you aware of that?</p> <p>22 A No.</p>	<p>7349</p> <p>1 seeking any 15 minutes here. But you're welcome</p> <p>2 to speculate. I could say the same thing by</p> <p>3 taking Amber Heard as a client for you.</p> <p>4 Q A little argumentative, don't you</p> <p>5 think?</p> <p>6 A Hardly. I find that to be purely</p> <p>7 logical. Thank you.</p> <p>8 Q Now, are you aware that Mr. Depp's</p> <p>9 attorneys were well aware of the TRO that was</p> <p>10 going to be presented on May 27th?</p> <p>11 MS. VASQUEZ: Objection. Calls for</p> <p>12 speculation.</p> <p>13 Q Were you aware of that?</p> <p>14 MS. VASQUEZ: Lack of foundation.</p> <p>15 THE COURT: Overruled. If you can,</p> <p>16 answer it.</p> <p>17 A Can you restate the question? I'm</p> <p>18 sorry.</p> <p>19 Q Were you aware that Mr. Depp's divorce</p> <p>20 attorneys were aware that Amber was going in to</p> <p>21 seek a TRO on May 27th?</p> <p>22 A I don't think I understand the</p>

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76 (7350 to
7353)

<p>7350</p> <p>1 question, but I don't think so, no.</p> <p>2 Q Okay. Do you know --</p> <p>3 A It's kind of a complicated question.</p> <p>4 Q Do you know whether Blair Berk, one of</p> <p>5 Mr. Depp's divorce attorneys, has a very close --</p> <p>6 had a very close relationship with TMZ at that</p> <p>7 time?</p> <p>8 MS. VASQUEZ: Objection. Calls for</p> <p>9 speculation.</p> <p>10 THE COURT: Overruled. If he knows.</p> <p>11 A I was not aware of that.</p> <p>12 Q Okay. And when you said that you were</p> <p>13 dispatched twice, once to film Amber for -- in a</p> <p>14 parking lot for the deposition and then it didn't</p> <p>15 work out, and so you had to do it another time,</p> <p>16 how did you know it didn't work out?</p> <p>17 A Because tmz.com posted an article</p> <p>18 saying as much.</p> <p>19 Q Okay.</p> <p>20 A Now, I was not dispatched. I worked in</p> <p>21 the office.</p> <p>22 Q Do you know why the deposition did not</p>	<p>7352</p> <p>1 BY MS. VASQUEZ:</p> <p>2 Q Mr. Tremaine why did you contact me in</p> <p>3 relation to this case?</p> <p>4 A I saw that there was a discrepancy</p> <p>5 with, like, the video that was shown here and the</p> <p>6 video that I know I had received. So I had no</p> <p>7 interest in testifying. It was I had reached out</p> <p>8 simply to maybe try to help with the timeline of</p> <p>9 things or help with the case in any way just by</p> <p>10 virtue of understanding the timeline of the</p> <p>11 stories that were published and kind of how that</p> <p>12 can be unclear. But I had no idea I'd be on the</p> <p>13 stand.</p> <p>14 MS. VASQUEZ: Okay. Nothing further.</p> <p>15 Thank you.</p> <p>16 THE COURT: All right. Sir, you're</p> <p>17 free to go. Thank you.</p> <p>18 THE WITNESS: Thank you.</p> <p>19 THE COURT: All right. Do you have</p> <p>20 another witness? Okay. Yes.</p> <p>21 MS. LECAROS: Mr. Depp calls Bryan</p> <p>22 Neumeister, Your Honor.</p>
<p>7351</p> <p>1 work out?</p> <p>2 A I'd have to reference the article. I</p> <p>3 forget.</p> <p>4 Q So do you know --</p> <p>5 A I didn't write that story. I wasn't</p> <p>6 involved in the actual development of that.</p> <p>7 Q Do you know which side, do you know</p> <p>8 which side would have known or not known whether</p> <p>9 that deposition was going to work out? In other</p> <p>10 words, the people representing Mr. Depp or the</p> <p>11 people representing Ms. Heard?</p> <p>12 A I wouldn't know.</p> <p>13 Q Okay. And then the video clip, you</p> <p>14 don't know who provided that, correct?</p> <p>15 A Correct.</p> <p>16 Q Okay.</p> <p>17 A Not testifying to that.</p> <p>18 MS. BREDEHOFT: I have no further</p> <p>19 questions.</p> <p>20 THE COURT: All right. Redirect.</p> <p>21 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND</p> <p>22 COUNTERCLAIM DEFENDANT</p>	<p>7353</p> <p>1 THE COURT: Okay. Bryan Neumeister.</p> <p>2 Mr. Neumeister.</p> <p>3 BRYAN NEUMEISTER,</p> <p>4 a witness called on behalf of the</p> <p>5 plaintiff and counterclaim defendant, having been</p> <p>6 first duly sworn by the clerk, testified as</p> <p>7 follows:</p> <p>8 THE COURT: All right. Yes, ma'am</p> <p>9 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND</p> <p>10 COUNTERCLAIM DEFENDANT</p> <p>11 BY MS. LECAROS:</p> <p>12 Q Good afternoon, Mr. Neumeister.</p> <p>13 A Good afternoon.</p> <p>14 Q Could you please state your full name</p> <p>15 for the record.</p> <p>16 A It's Norbert, N-O-R-B-E-R-T, Bryan -- I</p> <p>17 go by Bryan -- B-R-Y-A-N, Neumeister,</p> <p>18 N-E-U-M-E-I-S-T-E-R.</p> <p>19 Q Could you start by describing your</p> <p>20 educational background, please?</p> <p>21 A My educational background, well, I</p> <p>22 graduated from Cal State University Northridge 42</p>

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<p style="text-align: right;">7354</p> <p>1 years ago with a degree in political science. 2 From then on, I've been working professionally in 3 photography, totally unrelated, for the past 42 4 years, and that would also include videography, 5 audio, and a few other different binary-related 6 tasks. 7 Q Where do you currently work? 8 A I own USA Forensic. 9 Q What is USA Forensic? 10 A USA Forensic is a digital forensics 11 company. We are boutique. We're very small. We 12 work -- we have offices in Grosse Pointe Farms, 13 Michigan, and in Phoenix, Arizona. We work with 14 varying types of clients because to us data is 15 data, and it takes no side. So we can be ending 16 up working for prosecution, defense, law 17 enforcement, the Innocence Project. We have a 18 contract with the Department of Defense. We do 19 classified and unclassified work. We've done 20 classified work with various agencies. We've 21 worked with DOJ, and I've worked in 23 countries 22 as a photographer.</p>	<p style="text-align: right;">7356</p> <p>1 THE COURT: All right. Do you have an 2 objection to him being moved in as an expert in 3 the field? 4 MR. MURPHY: Well, she hasn't moved 5 yet. I'm objecting to the relevance of the 6 testimony on the subject matter right now. 7 THE COURT: I'll overrule the 8 objection. 9 MS. LECAROS: Thank you, Your Honor. 10 Q Go ahead, Mr. Neumeister. You can 11 continue. 12 A We do a lot with Axon police cameras 13 because they don't really handle low lux levels or 14 low light levels very well, so we clean up -- 15 we're beta testers for a program called INPUT-ACE, 16 which is part of the Axon company used by police 17 officers. We clarify their cameras to better see 18 what happened at night, for example, in different 19 scenes. We do the same with surveillance cameras, 20 any kind of camera, cell phone cameras. Also do 21 software forensics, computer forensics, and cell 22 tower forensics along with photographic forensics.</p>
<p style="text-align: right;">7355</p> <p>1 Q What's your title at USA Forensic? 2 A CEO. 3 Q Did you also found USA Forensic? 4 A Originally around 1990, it was called 5 Skymeister. And that's because of my -- the 6 amount of helicopter photography time I have. 7 About twenty -- about ten years ago, we changed it 8 to USA Forensic while still doing a lot of the 9 same tasks. 10 Q And you described, I think, some of the 11 entities that you work with. What kind of work do 12 you do for those entities that you mentioned? 13 A We do audio forensics, which is 14 clarifying audio, for example sting operations or 15 audio that may have been picked up on surveillance 16 or any other type of recording, removing 17 background sounds, video clarification. We do a 18 lot of work with Axon police cameras. 19 MR. MURPHY: I'm going to object to 20 relevance. Based on the discussion we had 21 earlier, this experience has absolutely nothing to 22 do with anything.</p>	<p style="text-align: right;">7357</p> <p>1 Q What types of cases do you work on? 2 A It can be anything from Fortune 500s to 3 it can be anything from a pro per, which is a 4 person that's actually just representing 5 themselves, in a smaller case to a lot of homicide 6 cases, defamation. It can be any kind of case 7 that requires cell phone extractions or computer 8 extractions. Could be money laundering, could be 9 Department of Defense identifying a voice, that 10 type of thing. Satellite imagery, basically 11 anything with binary information. 12 Q Have you been retained as an expert 13 before? 14 A Oh, yes. I would say we average about 15 150 to 200 cases a year. In the last four years, 16 we've done over 600 cases, and that would be in 17 U.S. federal courts, U.S. district courts, various 18 state courts throughout the United States. We 19 just wrapped up a case that was an overseas case, 20 wrapped up yesterday. We do U.S. military court. 21 We have a case coming up in front of the U.S. 22 Supreme Court. So it's really very -- I've done</p>

<p>7358</p> <p>1 quite a few U.S. District Court cases.</p> <p>2 Q Have you testified as an expert in</p> <p>3 digital forensics before?</p> <p>4 A Yes. What people sometimes don't</p> <p>5 understand is that only about 2 percent of all</p> <p>6 cases go to trial. So 98 percent of the time,</p> <p>7 you're actually just doing the forensic work and</p> <p>8 giving it to the parties. And as we say, data is</p> <p>9 data; it really doesn't take a side. We don't</p> <p>10 have a narrative. So very often, it's just</p> <p>11 providing the data for the attorneys to work with</p> <p>12 or the parties.</p> <p>13 Q Have you ever been excluded from</p> <p>14 testifying as an expert regarding any work that</p> <p>15 you performed?</p> <p>16 A No. But you have to take into account</p> <p>17 that sometimes there might be curbs put on what --</p> <p>18 for example, in this trial, there's certain</p> <p>19 boundaries, or if you're working with a pro per or</p> <p>20 with an attorney that is not very familiar with</p> <p>21 electronics. And the thing is, again, they teach</p> <p>22 Latin in law school, not binary, and binary is the</p>	<p>7360</p> <p>1 Niall Latham, really excellent photographers. And</p> <p>2 I started shooting videotape from helicopters, and</p> <p>3 I logged on 140,700 hours of video. And at that</p> <p>4 time oddly enough, since we were the only</p> <p>5 helicopter, television helicopter, we were the</p> <p>6 only helicopter in Phoenix at the time. The</p> <p>7 sheriff's department did not have a helicopter.</p> <p>8 The police department did not have a helicopter,</p> <p>9 nor did Air Evac. So we ended up doubling up,</p> <p>10 being a news crew as well as an air rescue crew.</p> <p>11 So as far as forensics, analog probably</p> <p>12 from 1980 to 1990, and digital from 1990 through</p> <p>13 current.</p> <p>14 Q How did you get started in it?</p> <p>15 A Really by osmosis. I started in the</p> <p>16 production field. I usually don't do that much TV</p> <p>17 work anymore. I did do -- I did shoot part of an</p> <p>18 episode, a program called Planet Earth for the BBC</p> <p>19 last year. I don't normally do television</p> <p>20 anymore; it's just 99 percent forensics. But I</p> <p>21 got started because very often, as -- working in</p> <p>22 the helicopter, we'd be asked to work for a police</p>
<p>7359</p> <p>1 universal language these days. So sometimes in</p> <p>2 the legal system, it's hard to explain to</p> <p>3 attorneys what exactly we're doing, so we try to</p> <p>4 break it down and make that work.</p> <p>5 Q What is digital forensics?</p> <p>6 A Digital forensics is anything that you</p> <p>7 are using, like your television set, your cell</p> <p>8 phone, your computer, anything that runs off of</p> <p>9 binary information that has coding in it.</p> <p>10 Q How long have you worked in digital</p> <p>11 forensics?</p> <p>12 A Well, I actually started off in the</p> <p>13 analog, so it's been 40-some-odd years. I started</p> <p>14 off as cameraman. My first cameras were film</p> <p>15 cameras. When I was a kid, my dad was a director</p> <p>16 of sales and sales service administration for the</p> <p>17 NBC television network on the West Coast, so I</p> <p>18 grew up around television cameras. My first</p> <p>19 cameras were cameras people might not have heard</p> <p>20 of: Leica, Hasselblad, cameras like that.</p> <p>21 I trained with some of the best</p> <p>22 photographers around at the time: William Wegman,</p>	<p>7361</p> <p>1 department or a rescue or a chase or whatever the</p> <p>2 situation might be. And since I'd be videotaping</p> <p>3 it, they would ask me to break it down frame by</p> <p>4 frame, and analyze it using what's called a time</p> <p>5 base corrector in the day. And so word got out</p> <p>6 that I could do unusual things because I'm pretty</p> <p>7 good with machines, and it just ended up. More</p> <p>8 and more people started calling, and it just</p> <p>9 became a full-time job.</p> <p>10 Q Have you received any professional</p> <p>11 certifications in forensics?</p> <p>12 A Yes. But, again, most hackers and</p> <p>13 people who do interesting work don't have any</p> <p>14 certifications because a certification is usually</p> <p>15 like a week-long course. I've been doing this</p> <p>16 stuff 42 years. My partner, Matt Erickson, he's</p> <p>17 actually --</p> <p>18 MR. MURPHY: Objection, Your Honor, to</p> <p>19 the partner is not testifying to his</p> <p>20 qualifications on relevance.</p> <p>21 THE COURT: All right. I'll sustain</p> <p>22 the objection.</p>

Transcript of Jury Trial - Day 23
Conducted on May 25, 2022

79 (7362 to
7365)

<p>1 Q Mr. Neumeister, can you just describe 2 which professional certifications you have 3 received? 4 A For cell phones, Oxygen, which is a 5 program similar to Cellebrite. These are programs 6 that are used by law enforcement and by private 7 parties to extract data from cell phones that has 8 deleted or -- which is critical in a lot of cases, 9 deleted data -- or just to what we call "image a 10 cell phone." In other words, get every bit of 11 data that's possible on a cell phone, and, again, 12 every cell phone is different. 13 The next would be in cell tower 14 forensics. 15 Q Are you a member of any professional 16 associations in your field? 17 A Yes. IEEE, which is the International 18 Engineering society, and the reason I belong to 19 that is about 40 percent of the world's white 20 paper on electronics are published through IEEE. 21 So they have a huge database on anything from 22 microwave technology to telephone transmission</p>	<p>7362 1 news. 2 Q Have you published any works in the 3 field of digital forensics? 4 A Yes. And they're mostly articles, 5 about a half dozen or so. We don't have much 6 time, and I don't usually do it. But it was 7 basically on -- most of my work deals around 8 clarifying or authenticating. So it was basically 9 the things I published were on clarification of 10 digital files. 11 Q Have you appeared on TV as an expert in 12 digital forensics? 13 A Yes. 14 Q Where? 15 A CBS, NBC, ABC, BBC, Discovery Channel, 16 number of different things. 17 Q Any particular examples of things that 18 you've spoken on TV about? 19 A Boston bombings, how the frame 20 averaging was done on that, sort of things like 21 that. Again, we get calls a lot, but I don't 22 speak specifically about cases. I just speak</p>
<p>7363 1 technology. Anything that I might work with, they 2 might have a white paper on it. 3 Also, with the Auto Engineering 4 Society, AES, I'm a member of that. I lecture to 5 AES. There's a few others, but, again, they're 6 just mainly to have a repository of information. 7 Q Have you received any honors or awards? 8 A Yes. I've received about 80 honors and 9 awards. I have -- for videography, I've got a 10 total of 12 Emmy award statutes, but I've been the 11 principal in 39 Emmy awards, which means I've 12 written music for the program and the program has 13 won the Emmy award for music, but it was given to 14 the production company, which happens a lot. I 15 won for best editing. I won for best ACE editing, 16 which is computer editing, best sound. I've 17 won -- I've done the music to a piece that won in 18 the Gold Lion at the Cannes Film Festival. I've 19 done the music to a piece that ran -- that won the 20 gold at the Calgary Film Festival. I've got a 21 whole lot of awards from Associated Press and 22 different companies from doing documentaries and</p>	<p>7365 1 about technology. 2 Q Have you given any public lectures in 3 the field of digital forensics? 4 A Yes. We get asked quite often, but due 5 to our schedule, it's a little rough. We do 6 what's called Inns of Court. We do -- we speak in 7 front of private investigator groups. We do 8 attorneys continuing legal education. 9 Just Audio Engineering Society, just we 10 try to hit a few a year, and that's about what our 11 schedules will allow, given our time. 12 MS. LECAROS: Your Honor, at this 13 point, I'd like to tender Mr. Neumeister as an 14 expert in the field of digital forensics. 15 THE COURT: Any objection? 16 MR. MURPHY: No objection, Your Honor. 17 THE COURT: All right. So moved. 18 Q Mr. Neumeister, turning to the work 19 you've done in this case, what have you done? 20 A I was asked to analyze the 21 photographs -- or photographs of purported 22 injuries to Ms. Heard.</p>

Transcript of Jury Trial - Day 23
Conducted on May 25, 2022

80 (7366 to
7369)

<p>7366</p> <p>1 Q And what was the purpose of that 2 analysis? 3 A To authenticate photos or to review and 4 see if they were altered in any way. 5 Q What did you analyze to reach your 6 opinions? 7 A Well, I analyzed groups of photos that 8 were submitted by Ms. Heard's legal team. 9 Q What work did you do to analyze those 10 photographs? 11 A Well, normally we start off by looking 12 at the -- what's called "EXIF data." The EXIF 13 data is the binary data that's encoded into a 14 photograph. It tells you, for example, if the 15 flash fired, if -- what the operating software 16 version was of the cell phone or camera that shot 17 a photo, what type of lens was used, what the 18 F-stop was. There's literally about a thousand 19 lines of code in the EXIF data on a JPEG photo. 20 So we would start with an EXIF editor or an EXIF 21 viewer. 22 Q Anything else that you looked at?</p>	<p>7368</p> <p>1 (Sidebar.) 2 THE COURT: Yes, sir. 3 MR. MURPHY: So this is what was part 4 of the brief, Your Honor. He's talking about 5 these technical elements: Chroma, chromatic 6 values, pixels, and none of these things appear in 7 expert disclosure. And my understanding is that's 8 also beyond of Your Honor's ruling this morning 9 about EXIF metadata. 10 THE COURT: Okay. 11 MS. LECAROS: So he is -- he is talking 12 the things that he looked at, and it's the process 13 of his analysis. 14 THE COURT: I can -- 15 MS. LECAROS: Right. But there is -- 16 I'm sorry while I find his designation. So you 17 can see here, Your Honor, in his designation, goes 18 through -- these are the vector scopes and the 19 chroma stuff that he's talking about right now. 20 And this is where it's disclosed in his report, 21 that this was something that he looked at when he 22 was analyzing these photos.</p>
<p>7367</p> <p>1 A Yes. When we're dealing with RGB 2 cameras, which are red-, green-, and blue-channel 3 cameras, which would be a cell phone or a basic 4 home camera; they're based on RBG channels. We 5 did four types of scopes. We would do a vector 6 scope. We do a luminance scope. We do a wave 7 form scope and then what's called an RBG parade. 8 And those scopes analyze different things. 9 The vector scope analyzes where the 10 different types of colors are headed in. For 11 example, it's broken up into reds, magenta, 12 different areas on a -- on a scope. We would take 13 a look at that to see if there's anything out of 14 the normal for the type of camera being used. In 15 other words, would there be above a certain 16 percentage of chroma? And chroma means color 17 saturation. 18 MR. MURPHY: Objection, Your Honor. 19 Outside the scope. If we can approach, we would 20 like to. 21 THE COURT: All right. Do you want to 22 approach?</p>	<p>7369</p> <p>1 MR. MURPHY: Your Honor, there are 2 little color schemes there. He has never 3 explained what those are about, what they mean. 4 He doesn't talk about any of that in his 5 disclosure. They literally have a picture, and 6 he's not testifying about what it means for the 7 first time. That's the basis of my objection. 8 That's outside the scope of the disclosure and 9 outside the scope of Your Honor's ruling. 10 MS. LECAROS: This was provided prior 11 to his deposition. They had an opportunity to ask 12 if they weren't sure what these things were or 13 what they meant. 14 THE COURT: Is it in is disclosure? I 15 guess is the question. 16 MS. LECAROS: This is the disclosure. 17 THE COURT: This is the disclosure. 18 You're saying that the pictures are there but 19 didn't explain it? 20 MR. MURPHY: The testimony about what 21 it means is not stated in this disclosure. And as 22 the case law in the brief said, Your Honor, she's</p>

Transcript of Jury Trial - Day 23
Conducted on May 25, 2022

81 (7370 to
7373)

<p>7370</p> <p>1 saying "had the opportunity in deposition," and 2 the case law from the brief is crystal clear. 3 That is not an adequate response. It has to be in 4 the disclosure. 5 THE COURT: I'm going to sustain the 6 objection. 7 MS. LECARAZ: Okay. Thank you, Your 8 Honor. 9 (Open court.) 10 BY MS. LECARAZ: 11 Q Mr. Neumeister, based on the analysis 12 you performed in this case, have you formed any 13 opinions? 14 A Pardon? 15 Q Based on the analysis that you've done 16 in this case, have you formed any opinions? 17 A Yes. 18 Q What are they? 19 A Well, three basic ones. One, as quite 20 a number of the photos have been through a 21 photo -- at least one, possibly, checksum -- 22 MR. MURPHY: Objection, Your Honor.</p>	<p>7372</p> <p>1 MS. LECARAZ: Okay. 2 Q Mr. Neumeister, have you prepared a 3 demonstrative that aids in your testimony with 4 respect to any of the photos that you looked at in 5 this case? 6 A Yes. 7 MS. LECARAZ: I'd like to pull up 8 Plaintiff's Exhibit 1303. Your Honor, if I might 9 approach. 10 THE COURT: All right. 11 MR. MURPHY: Your Honor, I would again 12 object. We can approach to discuss it. 13 THE COURT: Okay. You want to 14 approach? 15 (Sidebar.) 16 THE COURT: Yes, sir. 17 MR. MURPHY: These photos are in the 18 disclosure. They are not in evidence. There's no 19 foundation for him to testify about them. 20 THE COURT: Is this part of the 21 evidence? 22 MS. LECARAZ: So this is the issue,</p>
<p>7371</p> <p>1 Foundation. Which photos is he referring to? We 2 have to go through this one by one. 3 THE COURT: All right. The ones in 4 evidence. 5 Q Mr. Neumeister, in terms of the photos 6 that you looked at and that you formed opinions 7 about, do you understand if they've been submitted 8 as evidence in this case? 9 A Yes. 10 Q Okay. What conclusions have you formed 11 about those? 12 MR. MURPHY: Same objection, Your 13 Honor. That doesn't cure the issue of the 14 objection. We have to go through this. Which 15 photos is she talking about? Which ones in 16 evidence? What exhibit numbers? That's the basis 17 of the objection. 18 MS. LECARAZ: We're talking generally 19 about opinions right now, Your Honor, and then 20 we're going to get into some specifics. 21 THE COURT: I think we have to go 22 straight to specifics first of all.</p>	<p>7373</p> <p>1 Your Honor, that we discussed earlier. 2 THE COURT: Right. 3 MS. LECARAZ: The photo that's in 4 evidence is a picture of a photo. 5 THE COURT: Right. 6 MS. LECARAZ: But you -- 7 THE COURT: Let's start with that 8 photo, so we'll have it and it's in evidence. And 9 then you can -- then we're going to go from here. 10 MR. MURPHY: I'm saying, Your Honor, 11 AHA1, 1824, AHA520, none of these are in evidence; 12 therefore, he cannot testify. 13 THE COURT: I understand. It's part of 14 his expert testimony. He's going to testify to 15 it. As long as he directs it to something that is 16 in evidence, I'm going to allow him to testify to 17 this. 18 MR. MURPHY: In my -- right. But he 19 cannot testify to this because it's not in 20 evidence is my other argument. 21 THE COURT: I understand what your 22 argument is, but I'm allowing him to testify to</p>

<p style="text-align: right;">7374</p> <p>1 this after we have connected it with something 2 that's in evidence, okay? Thank you. 3 (Open court.) 4 MS. LECAROS: Tom, can we pull up 5 Exhibit 170A, which has been admitted into 6 evidence. 7 BY MS. LECAROS: 8 Q Mr. Neumeister, is this -- does this 9 photo appear to be one that you have analyzed as 10 part of your analysis in this case? 11 A There were many versions of this photo. 12 I would say there were dozens of different 13 versions with different chromatic values, 14 different file sizes, different physical sizes. 15 Some had been through Photos 1 or Photos 3, which 16 are photo editing software programs. 17 MS. LECAROS: Your Honor, at this time, 18 I would like to show Mr. Neumeister's 19 demonstrative, Plaintiff's Exhibit 1303. 20 THE COURT: All right. Any other 21 objection? 22 MR. MURPHY: I would object again, Your</p>	<p style="text-align: right;">7376</p> <p>1 forensically, they don't match. 2 But the thing is, you could say, "Well, 3 it was sent through email. Maybe it's a different 4 size." The file sizes, for example, would be, 5 possibly. Yeah, you can select the file size you 6 send a photo, but there's no way to authenticate 7 any photo that was presented in the way the 8 evidence was collected. 9 Q And so what conclusions do you draw 10 from that? 11 A Well, there's -- this is just three of 12 many of the same type of photos that are all 13 different sizes, different chromatic -- which 14 means color -- 15 MR. MURPHY: Objection, Your Honor. We 16 just had a ruling on this. 17 THE COURT: All right. I'll sustain 18 the objection. 19 Q Mr. Neumeister, stick to your opinions 20 that relate specifically to what you analyzed 21 about the EXIF data, please. 22 A All three of these photos had to go</p>
<p style="text-align: right;">7375</p> <p>1 Honor, because the photograph in 170A is not in 2 evidence. 3 THE COURT: All right. 4 MR. MURPHY: But I mean the photograph 5 is in evidence. The -- none of the photographs he 6 wishes to show the jury are in evidence. 7 THE COURT: 1303 is in evidence over 8 objection -- not in evidence, I'm sorry -- as a 9 demonstrative. 10 MS. LECAROS: Just as a demonstrative. 11 THE COURT: I'm sorry. 12 MS. LECAROS: Could we publish to the 13 jury, please. 14 Q And, Mr. Neumeister, what does this 15 show about the photos that you analyzed? 16 A Well, they appear to be similar; 17 however, if you look below at the file sizes, one 18 on the left is 712 kilobytes. The one in the 19 middle is 489 kilobytes, and the one on the right 20 is 524 kilobytes. Now, what's unusual about that 21 is these photos will not digitally fingerprint 22 with each other; they won't hash. In other words,</p>	<p style="text-align: right;">7377</p> <p>1 through some type of transformation to change 2 sizes. 3 MS. LECAROS: We can take that one 4 down. 5 Q You mentioned Photos 1.5 and Photos 3.0 6 earlier, I believe. 7 A Photos -- 8 Q What is that? 9 A Photos 3 and Photos 1.5 are editing 10 programs that Macintosh, or Apple, put out with 11 their product. It's for editing photos. In other 12 words, you would put a photo in, and you would 13 change the colors or you would crop it or you 14 would clarify it by, you know, enhancing, for 15 example, the sharpening or you could darken it. 16 But when you save a photo through an editing 17 program, you leave a mark on the EXIF data. 18 Q And what is the EXIF data? 19 A The EXIF data is a data that is 20 embedded in a photograph that tells you a lot 21 about the paragraph. And, again, in the early 22 days when we were using film cameras, you would</p>

<p style="text-align: right;">7378</p> <p>1 write down the F-stop, which is the light setting; 2 you would write the type of lens you use; the time 3 of day; the type of film stock; the type of 4 filters you're using. Now, with digital cameras, 5 that's done electronically. And there's about a 6 thousand lines of code, of which 50 are probably 7 important, that tell you what the camera is doing. 8 Q So what's the significance of EXIF data 9 in your photo analysis? 10 A Well, in this situation, I can see that 11 normally, where the operating system of the camera 12 would be, which means the version that the -- of 13 operating system the phone is running on, you 14 would normally see something like -- I'll throw 15 just out an arbitrary number -- 9.1.3 operating 16 system for iOS, which is Apples iPhone operating 17 system. 18 Instead of saying that, it says, 19 "Software: Photos 3.0" or "Photos 1.0." That 20 means that the photo had to be rendered, which 21 means composited together, in an editing program. 22 Q Did you prepare a demonstrative that</p>	<p style="text-align: right;">7380</p> <p>1 prepared in this case? 2 A Yes, they are. 3 Q What do they show? 4 A On this particular photo, and on all of 5 them, it shows the first few lines of EXIF data, 6 the ones that would be most important for this 7 photograph. So for example of things you would 8 see, the very top line would be the make of the 9 phone; it's an Apple iPhone 6. And then the 10 resolution is 72 pixel per inch, 72 to 1, and 11 instead of where it says "software" on a normal 12 iPhone photo, it would -- instead of saying 13 "Photos 3," it would say the software version, for 14 example 9.3.1. 15 And then you've got the date and the 16 time of the photo below that, and which is really 17 easy to change in an EXIF editor. And below that, 18 you have things like the -- like the flash. 19 You've got the exposure type, how long the 20 exposure was. So what you just highlighted there, 21 again, was the date and time. So that's universal 22 time code minus whatever area you're in in the</p>
<p style="text-align: right;">7379</p> <p>1 shows some of your analysis of some of the EXIF 2 data of the photos in this case? 3 A Yes, I did. 4 Q Okay. 5 MS. LECAROS: Can we pull up 1304, 6 please. 7 Your Honor, may I approach? 8 THE COURT: Okay. 9 MS. LECAROS: Permission to publish as 10 a demonstrative, Your Honor. 11 THE COURT: Any objection? Any 12 objection, Mr. Murphy? 13 MR. MURPHY: I'm sorry, Your Honor. My 14 cocounsel was talking to me. I'm so sorry. 15 THE COURT: Just to publish it as a 16 demonstrative? 17 MR. MURPHY: No objection as a 18 demonstrative. 19 THE COURT: All right. Thank you. 20 We'll publish it as 1304, just as a demonstrative. 21 Q And, Mr. Neumeister, are these images 22 in this demonstrative excerpts from the report you</p>	<p style="text-align: right;">7381</p> <p>1 world. 2 Q Anything else you want to shows us with 3 this demonstrative? 4 A Yeah. Just below that, if you look, 5 there's some things that would say, for example, 6 "a directly photographed image." That is not 7 going to be necessarily accurate once it's been 8 through an editor. All those pretty much say 9 that. So when you're looking at scene type or 10 autoexposure, these are things that really don't 11 matter all that much. What will matter is, for 12 example, if you're taking notes, the focal length 13 would be important, the pattern of metering. 14 Things like that, to a photographer, would be 15 important. 16 And again, this is just a few lines, 17 and the reason I put these in there was just to 18 explain a bit what EXIF data is. The actual thing 19 I'm trying to point out is the fact that instead 20 of an operating system, it shows the editing 21 program that was used on this photo. 22 Q Are there additional photos that you</p>

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84 (7382 to
7385)

<p>7382</p> <p>1 did this analysis for?</p> <p>2 A Yes. Many.</p> <p>3 MS. LECAROS: Can we scroll to the next</p> <p>4 page, please, Tom.</p> <p>5 Q Is there anything about this photo that</p> <p>6 you noted as part of your analysis,</p> <p>7 Mr. Neumeister?</p> <p>8 A Yes. Again, it's, you know, right</p> <p>9 there, you've got Photos 3.0 on that particular</p> <p>10 photo. And I think, you know, we've pretty much</p> <p>11 covered what the stuff is, but again, you see the</p> <p>12 "Photos 3.0." And again this could not come out</p> <p>13 of an iPhone this way. This would go into a</p> <p>14 computer, be edited and rendered through the photo</p> <p>15 editing -- photo editor, and this would then be</p> <p>16 embedded in the EXIF data.</p> <p>17 Q Do you have other photos in this</p> <p>18 demonstrative?</p> <p>19 A Yes.</p> <p>20 Q All right.</p> <p>21 MS. LECAROS: Can we scroll to the next</p> <p>22 page.</p>	<p>7384</p> <p>1 A And, again, same thing. You've got the</p> <p>2 Photos app.</p> <p>3 Q Okay. And I believe there's one final</p> <p>4 photo in this demonstrative. What about this one?</p> <p>5 A Again, if you look up there, it says</p> <p>6 "Photos 3.0" on that particular photo.</p> <p>7 MS. LECAROS: We can take that one</p> <p>8 down.</p> <p>9 Your Honor, I have a little bit left.</p> <p>10 I don't know if you wanted to --</p> <p>11 THE COURT: All right. You want to</p> <p>12 take our afternoon -- let's go ahead and take our</p> <p>13 afternoon recess. Just do not discuss the case,</p> <p>14 and do not do any outside research. Thank you.</p> <p>15 (Whereupon, the jury exited the</p> <p>16 courtroom and the following proceedings took</p> <p>17 place.)</p> <p>18 THE COURT: All right. So let's just</p> <p>19 come back at 4:00, all right?</p> <p>20 MR. CHEW: Thank you, Your Honor.</p> <p>21 MS. LECAROS: Thank you.</p> <p>22 THE BAILIFF: All rise.</p>
<p>7383</p> <p>1 A Same thing. You've got up here and at</p> <p>2 top, you've got the Photos 3.0, and this is</p> <p>3 throughout a lot of the photos that are in</p> <p>4 evidence or versions of the photos in evidence</p> <p>5 were gone through Photos 3.0 or Photos 1.5, an</p> <p>6 earlier version.</p> <p>7 MS. LECAROS: Can we scroll to the next</p> <p>8 page please, Tom.</p> <p>9 Q And what about this one?</p> <p>10 A Same thing. Photos 3.0, and again, in</p> <p>11 the photo editing app, you can do an awful lot of</p> <p>12 things. So when you see Photos 3.0, first of all</p> <p>13 you know it's not anywhere near an original.</p> <p>14 There's going to be compression artifacts because</p> <p>15 it's a JPEG file.</p> <p>16 MR. MURPHY: Objection, Your Honor.</p> <p>17 Beyond the scope of your ruling.</p> <p>18 THE COURT: All right. I'll sustain</p> <p>19 the objection.</p> <p>20 Next question.</p> <p>21 MS. LECAROS: Move to the next page of</p> <p>22 this demonstrative, please.</p>	<p>7385</p> <p>1 (Recess taken from 3:40 p.m. to</p> <p>2 4:00 p.m.)</p> <p>3 THE BAILIFF: All rise. Please be</p> <p>4 seated and come to order.</p> <p>5 THE COURT: All right. Are we ready</p> <p>6 for the jury?</p> <p>7 MS. LECAROS: May we approach for just</p> <p>8 one moment?</p> <p>9 THE COURT: Okay.</p> <p>10 (Sidebar.)</p> <p>11 THE COURT: Yes, ma'am.</p> <p>12 MS. LECAROS: So just -- sorry, Dana.</p> <p>13 Understanding your ruling on the</p> <p>14 chromatography issue, I just want to, if it would</p> <p>15 be all right, instruct the witness before we go to</p> <p>16 the next --</p> <p>17 THE COURT: I know. We just need to</p> <p>18 talk about it and tell him --</p> <p>19 MS. LECAROS: -- just to tell him I</p> <p>20 don't --</p> <p>21 THE COURT: Do you have any objection</p> <p>22 to that?</p>

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85 (7386 to
7389)

<p>7386</p> <p>1 MR. MURPHY: If that's all she's 2 saying, and that's -- yes. No objection to that. 3 (Open court.) 4 THE COURT: All right. Are we ready 5 for the jury? 6 MS. BREDEHOFT: Yes, Your Honor. 7 Sorry. I'm sorry. 8 MR. CHEW: Yes, Your Honor. 9 (Whereupon, the jury entered the 10 courtroom and the following proceedings took 11 place.) 12 THE COURT: All right. Okay. You can 13 be seated. 14 Your next question. 15 MS. LECARAZ: Thank you. 16 BY MS. LECARAZ: 17 Q Mr. Neumeister, do you have another 18 demonstrative prepared that shows a photo with 19 EXIF data reflecting that it was saved in 20 Photos 3? 21 A Correct. Photos 3, yes. 22 MS. LECARAZ: Your Honor, we have a</p>	<p>7388</p> <p>1 photo, but it's not the same. 2 MS. LECARAZ: It's consistent with your 3 ruling, Your Honor. 4 THE COURT: I've already taken care of 5 that argument. So what part of the video doesn't 6 have a video -- 7 MS. LECARAZ: So he has different 8 versions of that same photos, one that has been 9 through a photo editor, the Photos 3 app, and one 10 that does not indicate that it's been through 11 Photos 3. So it just shows back and forth between 12 the two version of the photo. 13 MR. MURPHY: And the basis of my 14 objection is that neither of those photos are in 15 evidence. That's -- well, it's beyond the scope 16 of Your Honor's ruling, I understand that. But 17 again, they're showing -- I would absolutely 18 object to it being admitted as an exhibit at trial 19 because they're not in evidence. I will still 20 object as demonstrative, but I'm not sure if Your 21 Honor's already going to rule against me or not 22 because, again, the photos are not in evidence.</p>
<p>7387</p> <p>1 video of these photos, and we're happy to play it 2 once so that counsel can review, if that's all 3 right. 4 MR. MURPHY: May we approach, Your 5 Honor? 6 THE COURT: Okay. 7 (Sidebar.) 8 MS. LECARAZ: You don't even want to 9 see it first. 10 MR. MURPHY: I know what it is. I know 11 what the video is. 12 THE COURT: Okay. 13 MR. MURPHY: The two photographs in the 14 video are not in evidence, Your Honor. 15 THE COURT: If they're not in evidence, 16 it doesn't come in. 17 MS. LECARAZ: Your Honor -- 18 MR. MURPHY: It's ALH57 and ALH58, 19 right? 20 MS. LECARAZ: Correct. But they -- 21 DX708 is, and it's the same photo. 22 MR. MURPHY: It's visually the same</p>	<p>7389</p> <p>1 THE COURT: But it's the same -- it's 2 the same depiction on a photo that's in evidence. 3 It's just not -- 4 MS. LECARAZ: And I'm happy to pull up 5 the defendant's exhibit that is the same first. 6 THE COURT: All right. We'll see that 7 first. 8 MS. LECARAZ: Yeah. 9 THE COURT: And then I'll allow it, 10 okay? 11 MS. LECARAZ: And just to be clear too, 12 Your Honor, on this demonstrative, it says 13 "DX1322" because there's even yet another version 14 that he looked at that was on the defendant's 15 exhibit list at 1322. He didn't know, obviously, 16 which one was coming into evidence, and so when 17 he -- 18 THE COURT: So what are we going to -- 19 MS. LECARAZ: I can do both, but 20 Defendant's 1322 is not in evidence yet. 21 Defendant's 708 is. 22 MR. MURPHY: I would object to the</p>

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86 (7390 to
7393)

<p>7390</p> <p>1 video. I know what it is. It says at the bottom, 2 "Defendant's Exhibit." It's going to be 3 incredibly prejudicial for them to use a video 4 that has a defendant's exhibit number on it. That 5 cannot be shown to the jury. 6 MS. LECAROS: Can we cover it up? 7 THE COURT: Yeah, you can cover it up. 8 Because it's just a demonstrative. 9 MR. MURPHY: If they can cover it up -- 10 if they can cover it up, yes. 11 THE COURT: If you can cover it up, you 12 can show it. 13 MS. LECAROS: Yeah. Let me consult 14 with my tech. Okay. 15 All right. We took care of that, Your 16 Honor. 17 THE COURT: Thank you. 18 MS. LECAROS: May we publish? Or would 19 you like to see it? 20 MR. MURPHY: I'd just like to see it 21 first, Your Honor. 22 MS. LECAROS: Okay.</p>	<p>7392</p> <p>1 in that video? 2 A The same photo treated two different 3 ways. One was marked with the original -- or with 4 the operating system from the iPhone, which is 5 iOS 9.3.1 on that particular photo. The one that 6 says 9.3.1, there is a graphic below indicating 7 it. The second photo is marked Photos 3, and it 8 looks quite a bit different. 9 MS. LECAROS: And just, Tom, could we 10 pull up Defendant's 708. 11 Q Mr. Neumeister, does the image in 12 Defendant's 708 appear to be similar, the same 13 photo as what was depicted in your demonstrative? 14 A Yes. Actually it's the Photos 3.0 edit 15 version. 16 Q Thank you. 17 MS. LECAROS: We can take that one 18 down, Tom. 19 Q Mr. Neumeister, you also formed an 20 opinion about Defendant's Exhibit 712 and 713? 21 A Correct. 22 Q Did you prepare a demonstrative that</p>
<p>7391</p> <p>1 THE COURT: And which demonstrative is 2 this going to be, then? 3 MS. LECAROS: This is Plaintiff's 1305, 4 Your Honor. 5 THE COURT: All right. Thank you. 6 Could you play it. There you go. 7 MR. MURPHY: Subject to Your Honor's 8 ruling, that's fine. 9 (Open court.) 10 THE COURT: All right. So 13 -- marked 11 as Plaintiff's 1305 and used as demonstrative. 12 You can publish it to the jury. 13 BY MS. LECAROS: 14 Q Mr. Neumeister, we're going to go ahead 15 and play the demonstrative that you prepared, and 16 then after the jury's had a chance to see it, if 17 you want to explain to them what the demonstrative 18 shows, that would be great. 19 A Yes, ma'am. 20 MS. LECAROS: Can you publish it. 21 (Whereupon, a video was played.) 22 Q So, Mr. Neumeister, what was depicted</p>	<p>7393</p> <p>1 shows -- 2 MR. MURPHY: Objection, Your Honor. 3 Exhibit 712 and 713 are outside the scope of the 4 disclosure. 5 MS. LECAROS: I can show you if you 6 like, Your Honor. 7 (Sidebar.) 8 MS. LECAROS: So this one is also 9 Defendant's 712 and Defendant's 713. 10 MR. MURPHY: I'm sorry. I don't 11 understand Your Honor's ruling. If I could maybe 12 have a continuing objection to -- 13 THE COURT: You want to just do a 14 continuing to the -- 15 MR. MURPHY: Yes. 16 THE COURT: Are you going to do it for 17 each of these? Or is this the last one? 18 MS. LECAROS: This is the last one. 19 MR. MURPHY: Just to make the record. 20 THE COURT: Okay. 21 MR. MURPHY: A continuing objection to 22 any photographs not specifically in his</p>

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87 (7394 to
7397)

<p>7394</p> <p>1 disclosure, then I don't have to keep doing this. 2 THE COURT: Okay. 3 MS. LECARAZ: I think it's specifically 4 in his disclosure, but thank you, Your Honor. 5 THE COURT: All right. 6 (Open court.) 7 BY MS. LECARAZ: 8 MS. LECARAZ: All right. Could we pull 9 up Plaintiff's Exhibit 1306, Tom. 10 And, Your Honor, this is another video 11 that -- 12 Oh, could you pause that, please. 13 This is another video that we prepared. 14 It's not published yet, so I'm happy to play it 15 once through so that -- 16 THE COURT: All right. Play it once 17 through. This is 1306. 18 MR. MURPHY: What was your question? 19 What exhibits are they? I'm sorry, Your Honor. 20 What exhibits are these that are in 21 this video? It doesn't say. I don't know. 22 THE COURT: Okay.</p>	<p>7396</p> <p>1 MS. LECARAZ: Thank you, Your Honor. 2 Q Mr. Neumeister, did you form an opinion 3 in this case about the authenticity of the photos 4 that you reviewed of Ms. Heard? 5 A Well, first of all, you can't -- I 6 can't, and nobody can, identify the authenticity 7 of the photos, of any of the photos marked 8 Photos 3, Photos 1, or just marked with the 9 operating system number. And the reason is the 10 manner of collection. So these came from an 11 iTunes backup. 12 Now, what is an iTunes backup? It's 13 not -- 14 MR. MURPHY: Objection, Your Honor. 15 I'm sorry. You're beyond the scope of your 16 ruling, EXIF metadata. This keeps happening. 17 MS. LECARAZ: Your Honor, may I 18 approach on this one? 19 (Sidebar.) 20 MS. LECARAZ: I understand that your 21 ruling is that he could opine as to the lack of 22 authenticity or the lack of an ability to</p>
<p>7395</p> <p>1 MS. LECARAZ: Yeah. I tried to get my 2 question out a moment ago. Defendant's 712 and 3 713, Your Honor. 4 THE COURT: Okay. 712 and 713. All 5 right. Okay. 1306, then, will be a demonstrative 6 as identified and can be published. 7 MS. LECARAZ: If we could, go ahead and 8 play that, please, Tom. 9 (Whereupon, a video was played.) 10 Q And, Mr. Neumeister, what's your -- 11 what do we see here in this demonstrative? 12 A There's Exhibit 712, I believe you 13 have -- I'm not sure of the Bates number -- 712 14 and 713. They're two separate exhibits, except 15 it's the exact same photograph that's been -- 16 one's been edited; one hasn't. Or I can't say one 17 hasn't, but the colors have been modified in an 18 editor. 19 MR. MURPHY: Objection, Your Honor. 20 Beyond the scope of your ruling, talking about 21 colors. Keeps happening. 22 THE COURT: Sustain the objection.</p>	<p>7397</p> <p>1 determine the authenticity of the photos. 2 THE COURT: And he's already testified 3 to that. So what's -- 4 MS. LECARAZ: Yeah. So he's just 5 explaining how he knows that. I mean, he has to 6 be able to get the basis for his opinion. 7 MR. MURPHY: He can only do that based 8 on the metadata. What he's doing now is well 9 beyond. He's talking about forensic imaging 10 process, not the actual metadata, and that is 11 beyond the scope of Your Honor's ruling and it's 12 highly prejudicial. I keep having to do this in 13 front of a jury when Your Honor's ruled already. 14 MS. LECARAZ: I don't think it is 15 beyond the scope of your ruling, Your Honor. He 16 disclosed the issues with the authenticity of the 17 documents. 18 THE COURT: I've already made a ruling 19 on it though, so I'm going to sustain the 20 objection. He's already testified that nobody 21 could. 22 MS. LECARAZ: Okay.</p>

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88 (7398 to
7401)

7398	7400
<p>1 THE COURT: If you want him to explain 2 that without going into the -- 3 MR. MURPHY: He can only rely on 4 metadata, that's it. 5 MS. LECARAZ: Okay. 6 THE COURT: That was Your Honor's 7 ruling. 8 MS. LECARAZ: All right. That wasn't 9 my understanding, so I apologize. Thank you, Your 10 Honor. 11 (Open court.) 12 BY MS. LECARAZ: 13 Q So, Mr. Neumeister, without going into 14 the specifics, what's your opinion about the 15 authenticity of the photos you received from 16 Ms. Heard? 17 A Based on the way they were collected -- 18 MR. MURPHY: Objection, Your Honor. We 19 just ruled on this. 20 MS. LECARAZ: I framed my question, I 21 thought, Your Honor, to avoid the issue that 22 you're concerned about.</p>	<p>1 today, you relied on no data except for the 2 embedded EXIF metadata to support those opinions, 3 correct? 4 A Incorrect. 5 Q What other data did you rely on for the 6 opinions you've testified to today? 7 A I was trying to explain, but you've 8 kept it -- 9 Q What other data did you rely on for the 10 actual opinions you've been able to testify to 11 today besides EXIF metadata? 12 A The type of extraction that was 13 performed? You're asking the question -- 14 Q I'm asking for the actual opinions you 15 testified to. 16 A That is what I would use. I also use 17 vector scopes. 18 MR. MURPHY: Objection. Your Honor, 19 that was not responsive to my question, Your 20 Honor. 21 THE COURT: If you want to, approach. 22 (Sidebar.)</p>
7399	7401
<p>1 Q Mr. Neumeister, what's your opinion 2 about the authenticity here? 3 A There's no way for any forensic expert 4 to validate any of these photos. 5 MS. LECARAZ: Thank you very much. No 6 further questions. 7 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND 8 COUNTERCLAIM PLAINTIFF 9 BY MR. MURPHY: 10 Q Good afternoon, Mr. Neumeister. 11 A Good afternoon. 12 Q Your only degree is in political 13 science, correct? 14 A 43 years ago, correct. 15 Q And you have no degree whatsoever from 16 any academic institution in computer science, 17 correct? 18 A That's correct. 19 Q And you have no certifications in 20 computer forensics, correct? 21 A That's correct. 22 Q From the opinions you've testified</p>	<p>1 THE COURT: If you're going to ask him 2 how he devised his opinions even ones that aren't 3 in court, you didn't let him explain it because 4 you said "devised." 5 MR. MURPHY: The opinions he testified 6 to. 7 THE COURT: Right. And he testified to 8 it and he's going to get into why he came to that 9 conclusion, which I sustained your objection. But 10 now you asked him, and so he gets to answer it. 11 MR. MURPHY: Understood, Your Honor. 12 MS. LECARAZ: Thank you, Your Honor. 13 (Open court.) 14 THE COURT: All right. So, sir, you 15 can answer that question. 16 THE WITNESS: Pardon? 17 THE COURT: You can answer the 18 question. 19 A Can you restate the question? 20 MR. MURPHY: I don't recall the 21 question, Your Honor. We can move on. 22 MS. LECARAZ: Your Honor, maybe we</p>

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89 (7402 to
7405)

<p style="text-align: right;">7402</p> <p>1 could have the court reporter read it back. 2 MR. MURPHY: They could redirect. 3 THE COURT: No. What was the question, 4 Judy? 5 THE WITNESS: I believe the question 6 was what methodology did I use to make my 7 findings. 8 THE COURT: Judy's voice has changed. 9 That's -- 10 THE WITNESS: Sorry. 11 THE COURT: Is that correct, Judy? 12 COURT REPORTER: I don't know. I was 13 looking for it when he started talking. 14 THE COURT: Okay. 15 (The requested text was read by the 16 reporter as follows: "I'm asking for the actual 17 opinions you testified to.") 18 COURT REPORTER: Do you want the 19 question before that? 20 THE COURT: That's fine. Okay. 21 A So when you are analyzing video or 22 photo, in this --</p>	<p style="text-align: right;">7404</p> <p>1 MR. MURPHY: Can you please pull up 2 Exhibit 170A. 3 THE COURT: Is that Defendant's 170A? 4 MR. MURPHY: Defendant's 170, yes, Your 5 Honor. 6 THE COURT: Thank you. 7 Q So you offered testimony regarding this 8 photograph during the direct examination, right, 9 Mr. Neumeister? 10 A There's -- 11 Q That's a yes or no, sir. 12 A On a photograph like that. I don't 13 exactly remember the photograph. There's so many 14 different versions of the photograph, but, yes, I 15 talked about that particular photograph. 16 Q But on -- do you recall being deposed 17 in this matter? 18 A Yes. 19 Q And you were under oath? 20 A Yes. 21 Q That was on April 6, 2022? 22 A I believe.</p>
<p style="text-align: right;">7403</p> <p>1 MR. MURPHY: Objection to video, Your 2 Honor. That's beyond the scope. 3 THE COURT: All right. If you could, 4 just answer the question, sir. 5 A When you're analyzing a photo, a 6 digital photo, you look at the EXIF data; you use 7 a vector scope; you can use a Pantone chart, if 8 that's available, and that should be done, but 9 that's a whole different deal. If I go into that, 10 you'll object to it. So you'd also use a waveform 11 scope; you would use an RGB parade; you can use a 12 histogram, though in this case, it's not really 13 all that relevant. 14 Q You are not offering any opinions that 15 any photograph in this case was intentionally 16 modified by Ms. Heard, correct? 17 A I'm just stating the fact that 18 photographs were modified. 19 Q But so you are not offering any opinion 20 that any photograph in this case was intentionally 21 modified by Ms. Heard, correct? 22 A That's correct.</p>	<p style="text-align: right;">7405</p> <p>1 MR. MURPHY: May I approach, Your 2 Honor? 3 THE COURT: Yes, sir. Thank you. 4 Q So, Mr. Neumeister, if you could, 5 please turn to page 76. And when I say pages, 6 those are the little pages in the four boxes, not 7 the page at the top. 8 A Okay. 9 Q And do you see page 76, line 3, you 10 were asked on April 6, "Anywhere in your 11 April 1st, 2022 expert disclosure, do you offer 12 any opinions regarding the authenticity or lack of 13 authenticity of the specific photograph produced 14 as ALH7101?" 15 Response, "Can I refer to my report to 16 see if that specific number is in the report? 17 "Yes." 18 Response, "Not that specific photo. I 19 just grabbed three out of the batch." 20 Do you see that? 21 A Yes. 22 MR. MURPHY: Can you please pull up</p>

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90 (7406 to
7409)

<p>1 Exhibit 517 -- or Defendant's 517. 2 THE COURT: Thank you. 3 Q You are not offering any opinions 4 regarding this specific photograph, right, 5 Mr. Neumeister? 6 A That's correct. My testimony has been 7 limited here. 8 Q And you are not offering any opinion 9 that any photograph was visually doctored by 10 Amber, correct? 11 A Not by -- I can't put the person who 12 might have done it. 13 Q Well, you're not offering an opinion 14 that a photo was visually doctored by anybody, are 15 you? 16 A I'd have to see each photo. There's no 17 way to authenticate any of these photos based on 18 what I received. 19 Q So you testified about Photos 3. 20 Do you recall that testimony? 21 A Correct. 22 Q Photos 3 is a photo editing and photo</p>	<p>1 that it was visually edited in any way in 2 Photos 3.0, correct? 3 A Again, it's not the same photo because 4 you're using lossy compression once you save it, 5 so you would change the photo. 6 Q So if you could, please turn to 7 page 233 of that transcript, and line 20. 8 Do you see a question, "When it says 9 EXIF software, okay, Photos 3.0" -- on to 234 -- 10 "That's just saying it was saved in Photos 3.0, 11 right?" 12 Response: "Saved in 3.0, that's 13 correct. 14 "QUESTION: That notion in and of 15 itself does not mean that photo was edited in 3.0, 16 right?" 17 "ANSWER: That's correct." 18 Did I read that correctly? 19 A Yes. 20 Q A file has not changed visually just 21 because it's been processed through Photos 3.0, 22 correct?</p>
<p>1 sorting application, correct? 2 A It's a photo editor and photo sorter, 3 as are a number of editors. 4 Q So when you reference Photos 3.0, you 5 never deny any time independent re -- 6 MR. MURPHY: Strike that, Your Honor. 7 Q So when the software of a photograph in 8 the EXIF metadata says "Photos 3.0," that could be 9 just saying that photo was saved in Photos 3.0, 10 correct? 11 A Unless you looked at a scope of the 12 photos. That would tell you that the parameters 13 of the photo do not meet that of the cell phone 14 that it was taken on. 15 Q But the notation Photos 3.0 in the 16 software EXIF metadata, that does not in and of 17 itself mean the photo was edited in Photos 3.0, 18 correct? 19 A It means that you've recompressed the 20 photo, and it will not hash, or digitally 21 fingerprint, with the original photo. 22 Q But it does not mean, in and of itself,</p>	<p>1 A That's incorrect. 2 Q Can you look at page 128 of your 3 deposition, please. At the bottom, line 20, do 4 you see, "QUESTION: But the file changed visually 5 just because it has been processed through Photos 6 3.0?" 7 "ANSWER: You know, obviously, I 8 understand what you're asking. From a technical 9 point, yes, because of the compression. You get 10 down to scopes and artifacts, yes, it has changed. 11 Was it intentionally changed? We don't know. In 12 other words, did somebody save it in there and 13 just save the photo? We don't know." 14 Did I read that correctly? 15 A That's correct. But, again, it says 16 here that -- 17 Q That was my question, Mr. Neumeister. 18 A Okay. 19 Q So if the EXIF metadata software field 20 lists the software as iOS, you have no reason to 21 dispute that, correct? 22 A Incorrect.</p>

<p style="text-align: right;">7410</p> <p>1 Q Well, isn't data data? That's what you 2 testified to, right? 3 A It's very simple to modify EXIF data. 4 It's -- 5 Q Did you find any evidence in this case 6 of actual modification of EXIF metadata? 7 A You can't -- you can't authenticate any 8 of these photos because of the way they were -- 9 Q That wasn't my question, 10 Mr. Neumeister. Did you find any evidence of any 11 modification of EXIF metadata of any photograph in 12 this case? 13 A You didn't listen to my answer. My 14 answer is there's no way to know because of the 15 way the files were presented. 16 Q So you found -- but you found no actual 17 evidence of it, correct? 18 A Nobody could -- 19 Q I'm not asking whether anyone else 20 could, Mr. Neumeister. I'm asking did you 21 yourself find -- you found no evidence of any 22 modification of EXIF metadata of any photograph in</p>	<p style="text-align: right;">7412</p> <p>1 THE COURT: Overruled. 2 A There's not a way to answer that the 3 way you're asking a question. You have to restate 4 it in a -- you're trying to control the narrative. 5 MR. MURPHY: Your Honor, he's not 6 responding to the question. 7 THE COURT: I mean, could you just 8 answer yes or no, sir, to the question? 9 THE WITNESS: It's not a yes-or-no 10 question. 11 Q Did you, yes or no, you found no 12 evidence of EXIF metadata modification of any 13 photograph in this case, correct? 14 A That's incorrect. 15 Q Okay. It is your opinion that the 16 metadata of all photographs of purported injuries 17 that Ms. Heard has identified as her trial 18 exhibits do not indicate that the photographs went 19 through a photo editing application, correct? 20 A Well, first of all, that's not 21 answering a question because a lot of the exhibits 22 that you have put up, they're not photographs;</p>
<p style="text-align: right;">7411</p> <p>1 this case, correct? 2 A Now, I understand trying to control the 3 narrative, but there's no way to answer that 4 scientifically because given the evidence we were 5 given, there's no way to positively or negatively 6 answer that. It's not a question that can be 7 answered. 8 Q It is a question, Mr. Neumeister. The 9 question is did you, yourself, you found no 10 affirmative evidence of any modification of 11 software EXIF metadata of any photograph in this 12 case, correct? You found no actual evidence of 13 that, did you? 14 A No one could tell either way because -- 15 Q I'm not asking about anyone else, 16 Mr. Neumeister. I'm asking about you. 17 Did you -- you found no evidence of 18 that, did you? 19 MS. LECAROS: Objection, Your Honor. 20 Asked and answered. 21 MR. MURPHY: He's not answered what he 22 found, Your Honor.</p>	<p style="text-align: right;">7413</p> <p>1 they're screen grabs. And they've been changed 2 from an Apple format, which is JPEG, J-P-E-G, to a 3 JPG Microsoft format, so you have actually changed 4 the exemplars. You've changed the data 5 yourselves. We actually ran EXIF data on some of 6 your own examples that you've entered into 7 evidence. They are not photos from an iPhone. 8 Those were edited in -- on PC. 9 Q I'm going to hand up a page from your 10 disclosure. 11 MR. MURPHY: One second, Your Honor. 12 May I approach, Your Honor? 13 THE COURT: Yes, sir. Thank you. 14 THE WITNESS: Thank you. 15 Q So do you see on page 8 of your 16 disclosure, Mr. Neumeister, it states, "The 17 metadata of all of the photographs of purported 18 injuries that Ms. Heard has identified as her 19 trial exhibits do not indicate that the 20 photographs went through a photo editing 21 application." 22 Did I read that correct?</p>

Transcript of Jury Trial - Day 23
Conducted on May 25, 2022

92 (7414 to
7417)

<p>7414</p> <p>1 A That's correct. We're talking --</p> <p>2 MR. MURPHY: No further questions, Your</p> <p>3 Honor.</p> <p>4 THE COURT: All right. Redirect.</p> <p>5 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND</p> <p>6 COUNTERCLAIM DEFENDANT</p> <p>7 BY MS. LECARAZ:</p> <p>8 Q Mr. Neumeister --</p> <p>9 A Yes.</p> <p>10 Q -- a moment ago, Mr. Murphy was asking</p> <p>11 you some questions about your opinion about the</p> <p>12 trial exhibits that Ms. Heard has offered in this</p> <p>13 matter, and he asked you about your opinion that</p> <p>14 they don't indicate that they've gone through a</p> <p>15 photo editing application. What can you tell us</p> <p>16 about that?</p> <p>17 A Well, first of all, this last exhibit,</p> <p>18 it says, "metadata," not EXIF data. So that's two</p> <p>19 different things altogether. We're talking EXIF</p> <p>20 data, and on the report, I put metadata because I</p> <p>21 was requested to cover meta and EXIF data. So</p> <p>22 it's taken out of context. The EXIF data is the</p>	<p>7416</p> <p>1 how data was handled.</p> <p>2 All it is is the photos you decided to</p> <p>3 save, not the photos you deleted. So it's a very</p> <p>4 limited database. Without the system registry or</p> <p>5 without the system operating system, there's no</p> <p>6 way to tell because it's very easy to modify a</p> <p>7 photo on a phone and have it just read "iOS</p> <p>8 9.3.1."</p> <p>9 But with the actual phone, if you are</p> <p>10 able to get ahold of the actual phone, and in</p> <p>11 95 percent of all cases we work, we have the</p> <p>12 actual phones. It doesn't matter the phones are</p> <p>13 10 years old or 20 years old -- I don't know about</p> <p>14 20 years old, but 10 years old. The reason is if</p> <p>15 people have something they want to keep as</p> <p>16 evidence, they don't throw out their phones. They</p> <p>17 don't recycle their phones. They save their</p> <p>18 phones.</p> <p>19 So people ask how are we doing phones</p> <p>20 on 13-year-old cases? Because people do not throw</p> <p>21 out evidence. They keep the phone. So in a</p> <p>22 situation like this, there are no forensic</p>
<p>7415</p> <p>1 data based -- that's embedded in the photo.</p> <p>2 Metadata can be the file data, about the file</p> <p>3 itself, two different things.</p> <p>4 So the way the data was collected, it</p> <p>5 was an iTunes backup is a backup --</p> <p>6 MR. MURPHY: Objection, Your Honor.</p> <p>7 Backup's outside the scope of Your Honor's ruling.</p> <p>8 Beyond EXIF metadata.</p> <p>9 MS. LECARAZ: I think you opened the</p> <p>10 door on the --</p> <p>11 THE COURT: I'll overrule the</p> <p>12 objection.</p> <p>13 MS. LECARAZ: Thank you, Your Honor.</p> <p>14 Q Go ahead, Bryan.</p> <p>15 A An iTunes backup is only a backup of</p> <p>16 things that are on an iPhone that have not been</p> <p>17 deleted. It does not have the critical operating</p> <p>18 system. It doesn't have any of the files that</p> <p>19 would validate the path of a photograph in that</p> <p>20 phone. It does not have a lot of the log files.</p> <p>21 It does not have the knowledgeC database, which</p> <p>22 talks about usage of the phone and the patterns of</p>	<p>7417</p> <p>1 extractions. In fact, the extractions we were</p> <p>2 provided were backups of backups of iTunes, just</p> <p>3 exports. So it's third-generation, and there's no</p> <p>4 way to verify the file paths and the history of</p> <p>5 any single photo that we've looked at.</p> <p>6 MS. LECARAZ: No further questions,</p> <p>7 Your Honor.</p> <p>8 THE COURT: All right. Thank you, sir.</p> <p>9 You can have a seat in the courtroom, or you're</p> <p>10 free to go.</p> <p>11 MS. LECARAZ: Thank you very much.</p> <p>12 THE COURT: All right. Your next</p> <p>13 witness.</p> <p>14 MS. VASQUEZ: Your Honor, we call</p> <p>15 Morgan -- excuse me -- Beverly Leonard by video</p> <p>16 link.</p> <p>17 THE COURT: I need a TV. All right.</p> <p>18 Just give us a moment to get the TV up.</p> <p>19 Ms. Leonard, can you hear me?</p> <p>20 THE WITNESS: I can.</p> <p>21 THE COURT: Can you just count to five</p> <p>22 for me so I can get you on the big screen in the</p>

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Conducted on May 25, 2022

93 (7418 to
7421)

<p>7418</p> <p>1 courtroom</p> <p>2 THE WITNESS: One, two, three, four,</p> <p>3 five.</p> <p>4 THE COURT: All right. That was close.</p> <p>5 BEVERLY R. LEONARD,</p> <p>6 a witness called on behalf of the</p> <p>7 plaintiff and counterclaim defendant, having been</p> <p>8 first duly sworn by the Clerk, testified as</p> <p>9 follows:</p> <p>10 THE COURT: Start talking. We'll see</p> <p>11 if-- try the first question.</p> <p>12 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND</p> <p>13 COUNTERCLAIM DEFENDANT</p> <p>14 BY MS. VASQUEZ:</p> <p>15 Q Good afternoon, Ms. Leonard.</p> <p>16 A Good afternoon.</p> <p>17 THE COURT: All right. Ms. Leonard, if</p> <p>18 you could, speak a little louder for me and try to</p> <p>19 count to five one more time. I'm trying to get</p> <p>20 you on the TV screen.</p> <p>21 THE WITNESS: Okay. One, two, three,</p> <p>22 four, five.</p>	<p>7420</p> <p>1 A I was in the baggage claim area, and I</p> <p>2 observed her with a traveling companion. And they</p> <p>3 got into an altercation where Ms. Heard was -- had</p> <p>4 grabbed her traveling companion and pulled</p> <p>5 something from her neck. At that point, I got up</p> <p>6 and went over to try to break up what appeared to</p> <p>7 be a fight, and I summoned a colleague to help me.</p> <p>8 And I stepped in between them and separated them,</p> <p>9 stopping any further injuries or escalation.</p> <p>10 Q How would you describe the interaction</p> <p>11 between Ms. Heard and her traveling companion?</p> <p>12 A Ms. Heard was aggressive toward her</p> <p>13 traveling companion, and she had reached up and</p> <p>14 grabbed her arm and pulled a necklace off of her.</p> <p>15 And then I observed her having it in her hand.</p> <p>16 She seemed to be not very steady on her feet. Her</p> <p>17 eyes were blurry and watery, and I could smell</p> <p>18 alcohol.</p> <p>19 Q What was Ms. Heard's travel companion's</p> <p>20 reaction to being assaulted by Ms. Heard?</p> <p>21 MS. BREDEHOFT: Objection. Relevance.</p> <p>22 THE COURT: I'll sustain the objection.</p>
<p>7419</p> <p>1 THE COURT: That did it. All right.</p> <p>2 The lessons we've learn in COVID, correct? Okay.</p> <p>3 All right. Your first question.</p> <p>4 MS. VASQUEZ: Thank you very much.</p> <p>5 BY MS. VASQUEZ:</p> <p>6 Q Good afternoon, Ms. Leonard.</p> <p>7 A Good afternoon.</p> <p>8 Q Would you please state your full name</p> <p>9 for the record.</p> <p>10 A Beverly R. Leonard.</p> <p>11 Q Where are you testifying from?</p> <p>12 A I'm testifying from my home in Arizona.</p> <p>13 Q Are you familiar with the defendant in</p> <p>14 this matter, Amber Heard?</p> <p>15 A Yes, I am.</p> <p>16 Q And how are you familiar with her?</p> <p>17 A I met her in 2009 at Sea-Tac</p> <p>18 International Airport.</p> <p>19 Q Why were you at the airport?</p> <p>20 A I worked there.</p> <p>21 Q What happened when you met Ms. Heard in</p> <p>22 2009?</p>	<p>7421</p> <p>1 MS. VASQUEZ: On relevance?</p> <p>2 THE COURT: Yes.</p> <p>3 MS. VASQUEZ: Okay.</p> <p>4 Q What did Ms. Heard's traveling</p> <p>5 companion do?</p> <p>6 A She raised her hands in what appeared</p> <p>7 to be defensive manner and -- but other than that,</p> <p>8 she was pretty stoic and didn't really respond</p> <p>9 much. Her stature was two or three inches taller</p> <p>10 than Ms. Heard, so she -- it didn't -- she didn't</p> <p>11 really need to have to defend herself.</p> <p>12 Q How would you describe Ms. Heard's</p> <p>13 demeanor when you stepped in between Ms. Heard and</p> <p>14 her traveling companion?</p> <p>15 A She was somewhat dismissive. She just</p> <p>16 said, "We're just having an argument. We're fine.</p> <p>17 We're fine."</p> <p>18 Because I was asking if they were okay.</p> <p>19 "Are you okay? Is there anything wrong? You</p> <p>20 know, what's going on?"</p> <p>21 MS. BREDEHOFT: Objection. Hearsay.</p> <p>22 Just objection hearsay to what she said.</p>

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94 (7422 to
7425)

<p>7422</p> <p>1 THE COURT: All right. All right. 2 I'll sustain the objection. 3 Next question. 4 Q What, if any, injuries did you observe 5 on Ms. Heard's traveling companion? 6 A She had abrasion on the side of her 7 neck where the necklace was, like a rope burn from 8 the chain as it was removed. 9 Q How did you come to testify in this 10 trial? 11 A I became aware of this situation, 12 specifically this trial, because I was sent an 13 email anonymously -- I don't even know who it came 14 from -- asking -- 15 MS. BREDEHOFT: Objection. Hearsay. 16 THE COURT: I'll sustain the objection. 17 MS. VASQUEZ: Understood. 18 Q How would you generally describe 19 Ms. Heard's behavior on the occasion you met her 20 in 2009? 21 MS. BREDEHOFT: Objection, Your Honor. 22 already asked and answered the specifics.</p>	<p>7424</p> <p>1 Q And you know that this trial is being 2 televised, right? 3 A Yes. 4 Q And so you know that if you have 5 something that might be significant to say, that 6 that way you can get on television, right? 7 A No. I had no desire to be on 8 television. I actually waited for a call and 9 wondered why I hadn't been contacted. 10 Q All right. But you -- but you only 11 contact -- you reached out and contacted them last 12 night, correct? 13 A Yes. 14 Q Okay. 15 A Yes. 16 MS. BREDEHOFT: Okay. All right. 17 Thank you. I have no further questions. 18 THE COURT: Any redirect? 19 MS. VASQUEZ: Nothing further, Your 20 Honor. 21 THE COURT: All right. Thanks, 22 Ms. Leonard. You're free to sign off. Thank you.</p>
<p>7423</p> <p>1 THE COURT: Sustain the objection. 2 Next question. 3 Q Did Ms. Heard's sexual orientation have 4 any impact on how you conducted yourself? 5 MS. BREDEHOFT: Objection. 6 THE COURT: I'll sustain the objection. 7 MS. VASQUEZ: No further questions. 8 THE COURT: All right. Any 9 cross-examination? 10 MS. BREDEHOFT: Briefly. 11 THE COURT: Okay. Cross-examination. 12 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND 13 COUNTERCLAIM PLAINTIFF 14 BY MS. BREDEHOFT: 15 Q Ms. Leonard, when did you contact 16 counsel for Mr. Depp? 17 A Late last night. 18 Q Late last night? Okay. And this 19 happened in 2009, correct? 20 A Yes. 21 Q 13 years ago, correct? 22 A Yes.</p>	<p>7425</p> <p>1 THE WITNESS: All right. 2 THE COURT: All right. Your next 3 witness. 4 MS. VASQUEZ: Your Honor, may we 5 approach? 6 THE COURT: Sure. 7 (Sidebar.) 8 MS. VASQUEZ: So our last rebuttal 9 witness is Dr. Gilbert. 10 THE COURT: Doctor who? 11 MS. VASQUEZ: Gilbert. He is the hand 12 surgeon. He can only testify tomorrow morning 13 first thing. He has a funeral today. We 14 disclosed that he would be testifying tomorrow, so 15 with that, I don't know if you're going to count 16 time against us today. I mean -- 17 THE COURT: I would. 18 MS. VASQUEZ: Okay. Well -- 19 THE COURT: That's what we have to do. 20 I -- 21 MS. VASQUEZ: Yeah. 22 MS. MEYERS: Your Honor, if I may just</p>

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95 (7426 to
7429)

<p>7426</p> <p>1 make a brief record with respect to Dr. Collins, 2 and then -- 3 THE COURT: Okay. 4 MS. MEYERS: So first of all, we would 5 request an opportunity to amend our designations 6 to allow her to testify. 7 THE COURT: Okay. 8 MS. MEYERS: And then consist -- 9 THE COURT: Do you want to do a 10 proffer? 11 MS. MEYERS: We can do a proffer, yes. 12 THE COURT: You can do a proffer. I'm 13 not going to allow her to just testify, so you can 14 do a proffer. But I don't want to count -- all of 15 those times count half and half, but if you're 16 going to do a proffer, I'm not going to count 17 that. 18 MS. BREDEHOFT: Thanks. 19 MS. MEYERS: That's fair, Your Honor. 20 THE COURT: So do you want to do a 21 proffer now? You can submit a written proffer if 22 you want, and --</p>	<p>7428</p> <p>1 THE COURT: 51. We'll give you 51. 51 2 minutes to the plaintiff's side. You have a lot 3 of time. You've only got one more rebuttal, 4 right? 5 MR. CHEW: Yeah. 6 MS. VASQUEZ: Thank you, Your Honor. 7 MR. CHEW: I think you guys are out, 8 right? 9 MS. VASQUEZ: That's called wishful 10 thinking, Mr. Chew. 11 THE COURT: Getting really close. 12 Everybody's starting to get a little giddy. 13 MS. VASQUEZ: Nervous. 14 MR. ROTTENBORN: I think both sides are 15 ready for each other to be done. 16 THE COURT: I am extremely happy. I 17 can't tell you how much. 18 MS. VASQUEZ: Not that you don't love 19 us. 20 THE COURT: I can't wait. 21 MR. CHEW: At least you're not snarky. 22 MS. VASQUEZ: I don't think so. I</p>
<p>7427</p> <p>1 MS. MEYERS: We can do that as well. 2 THE COURT: -- I can add it to -- let's 3 go with Mr. Nadelhaft's -- 4 MR. CHEW: To the circular file. 5 MS. MEYERS: The other point we would 6 make is that I understood Your Honor's ruling with 7 respect to comparing Ms. Heard's testimony with 8 the photographs. And we would also request that 9 Dr. Collins be limited to testify about the 10 injuries reflected in the photographs that are in 11 evidence and have been shown. 12 THE COURT: All right. I understand. 13 I'm going to sustain the objection. So you have 14 nothing further tonight? 15 MS. VASQUEZ: Nothing further tonight. 16 Dr. Gilbert, very short rebuttal witness, 17 tomorrow. 18 THE COURT: Just give me the final 19 times so I can give them to them. As of right 20 now. Don't count this bench conference. Actually 21 going to have to add -- is it 45? I'm sorry. 22 MR. ROTTENBORN: 52. 52 minutes..</p>	<p>7429</p> <p>1 haven't yet been accused of being snarky. Accused 2 of a lot of things. 3 SAMMY: For the defendant, that's 1 4 hour and 16 minutes. 5 MS. VASQUEZ: Sorry? I'm sorry? 6 SAMMY: I'm sorry. For the defendant, 7 it's 1 hour and 16 minutes remaining. 8 MS. VASQUEZ: 1 hour, 16? 9 SAMMY: Yes. 10 THE COURT: 16. For the plaintiff, 11 they've used 54 hours and 7 minutes, so -- 12 SAMMY: Seven hours and eight minutes. 13 THE COURT: Seven hours and eight 14 minutes. 15 MS. BREDEHOFT: Can we have some of 16 yours? 17 MS. VASQUEZ: I bet. Maybe for -- 18 MR. ROTTENBORN: Well, if they want to 19 have Dr. Gilbert on the stand for seven hours and 20 eight minutes, then that's fine too. 21 THE COURT: Yeah, that's fine too. I 22 bet.</p>

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96 (7430 to
7433)

<p>7430</p> <p>1 MS. VASQUEZ: I bet. I bet. 2 THE COURT: All right. So with that, 3 I'll excuse the jury. 4 Remember, I need those -- 5 MR. ROTTENBORN: Yes. I was going to 6 address that. 7 THE COURT: -- jury instructions. 8 MR. ROTTENBORN: Yeah. Thank -- 9 THE COURT: You can go back and have a 10 seat. 11 MS. VASQUEZ: Okay. 12 MR. CHEW: Thank you, Your Honor. 13 MS. BREDEHOFT: Thank you. 14 (Open court.) 15 THE COURT: All right. Ladies and 16 gentlemen, we're still on track to have closing 17 arguments on Friday morning. But the plaintiff 18 only has one more witness in rebuttal, and then 19 since we have a counterclaim, the defense has a 20 chance to have rebuttal for their counterclaim. 21 And so we'll hear the remaining witness tomorrow 22 on that.</p>	<p>7432</p> <p>1 that set forth the few remaining issues of 2 disagreement. 3 THE COURT: Okay. 4 MR. ROTTENBORN: But largely I think 5 we're mostly there, but I haven't had a chance to 6 read what they sent over. 7 THE COURT: Mostly. Okay. So I have 8 everything -- so I don't have everything quite 9 yet, then? 10 MR. ROTTENBORN: It's not finalized 11 yet. 12 THE COURT: Okay. But I will get it 13 sometime this evening? 14 MR. CHEW: Yes, Your Honor. 15 THE COURT: We have an hour now. You 16 can stay if the courtroom and work it out. How 17 about that? 18 MR. ROTTENBORN: We're happy to address 19 those. I think we need an opportunity to see 20 what -- I mean, we sent them our comments two days 21 ago, and we just got it three hours ago. 22 THE COURT: I understand. But we have</p>
<p>7431</p> <p>1 So, since we don't have anything 2 further today, I'm going to go ahead and release 3 you at this point. 4 Do not discuss this with anybody, don't 5 do any research, and we'll see you back tomorrow 6 morning at 9:00, okay? Thank you. 7 (Whereupon, the jury exited the 8 courtroom and the following proceedings took 9 place.) 10 THE COURT: Okay. All right. And then 11 for the record, charge the plaintiff the remaining 12 time till 5:30. The plaintiff has 7 hours and 8 13 minutes left as of this moment, and the defendant 14 has 1 hour and 16 minutes left. Right? So we're 15 all on the same page. Okay. And jury 16 instructions, we get clean copies today? 17 MR. ROTTENBORN: Yes, Your Honor. So 18 here's -- I think we just received their comments 19 around noon today, but we've had someone not in 20 court who's been looking at those and, I think, 21 has narrowed down the areas of disagreement and 22 either is sending or has sent to Sammy an email</p>	<p>7433</p> <p>1 some extra time right now, so nobody leaves until 2 I get my jury instructions. How's that? 3 MR. ROTTENBORN: That's fair. 4 THE COURT: I like that. Okay. We'll 5 do that and the verdict form also, and then if I 6 could read Sammy's handwriting, I can tell exactly 7 what he's saying. 8 Sam, what are you saying here? Oh, 9 yes. We got the three jury instructions that are 10 under advisement, so we'll address those tomorrow 11 as well, okay? And we'll work on Sammy's 12 penmanship. All right. Anything else? 13 MR. ROTTENBORN: So to be clear, Your 14 Honor wants to hear the disputes right now or 15 tomorrow? 16 THE COURT: Well, we could -- I mean, I 17 don't think you know what the disputes are yet. 18 MR. ROTTENBORN: Right. 19 THE COURT: So I'll hear the disputes 20 tomorrow. Well, yeah, we can do those at some 21 point tomorrow. 22 It sounds like we're going to have some</p>

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97 (7434 to
7437)

<p>7434</p> <p>1 extra time tomorrow. So we'll take care of those 2 tomorrow, but I want everything today -- I want to 3 know what those disputes are and have what you 4 have clean. 5 MR. ROTTENBORN: And that's what I'm 6 saying. I think that by 5, you will get what the 7 disputes are. 8 THE COURT: Okay. For everything, 9 right? Okay. So stay here until we get all that 10 for everything, right? Okay. Great. 11 Anything else, then? 12 MR. CHEW: No, Your Honor. 13 MR. ROTTENBORN: No, Your Honor. Thank 14 you. 15 THE COURT: All right. I'll see you in 16 the morning, then. 17 MS. BREDEHOFT: Thank you, Your Honor. 18 THE BAILIFF: All rise. 19 (Whereupon, the trial was recessed at 20 4:43 p.m. to reconvene at 9:00 a.m., Thursday, May 21 26, 2022.) 22</p>	
<p>7435</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 26th 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>	