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Transcript of Jury Trial - Day 13

Date: May 2, 2022
Case: Depp, II -v- Heard

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Transcript of Jury Trial - Day 13
Conducted on May 2, 2022

1 (3428 to 3431)

3428	3430
<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 Monday, May 2, 2022 16 10:00 a.m. EDT 17 TRIAL DAY 13 18 19 20 Job No.: 443895 21 Pages: 3428 - 3726 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 ANDREW C. CRAWFORD, ESQUIRE 7 BROWN RUDNICK LLP 8 601 Thirteenth Street NW 9 Suite 600 10 Washington, D.C. 20005 11 202.536.1700 12 13 CAMILLE M. VASQUEZ, ESQUIRE 14 BROWN RUDNICK LLP 15 2211 Michelson Drive 16 7th Floor 17 Irvine, CA 92712 18 949.440.0234 19 20 21 22</p>
3429	3431
<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 BROWN RUDNICK LLP 11 One Financial Center 12 Boston, MA 02111 13 617.856.8149 14 15 16 17 18 19 20 21 22</p>

3432	<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 CHARLSON BREDEHOFT COHEN BROWN &</p> <p>8 NADELHAFT, P.C.</p> <p>9 11260 Roger Bacon Drive</p> <p>10 Suite 201</p> <p>11 Reston, VA 20190</p> <p>12 703.318.6800</p> <p>13</p> <p>14 J. BENJAMIN ROTTENBORN, ESQUIRE</p> <p>15 WOODS ROGERS PLC</p> <p>16 10 South Jefferson Street</p> <p>17 Suite 1400</p> <p>18 P.O. Box 14125</p> <p>19 Roanoke, VA 24011</p> <p>20 540.983.7540</p> <p>21</p> <p>22</p>	3434	<p>1 PROCEEDINGS</p> <p>2 THE BAILIFF: All rise. Please be</p> <p>3 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: Do we have any preliminary</p> <p>7 matters before the jury?</p> <p>8 MR. CHEW: Just a quick one.</p> <p>9 THE COURT: Okay. Sure.</p> <p>10 (Sidebar.)</p> <p>11 MR. CHEW: Good morning, Your Honor.</p> <p>12 THE COURT: Good morning.</p> <p>13 MR. CHEW: I don't think this is</p> <p>14 controversial. We just wanted to make sure that</p> <p>15 our experts could listen in today. I think the</p> <p>16 rule on witnesses do not apply to them.</p> <p>17 MS. BREDEHOFT: Correct. We agree to</p> <p>18 that.</p> <p>19 THE COURT: You agreed to that? Okay.</p> <p>20 So listening in through my web --</p> <p>21 MR. CHEW: Just listening in today --</p> <p>22 THE COURT: Oh, they're in the</p>
3433	<p>1 CONTENTS</p> <p>2 EXAMINATION OF TRAVIS E. MCGIVERN (Via Webex) PAGE</p> <p>3 By Ms. Meyers 3441</p> <p>4 By Mr. Rottenborn 3469</p> <p>5 EXAMINATION OF JACK WHIGHAM (via Webex) PAGE</p> <p>6 By Mr. Chew 3482</p> <p>7 By Ms. Bredehoft 3524</p> <p>8 By Mr. Chew 3550</p> <p>9 EXAMINATION OF RICHARD EDWARD MARKS PAGE</p> <p>10 By Ms. Lecaroz 3556</p> <p>11 By Mr. Nadelhaft 3593</p> <p>12 By Ms. Lecaroz 3620</p> <p>13 EXAMINATION OF DOUGLAS BANIA PAGE</p> <p>14 By Ms. Lecaroz 3623</p> <p>15 By Mr. Nadelhaft 3652</p> <p>16 By Ms. Lecaroz 3683</p> <p>17 EXAMINATION OF ERIN FALATI (VIA VIDEO) PAGE</p> <p>18 By Mr. Nadelhaft 3692</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	3435	<p>1 courtroom.</p> <p>2 MR. CHEW: And then the second thing</p> <p>3 was just a housekeeping matter. Terrence</p> <p>4 Dougherty of the ACLU's testimony on Thursday, we</p> <p>5 wanted to make sure that his home address was</p> <p>6 redacted out when it goes to the website.</p> <p>7 THE COURT: Check with Planet Depos</p> <p>8 because not much I can do about that.</p> <p>9 MR. CHEW: We'll take it up.</p> <p>10 THE COURT: Okay. Sure.</p> <p>11 MR. ROTTENBORN: We have a couple</p> <p>12 exhibits.</p> <p>13 THE COURT: Yes.</p> <p>14 MR. ROTTENBORN: This is one. The one</p> <p>15 text from Tracey Jacobs to Ed White will be</p> <p>16 labeled as 874A.</p> <p>17 THE COURT: 874A?</p> <p>18 MR. ROTTENBORN: Yeah. That's the only</p> <p>19 one. I got to give it to the other side.</p> <p>20 And then the other two we owe you, but</p> <p>21 we'll come back to you on the tax returns, which</p> <p>22 they had given to us redacted.</p>

3436	1 THE COURT: Okay. 2 MR. ROTTENBORN: So we just gave it to 3 them just to make sure it gets to you. And we 4 think it was 639; it was the one with the check 5 where we redacted out the account number, but we 6 inadvertently had redacted out Ed White's 7 signature, so we're going to redo that. 8 THE COURT: So I've got 874A. Thank 9 you. Yes, sir. 10 MR. NADELHAFT: I believe Mr. Marks, 11 Richard Marks, is coming today. 12 THE COURT: Okay. 13 MR. NADELHAFT: He's an expert witness. 14 And to us, looking at his report, it seems to me 15 that he is evading the province of the jury, that 16 he is -- 17 THE COURT: Do you mean Mr. Chew? Get 18 the right attorney for this witness. She's 19 attorney for the witness. I've got you. Okay. 20 So Mr. Marks's expert designation? 21 MR. NADELHAFT: As I understand it, 22 he's simply going to say that the op-ed caused	3438	1 that he lost it? 2 MS. LECAROZ: Understanding of the 3 perception in the industry, of the timing of the 4 op-ed, the placement of the op-ed, the impact it 5 had. 6 THE COURT: Okay. 7 MS. LECAROZ: And the ramifications in 8 light of the #MeToo movement and his understanding 9 sort of the -- 10 THE COURT: And I understand all that. 11 That's fine. But the question is is he going to 12 actually say he lost it because of the op-ed? Is 13 he going to say that? 14 MS. LECAROZ: He is. Yeah. 15 THE COURT: No, he's not going to say 16 that. 17 MS. LECAROZ: Okay. 18 THE COURT: He can't say that. That's 19 a factual issue, okay? 20 MS. LECAROZ: Okay. Uh-huh. 21 THE COURT: So but he can say that 22 because of it, he lost revenue or whatever he's
3437	1 Mr. Depp to lose Pirates 6, which just needs to be 2 a factual question, and it seems to be -- and that 3 his opinion is essentially taken like Disney -- 4 THE COURT: He's an expert for... 5 MR. NADELHAFT: He's an expert for -- 6 he's not talking about damages. 7 THE COURT: Okay. 8 MS. LECAROZ: He's talking about the 9 impact of the op-ed -- 10 THE COURT: Okay. Impact, okay. All 11 right. 12 MS. LECAROZ: -- on Mr. Depp's career 13 and reputation in the industry. That Hollywood -- 14 he's an expert with over 45 years of experience. 15 MR. NADELHAFT: Essentially all he's 16 saying is because of the op-ed, he lost -- 17 THE COURT: He lost Pirates 6. Okay. 18 So the question he has is what's his foundation 19 for saying he lost Pirates, which is a factual 20 question. He lost it because of the op-ed. 21 MS. LECAROZ: Right. 22 THE COURT: So how can he testify to	3439	1 going to say. 2 MR. NADELHAFT: I don't think he can 3 testify -- 4 MS. LECAROZ: He's not calculating that 5 out. He is just saying overall, that the 6 placement of the op-ed, the time of the op-ed -- 7 THE COURT: So his reputation is 8 damaged is what he's testifying to, so reputation 9 evidence? 10 MS. LECAROZ: Uh-huh. 11 THE COURT: Okay. He can say that. 12 MR. CHEW: The money experts come 13 later. 14 THE COURT: All right. But he just 15 can't say that was the reason he lost Pirates. I 16 don't think he has any of that foundation. Does 17 that make sense? 18 MS. LECAROZ: Okay. Understood, ma'am. 19 MR. CHEW: Yes, it does. Thank you, 20 Your Honor. 21 THE COURT: Okay. Thank you. 22 (Open court.)

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<p>1 THE COURT: Are we ready for the jury? 2 MR. CHEW: Yes, Your Honor. 3 (Whereupon, the jury entered the 4 courtroom and the following proceedings took 5 place.) 6 THE COURT: All right. Good morning, 7 ladies and gentlemen. 8 All right. You can have a seat. Your 9 next witness. 10 MS. MEYERS: Your Honor, we call Travis 11 McGivern by video link. 12 MS. BREDEHOFT: All right. 13 Mr. McGivern, can you hear me? 14 THE WITNESS: I can. 15 THE COURT: All right. Can you do me a 16 favor and just count to five for me so I can get 17 you to pop up on my big screen here. 18 THE WITNESS: One, two, three, four, 19 five. 20 THE COURT: All right. Now can you 21 turn your camera on. 22 THE WITNESS: I thought it was on.</p>	<p>1 professional? 2 A Roughly 16 years, a little over 16 3 years. 4 Q Do you know the plaintiff in this case, 5 Johnny Depp? 6 A Yes, I do. 7 Q How do you know Mr. Depp? 8 A I've worked for Mr. Depp for a little 9 over nine years. 10 Q And what's your position for Mr. Depp? 11 A Security professional, personal 12 protection. 13 Q When did you first start working for 14 Mr. Depp? 15 A March of 2013. 16 Q And when did you first meet Mr. Depp? 17 A Couldn't say for sure. Probably 18 sometime around then, March or April 2013. 19 Q What do you do as a member of 20 Mr. Depp's security team? 21 A Residential security, estate security 22 if he's in LA. When he's in LA, if he wants to go</p>
3441	3443
<p>1 THE COURT: There we go. Yes, sir, now 2 I can see you. If you can raise your right hand, 3 sir. 4 TRAVIS E. MCGIVERN, 5 Being first duly sworn, was examined 6 and testified as follows: 7 THE COURT: Thank you, ma'am 8 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND 9 COUNTERCLAIM DEFENDANT 10 BY MS. MEYERS: 11 Q Good morning Mr. McGivern. 12 A Good morning. 13 Q Could you please state your full name 14 for the record? 15 A Travis Edward McGivern. 16 Q And where do you currently live? 17 A Los Angeles, California. 18 Q Where are you testifying from today? 19 A Los Angeles, California. 20 Q What is your current occupation? 21 A I am a security professional. 22 Q And how long have you been a security</p>	<p>1 anywhere, I'll take him wherever he wants to go. 2 I have protected his children before. Yeah, just 3 basically ensure the safety and well-being of 4 Mr. Depp and his family. 5 Q And are you currently employed for 6 Mr. Depp? 7 A I am. 8 Q What other means of employment do you 9 have? 10 A So Mr. Depp's travel schedule is pretty 11 regular. So when he's not in town, work slows 12 down a little bit. So I have, actually, in the 13 last six months, just under six months, picked up 14 a full-time job working for another client. 15 Q When you first started working for 16 Mr. Depp, how often would you see him in person? 17 A Hard to say. When he's in town, I saw 18 him on a daily and/or nightly basis. I work 19 nights, mostly. Obviously, when he's out of town, 20 that changes. But, yeah, when he's in town, 21 pretty much daily. 22 Q When did you first meet Ms. Heard?</p>

<p style="text-align: right;">3444</p> <p>1 A Again, I couldn't give you an exact 2 date, but I would say sometime in 2013, maybe 3 summer 2013. 4 Q And when you were working for Mr. Depp, 5 how often would you see Ms. Heard when they were 6 in a relationship? 7 A In the beginning, not very often. At 8 one point, they moved to downtown LA to the 9 Eastern Columbia Building and became a little more 10 frequent. 11 Q When Mr. Depp and Ms. Heard were 12 staying at the Eastern Columbia Building together, 13 how often would you actually be in their apartment 14 with them? 15 A That would vary depending on the 16 situation, but a few times a week would be my best 17 estimate. Again, it depended on what was going 18 on, and there'd be nights where I wouldn't see 19 them at all. There'd be nights where I would -- 20 best estimate would be a few times a week. 21 Q During that time did you have occasion 22 to see Mr. Depp and Ms. Heard interacting with</p>	<p style="text-align: right;">3446</p> <p>1 Australia, was when I really started to notice a 2 change. 3 Q And how often would you witness 4 arguments or fights during that time? 5 A From – in March? 6 Q From March and thereafter. 7 A So when they came back from Australia, 8 the arguments were pretty regular. I wouldn't say 9 nightly, but every other night, several times a 10 week, there would be arguments. 11 Q And what did you observe in the 12 arguments that you personally witnessed? 13 A So it was typically I would come in, 14 I'd be – I'd get a text from Mr. Depp. I would 15 go to penthouse 3, which is where they stayed, 16 either stayed by the door, as requested, or in the 17 kitchen. And then – I mean, it was just verbal, 18 verbal arguments, yelling. It was typically 19 Mr. Depp wanting to get out of there. And so 20 there was the trying to convince Ms. Heard to let 21 us leave, and, yeah, I mean, lots of name-calling, 22 lots of F-bombs, you know.</p>
<p style="text-align: right;">3445</p> <p>1 each other? 2 A I did, yes. 3 Q And how often would you estimate? 4 A Oh, anytime I was in there, they were 5 typically interacting. So I'd say a few times a 6 week, several times a week. 7 Q How would you describe the interactions 8 between Mr. Depp and Ms. Heard? 9 A Hmm, it would -- I mean they were -- it 10 would depend. Sometimes they were super loving, 11 super happy. And then, the next night they could 12 be arguing and -- initially, when we first -- when 13 I first started working down at the lofts, things 14 were cool, more than -- more than moving forward. 15 Things got a little more volatile moving in -- the 16 longer they were there. 17 Q When did you start hearing more 18 arguments between Mr. Depp and Ms. Heard? 19 A So I want to say that the end of 2014, 20 they started staying down there pretty regularly. 21 There were a few incidents where there were 22 fights, but March 2015, when they came back from</p>	<p style="text-align: right;">3447</p> <p>1 Q And who was the name-calling directed 2 at? 3 A That was typically Ms. Heard directing 4 her feelings towards Mr. Depp. 5 Q And what do you recall Ms. Heard saying 6 in those instances? 7 A Oh, dear. It would vary. And to be 8 honest, I tried to not pay attention. I was just 9 there to get Mr. Depp out of there. But, you 10 know, there were times I've heard Ms. Heard call 11 him a "fucking deadbeat dad," if I can say that. 12 I apologize to the Court. A -- fucking washed up, 13 fucking cunt. You name it, she spewed it. 14 Q How would you describe your own 15 interactions with Ms. Heard in the time that you 16 worked for Mr. Depp? 17 MR. ROTTENBORN: Objection. Relevance. 18 THE COURT: What's the relevancy of his 19 interactions? 20 MS. MEYERS: His interactions when he 21 was involved in the -- when he was witnessing 22 these altercations.</p>

<p>3448</p> <p>1 THE COURT: Well, if you want to, ask 2 that question.</p> <p>3 Q How would you describe your 4 interactions with Ms. Heard when you were present 5 during an altercation between her and Mr. Depp?</p> <p>6 A For the most part, there wasn't really 7 interaction. There was -- there were a few times 8 where I was trying to get Mr. Depp away from the 9 situation and Ms. Heard didn't like my involvement 10 in the situation. And she, on one occasion, let 11 me know how she felt about that.</p> <p>12 Q And what did she say to you in that 13 instance?</p> <p>14 A A lot. It was a lengthy, one-sided 15 conversation. But she basically demeaned my 16 career choice, called me a fucking yes-man. And, 17 honestly, there were parts of that where she, you 18 know, she was like, "How would you feel if someone 19 was involved in your relationship?" which I 20 sympathize with. But, yeah, she definitely threw 21 some shade on me and my chosen career.</p> <p>22 Q Now, you mentioned that the arguments</p>	<p>3450</p> <p>1 tell you how long that took, but probably 45 2 minutes to an hour. I believe I escorted them, or 3 helped them, up to penthouse 3 and was maybe in 4 there for -- very, very briefly, a minute or two, 5 and then I left. So overall, let's estimate an 6 hour.</p> <p>7 Q And how close to you -- how close to 8 Ms. Heard were you that day?</p> <p>9 A I mean, in the car, where I'm driving, 10 she's in the seat right behind me to my right. So 11 there's a few feet there. I think when I picked 12 them up, I don't remember if I hugged her or not, 13 but I know I probably grabbed some luggage, so I 14 was within a few feet.</p> <p>15 Q And what time of day was it when 16 Ms. Heard arrived at the airport?</p> <p>17 A Early afternoon. I want to say they 18 landed at around 1:00 p.m.</p> <p>19 Q What, if any, injuries did you observe 20 on Ms. Heard that day?</p> <p>21 A I didn't notice any injuries.</p> <p>22 Q When did you first see Mr. Depp when he</p>
<p>3449</p> <p>1 between Mr. Depp and Ms. Heard increased when they 2 returned from Australia in March 2015.</p> <p>3 Q When did you first see Ms. Heard when 4 she returned from Australia?</p> <p>5 A So I picked Ms. Heard up from the 6 airport on March 9th. Yeah, that was the first 7 time I saw her when she got back.</p> <p>8 Q And who else was with her?</p> <p>9 A Gentleman named Ben King, who I later 10 found out -- I didn't know who he was initially 11 but later found out he was the house manager or 12 property estate manager of the place they were 13 staying at in Australia.</p> <p>14 Q How would you describe Ms. Heard's 15 demeanor when you picked her up at the airport?</p> <p>16 A She seemed normal, nothing out of the 17 ordinary. She was pleasant. She was polite, like 18 she usually was.</p> <p>19 Q How much time did you spend with 20 Ms. Heard that day?</p> <p>21 A Not a lot, but at least the car ride 22 from LAX to downtown LA, to the lofts; couldn't</p>	<p>3451</p> <p>1 returned from Australia in March 2015?</p> <p>2 A I don't know, to be honest. I know it 3 was after Ms. Heard came, but I couldn't give you 4 an exact date.</p> <p>5 Q And what, if any, injuries did you 6 observe on Mr. Depp when he returned from 7 Australia?</p> <p>8 A So Mr. Depp had his hand, his right 9 hand, heavily wrapped. I didn't actually see an 10 injury, but his hand was wrapped.</p> <p>11 Q Now, you mentioned that the arguments 12 between Mr. Depp and Ms. Heard increased after 13 they returned from Australia. What arguments do 14 you recall specifically?</p> <p>15 A One in particular stands out. 16 March 23rd, a couple weeks after they got back, 17 there was an incident in penthouse 5 that I 18 recall.</p> <p>19 Q And when did you start your shift that 20 day?</p> <p>21 A 11:00 p.m. was typically my start time.</p> <p>22 Q And where were you on your shift?</p>

<p>3452</p> <p>1 A So we -- at the lofts, there was kind 2 of a makeshift command post, CP or guard shack or 3 whatever it's called, that was in a storage room 4 connected to penthouse 5 via a patio. 5 So you'd leave penthouse 5, go to a 6 patio, and then our CP was connected to that 7 patio. That's typically where we'd hang out 8 during our shifts. 9 Q And what time were you first contacted 10 by Mr. Depp that evening? 11 A Again, I can't say precisely, but 12 between 4 and -- probably around 4:00 a.m., 4:30, 13 maybe. 14 Q And what did you do after Mr. Depp 15 contacted you? 16 A So when he -- he texted me, and I was 17 downstairs. I don't remember exactly what I was 18 doing, either getting some air, stretching my 19 legs, or grabbing some food. But I remember 20 getting the text. I wasn't in the CP when I got 21 the text. He requested I meet him at penthouse 5 22 and requested that I bring the nurse, his nurse</p>	<p>3454</p> <p>1 out of there before Ms. Heard came back up, just 2 because of past -- 3 Q Sorry. Why was that? 4 A Just because past experiences when they 5 would argue, she would try to prevent us from 6 leaving to the point -- I mean, she's held the 7 elevator before. She's physically tried to keep 8 Mr. Depp from leaving by grabbing his arm or stand 9 in front of him. I just wanted to get out of 10 there to avoid that. 11 Q And what happened when you got upstairs 12 to the penthouse? 13 A So Mr. Depp was sitting in front of the 14 front door of penthouse 5. He had some bags, I 15 believe, like he was ready to go. I greeted him, 16 kind of got a feel for what was going on, tried to 17 get him out of there. As we were getting ready to 18 leave, Ms. Heard and Ms. Lloyd exited the elevator 19 on the penthouse level, so they came back up. And 20 Mr. Depp and Ms. Heard decided they wanted to 21 continue whatever conversation they were having. 22 So I let them into penthouse 5. Myself,</p>
<p>3453</p> <p>1 that was working at that time with him. 2 Q What was her name? 3 A Debbie Lloyd. 4 Q Okay. And so, what did you do -- did 5 you go get Ms. Lloyd? 6 A I did. So, Ms. Lloyd was staying at a 7 hotel close by, probably not a half block away. 8 And being that I was already down there, I felt 4 9 in the morning, I wasn't going to, and Mr. Depp 10 wouldn't have wanted me to, have her walk by 11 herself. But I wasn't going to go get the truck 12 either -- since I was down there already. So I 13 walked over to the hotel. I believe I called the 14 nurse, just to make sure she woke up. And then I 15 walked to the hotel and I met her there. 16 We walked over together to the Eastern 17 Columbia Building. In the lobby we ran into 18 Ms. Heard. She was at the front desk, talking to 19 security or concierge; I'm not sure who. 20 Ms. Lloyd stayed downstairs with Ms. Heard. I 21 proceeded upstairs to meet Mr. Depp at 22 penthouse 5, as requested, was hoping to get him</p>	<p>3455</p> <p>1 Ms. Lloyd, Mr. Depp, and Ms. Heard entered 2 penthouse 5. 3 I tried to stay out of their 4 conversations as long as they were peaceful. So 5 they were having a relatively peaceful 6 conversation, so Ms. Lloyd and I stood outside the 7 door of penthouse 5, had the door propped open to 8 make sure we can hear what was going on, but kind 9 of giving them their space, initially. 10 Q And you said "initially." 11 What happened after that? 12 A So the conversation got a little 13 louder, got a little more volatile. So Ms. Lloyd 14 and myself entered penthouse 5, just to be around 15 to hopefully be able to not necessarily mediate, 16 but just to be there. So, yeah, entered, stood a 17 little closer to Mr. Depp. 18 Q And what did you observe when you went 19 back into the penthouse? 20 A So the argument continued. There were 21 moments of kind of normal conversation, peaceful 22 conversation, but then there were also moments of</p>

<p style="text-align: right;">3456</p> <p>1 yelling and anger from both of them. And at some 2 point, I witnessed Ms. Heard throw a Red Bull can. 3 So the loft was three levels. Mr. Depp was down 4 at the lower level, which is the kitchen area; 5 there's a middle level, which is -- was turned 6 into an office for Ms. Heard; and then the upper 7 level was where the bedrooms were, but they were 8 turned into a closet, basically, for Ms. Heard, at 9 that time. 10 Ms. Heard and her sister, at that time, 11 Whitney, had come in. They were both on the 12 middle level, the office level. And I saw 13 Ms. Heard throw a Red Bull can from her position 14 that struck Mr. Depp in the back. 15 Q Anything else that you recall? 16 A At that point, I moved closer to 17 Mr. Depp. I didn't care that I was in the middle 18 of their conversation at that point. I didn't 19 want my client getting hit with anything else. 20 So I stood right by Mr. Depp. The 21 verbal onslaught continued from both of them. 22 Mr. Depp was giving as good as he got at that</p>	<p style="text-align: right;">3458</p> <p>1 especially after she tried to spit on him. At one 2 point Ms. Heard and her sister left penthouse 5. 3 I imagine they went into penthouse 4 or possibly 4 over to penthouse 3; I don't know. They were all 5 adjoining. 6 Mr. Depp went upstairs and rearranged 7 her closet for her, threw down probably every rack 8 of clothing and shoes, threw one -- at least one 9 downstairs. Yeah, he was upset. 10 Q Where was Ms. Heard when Mr. Depp 11 "rearranged her closet," as you said? 12 A Can't say for sure, but she was not in 13 penthouse 5. She was either in 4 or 3. 14 Q And you mentioned Ms. Heard's sister, 15 Whitney. Do you recall when she arrived in the 16 evening? 17 A So Whitney wasn't there when we first 18 all walked into penthouse 5. When Ms. Lloyd and I 19 stepped out to give them some space, she must 20 have -- excuse me -- she must have come in at some 21 point because she was in there when we got -- when 22 we walked back in.</p>
<p style="text-align: right;">3457</p> <p>1 point. He was angry and agitated. 2 At one point Ms. Heard threw something 3 else, either a purse or some sort of bag or 4 something that she had up there. I was able to 5 knock it away so it didn't hit him. 6 At one point she spit at him. Yeah, 7 and just a lot of -- a lot of verbal, vitriol from 8 both of them. 9 Q What do you remember Ms. Heard saying 10 to Mr. Depp on this occasion? 11 A Jeez. Anything and everything. 12 Specifically, there was the "you're fucking washed 13 up. You're a fucking cunt," which he called her 14 as well. You're, again, the deadbeat dad shit. 15 Yeah, I don't even remember what the 16 fight was about, but it was -- it was pretty -- 17 the F-word is my favorite word, and it was being 18 thrown around to the point where I was 19 uncomfortable, so... 20 Q And how did Mr. Depp respond to 21 Ms. Heard's behavior? 22 A Oh, he was mad. He was upset,</p>	<p style="text-align: right;">3459</p> <p>1 Q Did you see Ms. Heard again that 2 evening after Mr. Depp was in her closet? 3 A I did, yeah. She must have heard what 4 was going on and not been too pleased, so she, 5 shortly after, reentered penthouse 5 as I was 6 trying to get Mr. Depp out of there. 7 Q And what happened after that point? 8 A So her and her sister both came back 9 in. We were on the middle level, so her office 10 level of penthouse 5, at that point. She was 11 agitated. Mr. Depp was agitated. I felt it was 12 time to get Mr. Depp out of the situation, so I 13 stepped in between Ms. Heard and Mr. Depp, telling 14 Mr. Depp that we were leaving and that it wasn't 15 up to him anymore. 16 At that point, out of the corner of my 17 eye, I saw a fist and an arm come across my right 18 shoulder, and I heard and saw a closed fist 19 contact Mr. Depp in the left side of his face. 20 Q And whose fist was that? 21 A That was Ms. Heard's fist, Amber 22 Heard's fist.</p>

3460	1 Q And where was Whitney when this 2 occurred? 3 A Can't say for sure, but I'm guessing -- 4 or my best guess is behind Amber. 5 Q How did Mr. Depp respond when he was 6 punched? 7 A The initial look on his face kind of 8 mirrored mine, kind of a look of shock, like "What 9 just happened? Where did that come from?" At 10 that point, I wasn't going to let Mr. Depp get hit 11 anymore, so I moved him down the last flight of 12 stairs to the lower level and told him, "We're 13 leaving," like it wasn't up to him anymore, just 14 for his safety. I didn't -- again, I had let him 15 get hit by a Red Bull can. I let him get punched. 16 My job is to ensure the safety and well-being of 17 my clients, and I felt like I hadn't done that. 18 So it was my time to do my job and get him out of 19 there. 20 Q And so where did you go? 21 A So Ms. Heard and her sister left 22 penthouse 5. Again, I don't know where they went,	3462	1 Q At any point, did Mr. Depp throw 2 anything at anyone? 3 A No. 4 Q At any time during this incident, did 5 Mr. Depp physically respond to Ms. Heard. 6 A No. 7 Q Do you recall Ms. Heard's birthday 8 party in April of 2016? 9 A I do. 10 Q Mr. McGivern, during the incident we 11 just discussed on March 23rd, what did Mr. Depp 12 have on his right hand? 13 A So he had the same bandage that he had 14 when he arrived from Australia. So it was heavily 15 wrapped, yeah, a heavily wrapped bandage. I don't 16 know what was underneath, but it was definitely 17 wrapped. 18 Q Do you recall whether it was a hard or 19 a soft cast? 20 A I do not. 21 Q Okay. Now, moving forward to 22 Ms. Heard's birthday party in April 2016, were you
3461	1 but I'm assuming they went through penthouse 4, or 2 either in 4 or 3. Mr. Depp was not pleased with 3 me, naturally. He went into the bathroom for a 4 couple minutes. Ms. Lloyd talked to him, and they 5 came out and agreed that it was time to leave. 6 So as we were leaving the front door, 7 Mr. Depp got right in my face. He was wearing 8 sunglasses and -- maybe not sunglasses. He was 9 wearing glasses, pulled them down, pointed to the 10 left side of his face, and told me, "That's your 11 fault." 12 And I agreed. And then we proceeded to 13 the vehicle and we left the lofts. 14 Q What did you see on the left side of 15 Mr. Depp's face? 16 A There was already a nice little -- a 17 nice little shiner, definitely swollen and red. 18 It wasn't black and blue yet, but it was 19 definitely swollen and red. 20 Q At any point during this incident, did 21 Mr. Depp throw anything at Ms. Heard? 22 A No.	3463	1 present at that dinner party? 2 A I was not. 3 Q Okay. 4 A I started my shift, again, around 5 11:00 p.m. The party was going on in penthouse 5. 6 I don't typically take part in get-togethers, so I 7 think I probably hung out in the CP. Shortly 8 after I got there, the party kind of wended down. 9 I believe Mr. Depp got there -- he was 10 late, so I think he got there shortly after I 11 started my shift. He went into penthouse 5. 12 Again, the party wound down shortly thereafter, 13 and then, as far as I know, Mr. Depp and Ms. Heard 14 went back to penthouse 3 shortly thereafter. 15 Q Did you see Mr. Depp again that 16 evening? 17 A That morning I did, early that morning, 18 yeah -- or the following morning. Again, I got a 19 text, my best guess is around the same time, 4. 20 There were so many incidences, they're hard to 21 keep straight -- but probably around 4 or 5 that 22 morning, requesting my presence in penthouse 3.

<p style="text-align: right;">3464</p> <p>1 Q And how did -- what did you do after 2 you received that text message? 3 A Entered, went to penthouse 3. 4 Q And what did you observe when you went 5 to penthouse 3? 6 A Again, a verbal argument. I think it 7 was made clear that some phones had been thrown 8 off -- thrown out the window or something, down to 9 Broadway. 10 Mr. Depp was, again, ready to leave, to 11 get out of the situation. He had a couple bags 12 over his shoulders, wanted to grab a few valuables 13 that we always used to grab when this happened, 14 some framed letters from either Hunter S. Thompson 15 or Marlon Brando. Yeah, and then I believe we 16 left. I think I got him out of the situation 17 again. 18 We did look for the phone, briefly, I 19 think, on our way back to West Hollywood. But my 20 main concern was getting him away from the 21 situation, so I didn't find the phone. And then 22 we proceeded back to his Sweetzer property.</p>	<p style="text-align: right;">3466</p> <p>1 Q Have you ever observed Mr. Depp use any 2 drugs? 3 A I have. 4 Q And what drugs have you seen Mr. Depp 5 use? 6 A Are you talking non-prescription drugs? 7 Q Yes. 8 A Marijuana and cocaine. 9 Q How many times have you seen Mr. Depp 10 use marijuana? 11 A Too many to count. I mean, daily. 12 Q And how many times have you seen 13 Mr. Depp use cocaine? 14 A A couple. Two. 15 Q How would you describe Mr. Depp's 16 demeanor when he's using marijuana? 17 A Chill, for lack of a better word. 18 Mellow. Yeah, I don't know how to better describe 19 it, just super mellow. 20 Q And how would you describe Mr. Depp's 21 demeanor when you've seen him use cocaine? 22 A The same. I've seen him use it, like</p>
<p style="text-align: right;">3465</p> <p>1 Q What do you recall about Ms. Heard's 2 demeanor that evening when you saw her? 3 A Nothing out of the ordinary, nothing 4 that -- I mean, they were arguing like usual in 5 those circumstances, but nothing pops out. 6 Q What, if any, injuries did you observe 7 on Ms. Heard that evening? 8 A I didn't notice any injuries. 9 Q In your time working for Mr. Depp, have 10 you ever seen Mr. Depp physically abuse Ms. Heard? 11 A I have not. 12 Q Now, you mentioned a couple occasions. 13 How many times have you witnessed Ms. Heard be 14 physically abusive toward Mr. Depp? 15 A Obviously, the March 23rd thing in 16 penthouse 5. Physically abusive? I don't know 17 how to define that, but I have seen her physically 18 try to prevent him from leaving before, so 19 grabbing his arms, standing in front of him, 20 pushing him. Yeah. Again, I don't know if that's 21 physically abusive, but I've definitely seen her 22 touch him on multiple occasions.</p>	<p style="text-align: right;">3467</p> <p>1 actual seen him use it, a few times. I've known 2 of him using it other times, and I feel like it 3 levels him out. Yeah, I haven't noticed any 4 difference when he's used it. 5 Q Have you observed Mr. Depp consume 6 alcohol? 7 A Absolutely. 8 Q And how many times? 9 A Like marijuana, too many to count. 10 Pretty regular. 11 Q And on how many of those occasions did 12 Mr. Depp appear to be drunk? 13 A It would depend on what you mean by 14 "drunk," but not many. The only time I would say 15 I've seen Mr. Depp drunk was when he would fall 16 asleep on the couch sitting up with his boots on. 17 Other than that, Mr. Depp handles his liquor very 18 well. 19 Q How would you describe Mr. Depp's 20 demeanor when you've seen him consume alcohol? 21 A No different than any other time. 22 Again, super chill, super mellow, yeah.</p>

<p style="text-align: right;">3468</p> <p>1 Q Have you ever witnessed Ms. Heard 2 consume alcohol? 3 A I have. 4 Q How many times would you estimate? 5 A Again, too many to count. She drank 6 fairly regularly, so I couldn't even give you a 7 guesstimate. 8 Q On how many of those occasions did you 9 observe Ms. Heard behaving drunk? 10 A Can't say I've -- other than the 11 incident on March 23rd, where I didn't see her 12 drinking but I assumed based on her behavior, she 13 was drunk, other than that, I can't say I've ever 14 seen her obviously drunk in my eyes. 15 MS. MEYERS: I have no further 16 questions. 17 THE COURT: All right. 18 Cross-examination, Mr. Rottenborn. 19 MR. ROTTENBORN: Thank you. 20 THE COURT: Yes, sir. 21 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND 22 COUNTERCLAIM PLAINTIFF</p>	<p style="text-align: right;">3470</p> <p>1 A Yes. 2 Q So when you're working security for 3 Mr. Depp, it's Mr. Depp and Mr. Depp alone that is 4 your client, correct? 5 A That is not correct. 6 Q Well, in the altercation that you 7 testified about with Ms. Heard and Mr. Depp, you 8 referred to only Mr. Depp as your client, that it 9 was your job to keep your client safe. 10 Do you remember that? 11 MS. MEYERS: Objection. Compound. 12 THE COURT: I'll allow that. 13 Go ahead. 14 A I do. 15 Q So at least in that instance, he was 16 your client, not Ms. Heard, correct? 17 A Correct. 18 Q Now, the evening of March 23rd, 2015, 19 you actually walked into the middle of the 20 argument with Debbie Lloyd, correct? 21 A Yes. 22 Q So you testified earlier that you were</p>
<p style="text-align: right;">3469</p> <p>1 BY MR. ROTTENBORN: 2 Q Good morning, Mr. McGivern. 3 A Good morning, sir. 4 Q So you said you've worked for Mr. Depp 5 for about nine years, right? 6 A Correct. 7 Q And he hasn't been in town recently, so 8 you have another job. 9 Is that what you said? 10 A Yes. 11 Q But you still consider yourself an 12 employee of his even today, correct? 13 A I do. 14 Q And when you do work for Mr. Depp, he 15 pays your salary, right? 16 A Not on salary. He pays my wage, yes. 17 Q Okay. He pays the money that you make 18 for working for him? 19 A Correct. 20 Q And you've referred to him a few times 21 during your testimony this morning as "your 22 client"; is that right?</p>	<p style="text-align: right;">3471</p> <p>1 downstairs, and Ms. Heard was downstairs in the 2 lobby and you had gotten Ms. Lloyd. But that's 3 actually not accurate, is it? 4 A To the best of my recollection, that is 5 correct. 6 Q In fact, when you and Ms. Lloyd entered 7 penthouse 5, Amber and Mr. Depp were already in 8 there having a verbal argument, correct? 9 A That is not correct. 10 MR. ROTTENBORN: May I approach, Your 11 Honor? 12 THE COURT: All right. Yes, sir. 13 Thank you. 14 Q Mr. McGivern, do you see a document on 15 the screen in front of you entitled "Witness 16 Statement of Travis McGivern"? 17 A I do. 18 Q And you -- well, let me ask you this: 19 Is that your address below? 20 A The document's pretty small. Is there 21 any way for me -- oh, there you go. Yes, it is. 22 Q And that's where you currently live?</p>

<p>1 A Hang on one second. I'm sorry. That 2 is a PO box. 3 Q Okay. Is that yours? 4 A It is. 5 Q Now this is a witness statement that 6 you prepared on behalf of Mr. Depp in the U.K. 7 trial, correct? 8 A Yeah. The statement went away – oh, 9 there it is. 10 Q Do you see it? 11 A Yes, it is. 12 Q And who drafted this statement? 13 A Myself along with an attorney, I don't 14 remember exactly who. 15 Q Was it Adam Waldman? 16 A At that point, I don't believe it was, 17 no. 18 Q If you go to paragraph 5, please, on 19 the second page, and you understood when you wrote 20 this statement that this was going to be submitted 21 to the court in the U.K. trial that Mr. Depp 22 brought and that this was your testimony on behalf</p>	<p>3472</p>	<p>1 Q But you do remember Mr. Depp being very 2 angry, right? 3 A I remember both of them being very 4 angry, yes. 5 Q And you say that he gave as good as he 6 got when it came to what they were saying to each 7 other, right? 8 A Yes. 9 Q You said they were both being verbally 10 abusive to one another? 11 A Yes. 12 Q And you testified that at some point, 13 Ms. Heard -- Ms. Heard was on the mezzanine level, 14 right, the level of her office, so kind of the 15 middle level of the penthouse? 16 A That's correct. 17 Q And Mr. Depp was on the lower level, 18 correct, when you entered the penthouse? 19 A So when Ms. Lloyd and I reentered the 20 penthouse, yes, that's where they were. 21 Q And you weren't preventing Mr. Depp 22 from leaving at any time, correct?</p>	<p>3474</p>
<p>1 of Mr. Depp, correct? 2 A Yes. 3 Q And about two-thirds of the way through 4 paragraph 5, there's a sentence that says, "When 5 Ms. Lloyd and I entered his residence, Ms. Heard 6 and Mr. Depp were having a verbal argument." 7 Is that correct, that I read that 8 right? 9 A That is, yes. 10 Q So that doesn't say anything about you 11 meeting Ms. Heard in the lobby of the Eastern 12 Columbia Building, does it? 13 A No, it does not. 14 Q And when you entered the penthouse, you 15 can't recall the specifics of what the argument 16 was about, correct? 17 MR. ROTTENBORN: Take that down. 18 A Not, like, what they were fighting 19 about? Absolutely – no, I don't. 20 Q And you don't know anything about what 21 caused the argument in the first place, correct? 22 A I do not.</p>	<p>3473</p>	<p>1 A Preventing him from leaving? I was 2 encouraging him to leave. 3 Q And he could have, when he was on that 4 lower level of the penthouse, he could have left 5 at that point, correct? You wouldn't have 6 prevented that? 7 A No, I would not have. 8 Q And, but instead, at some point he 9 walked up to the mezzanine, and as you say, he 10 rearranged Ms. Heard's closet, right? 11 A That wasn't on the mezzanine level; 12 that was on the top level. But, yeah, he 13 rearranged the closet. 14 Q So he traveled up two levels in the 15 penthouse to throw down every rack of clothing 16 that she had, right? 17 A I don't know about every rack, but he 18 definitely threw down some racks of clothes and 19 shoes. 20 Q Okay. I believe you said every rack, 21 so that's why I was just asking you to confirm 22 that.</p>	<p>3475</p>

3476	1 You have said he threw a rack down the 2 stairs, correct? 3 A Yes. 4 Q And then at that point, he went back 5 downstairs? 6 A To the mezzanine level, yes. 7 Q Now, that wasn't the only time you 8 learned of Mr. Depp causing damage in penthouse 5, 9 correct? 10 A Couldn't say for sure. Nothing – 11 nothing's coming to mind. 12 Q He had -- you said he had something on 13 his hand from his injury that he sustained in 14 Australia, right? 15 A Yes. His hand was wrapped. 16 Q Now, you weren't in Australia with 17 Mr. Depp and Ms. Heard, correct? 18 A I was not. 19 Q Okay. And what he had on his hand 20 could have been a hard cast, correct? 21 A Sure. I have no idea what was under 22 the wrap.	3478	1 Q And it was only after Mr. Depp pushed 2 Whitney that Amber stepped forward and punched him 3 in the face; isn't that right? 4 A That is not correct. 5 Q Now, moving on to April 2016, you 6 weren't there for the party, you said, correct? 7 A I arrived – I started my shift while 8 the party was going on. 9 Q But you weren't in with the partygoers, 10 you said, right? 11 A That's correct; I was not. 12 Q And you said at some point Mr. Depp and 13 Ms. Heard went back to penthouse 3. But you have 14 no idea what went on between them in penthouse 3 15 while you weren't there, correct? 16 A I do not. 17 Q And you said that you gave security 18 services to Mr. Depp primarily in Los Angeles; is 19 that right? 20 A Yes. A little bit of travel, but 21 mostly in LA. 22 Q Okay. Where did you travel to?
3477	1 Q And isn't it true that while he was on 2 the mezzanine level and Ms. Heard and her sister 3 were there, that he was reaching for Amber's hair 4 while he was trying to hit her with that cast, 5 correct? 6 A That is not correct. 7 Q And you say that you can't say for sure 8 where Whitney was standing on the mezzanine level 9 during this altercation, correct? 10 A That is correct. 11 Q And it's possible that she was standing 12 in between Mr. Depp and Ms. Heard then, correct? 13 A No. 14 Q Well, you say you can't say for sure 15 where she was standing. So she could have been 16 standing in between Mr. Depp and Ms. Heard, right? 17 A No. Because I stepped in between 18 Ms. Heard and Mr. Depp. So she definitely wasn't 19 standing in between them. 20 Q Well, in fact, you saw Mr. Depp push or 21 shove Whitney Heard, correct? 22 A Absolutely not.	3479	1 A Vegas. Up north we did a road trip, 2 kind of. They called it their honeymoon, so Napa, 3 San Francisco, Big Sur, San Jose, those are all 4 with Ms. Heard. I've taken Mr. Depp to China 5 before. 6 Q Okay. 7 A Yeah, bunch of local stuff, Palm 8 Springs, Santa Barbara, stuff like that. 9 Q You weren't on a plane flight from 10 Boston to Los Angeles with Mr. Depp and Amber in 11 May 2014, correct? 12 A I was not. 13 Q And you weren't at the Hicksville 14 Trailer Palace in May or June of 2013, correct, 15 with them? 16 A I was not. 17 Q You were never in the Bahamas with 18 them, including in August 2014, correct? 19 A I was not. 20 Q You were not in the Bahamas with them 21 in December of 2015, correct? 22 A I was not.

3480	1 Q You were not in Tokyo with them in 2 January of 2015, correct? 3 A I was not. 4 Q You were not in the Eastern Columbia 5 Building with them on the evening of 6 December 15th, 2015, correct? 7 A I don't know. 8 Q To the best of your recollection? 9 A Yeah, if they were at the lofts, I 10 typically worked every night, but nothing about 11 December 15th is popping into my head. 12 Q Okay. And you definitely were not in 13 the Eastern Columbia Building with them on the 14 night of May 21st, 2016, were you? 15 A I was not. 16 Q Okay. 17 MR. ROTTENBORN: Nothing further. 18 Thank you, Mr. McGivern. 19 THE COURT: All right. Redirect? 20 MS. MEYERS: No, Your Honor. 21 THE COURT: All right. Is this witness 22 subject to recall?	3482	1 four, five. 2 THE COURT: All right. Thank you, sir. 3 Can you raise your right hand. 4 JACK WHIGHAM, 5 Being first duly sworn, was examined 6 and testified as follows: 7 8 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND COUNTERCLAIM DEFENDANT 9 10 THE COURT: Thank you, sir. 11 BY MR. CHEW: 12 Q Good morning, Mr. Whigham. Would you 13 please state your full name for the record. 14 A Sure. It's Jack Whigham. 15 Q Where do you live, Mr. Whigham? 16 A I live in Los Angeles. 17 Q Where, if at all, did you earn your 18 undergraduate degree? 19 A I earned a degree in finance from 20 University of Florida. 21 Q In what year, if any, did you graduate 22 from the University of Florida?
3481	1 MS. MEYERS: Yes, Your Honor. 2 THE COURT: Mr. McGivern, you're 3 subject to recall, so just to let you know, you're 4 still subject to the rule of witnesses. So you 5 cannot talk to anybody about your testimony or 6 watch any of the proceedings of this case, okay, 7 sir? 8 THE WITNESS: Understood, ma'am. 9 THE COURT: All right. Thank you. 10 Have a good day. 11 THE WITNESS: You do the same. Thank 12 you. 13 THE COURT: Thank you. 14 Your next witness. 15 MR. CHEW: Mr. Depp calls Jack Whigham, 16 who should be waiting in the electronic lobby. 17 THE COURT: Okay. All right. 18 Mr. Whigham, can you hear me, sir? 19 THE WITNESS: Yes, ma'am. 20 THE COURT: Could you do me a favor and 21 just count one to five for me. 22 THE WITNESS: Sure. One, two, three,	3483	1 A 1998. 2 Q Do you have any graduate degrees, 3 Mr. Whigham? 4 A I do. I have a law degree, also from 5 the University of Florida, and graduated in 2002. 6 Q Mr. Whigham, what do you currently do 7 for a living? 8 A I'm currently a manager representative 9 for artists. 10 Q Would you please describe, Mr. Whigham, 11 for the jury, what a manager representative does? 12 A So we, you know, represent writers, 13 directors, actors, actresses mostly in their 14 pursuit of artistic endeavors, so I primarily 15 focus on film and television, but, you know, all 16 artistic endeavors. 17 Q How does a manager representative get 18 paid? 19 A Typically via commission. So industry 20 standard, kind of, 10 percent of whatever the deal 21 is. 22 Q And, Mr. Whigham, what did you do

<p>3484</p> <p>1 professionally after you earned your JD at the 2 University of Florida?</p> <p>3 A I was an attorney at a firm called 4 Weil, Gotshal & Manges for approximately three 5 years, and then I segued from there to a talent 6 agency called CAA, Creative Artists Agency.</p> <p>7 Q In what year did you start work at CAA?</p> <p>8 A I started there in April of 2004.</p> <p>9 Q And, Mr. Whigham, in what capacity did 10 you start working at CAA?</p> <p>11 A I started at the bottom in the mail 12 room, sifted mail, and then became an assistant 13 for one of the managing partners. And then in 14 2007, I believe, I was promoted to agent. And 15 then right around 2014, I think, I began 16 co-running the film and talent department there.</p> <p>17 Q And when your responsibilities shifted 18 to becoming an agent at CAA, would you please 19 describe briefly for the jury what that entailed.</p> <p>20 A Sure. We were, you know, also looking 21 out for artistic endeavors on behalf of the 22 client, so writers, directors, actors, actresses,</p>	<p>3486</p> <p>1 know, 2014 or '15, then I met him very briefly at 2 one of his music shows, but more substantively, I 3 sat with him, I believe, in the fall of 2016.</p> <p>4 Q Did there come a time, Mr. Whigham, 5 when you became Mr. Depp's agent?</p> <p>6 A Yes.</p> <p>7 Q When was that?</p> <p>8 A Right around October, I believe, fall 9 of 2016.</p> <p>10 Q Was that when you were still with CAA?</p> <p>11 A Yes.</p> <p>12 Q When you first started with Mr. Depp as 13 his agent, who, if anyone, assisted you?</p> <p>14 A I had two partners that I worked with 15 with Johnny. One was Brian Lourd, and the other 16 was Christian Carino.</p> <p>17 Q Since starting to work with Mr. Depp as 18 his agent in October of 2016, have you had 19 opportunities to observe him interacting with 20 yourself and others?</p> <p>21 A Yes.</p> <p>22 Q How would you describe for the jury</p>
<p>3485</p> <p>1 but we were also negotiating deals and really 2 pursuing film and television producing deals on 3 behalf of the client.</p> <p>4 Q Mr. Whigham, did there come a time when 5 you left CAA?</p> <p>6 A I did. I left in August of 2020.</p> <p>7 Q What, if anything, did you do 8 professionally after you left CAA in August 9 of 2020?</p> <p>10 A So I cofounded a management production 11 company called Range Media Partners in August of 12 2020 and have been working there ever since.</p> <p>13 Q What type of company is Range Media 14 Partners?</p> <p>15 A It's a management representation 16 production company.</p> <p>17 Q Do you know Johnny Depp?</p> <p>18 A I do.</p> <p>19 Q Mr. Whigham, when did you first meet 20 Mr. Depp?</p> <p>21 A I actually met him very briefly on the 22 set of Black Mass, which was probably, I don't</p>	<p>3487</p> <p>1 Mr. Depp's demeanor on those occasions?</p> <p>2 MS. BREDEHOFT: Objection. Relevance.</p> <p>3 THE COURT: All right. What's the 4 relevance?</p> <p>5 MR. CHEW: The relevance is how he 6 conducts himself professionally, which relates to 7 his reputation, which is at issue.</p> <p>8 THE COURT: He may answer the question. 9 Go ahead.</p> <p>10 Q You may answer the question, 11 Mr. Whigham.</p> <p>12 A Sure. Johnny was always very nice. 13 We, in fact -- you know, artistic, polite, and you 14 know very thoughtful. You know, kind of uniquely 15 thoughtful about "How are you doing? How's your 16 family?" He was just a thoughtful person. He 17 always has been.</p> <p>18 Q Did he seem genuine?</p> <p>19 MS. BREDEHOFT: Objection. Leading.</p> <p>20 THE COURT: I'll sustain the objection. 21 Next question.</p> <p>22 Q To what extent, if any, did he seem</p>

3488	1 genuine? 2 MS. BREDEHOFT: I'm going to object. 3 How would he know? Speculation. 4 THE COURT: I'm not sure what objection 5 that is. 6 MS. BREDEHOFT: It's speculation. 7 THE COURT: Speculation. 8 MS. BREDEHOFT: Foundation. 9 MR. CHEW: I believe he can testify as 10 to that. 11 THE COURT: I'll allow it. 12 Go ahead. 13 Q Her Honor says you may answer that 14 question. 15 A Okay. I found Johnny to be authentic, 16 you know, just a genuine kindness. 17 Q Mr. Whigham, prior to your first 18 becoming Mr. Depp's agent in 2016, October of 19 2016, who was his agent prior to that? 20 A I believe it was Tracey Jacobs at a 21 company called UTA. 22 Q And before you took over from Tracey	3490	1 began representing him as his agent in the fall of 2 2016? 3 A Johnny's reputation, in my opinion, was 4 very – he was very well regarded and respected by 5 peers in the artistic community. 6 MS. BREDEHOFT: Your Honor, I'm going 7 to object. First of all, he says in his opinion, 8 which he's not an expert witness. And second, 9 he's going into hearsay. 10 THE COURT: I'll overrule the 11 objection. 12 Go ahead. 13 Q Mr. Whigham, you may continue. 14 A Well regarded, respected, extremely 15 talented, artistic. 16 Q Are you familiar, Mr. Whigham, with the 17 distinction between an independent film and a 18 studio film? 19 A I believe I am. 20 Q What, if any, difference is there 21 between an independent film on one hand and a 22 studio film on the other?
3489	1 Jacobs as Mr. Depp's agent, what, if any, research 2 or due diligence did you do with respect to him? 3 MS. BREDEHOFT: Objection. Relevance. 4 THE COURT: What's the relevance? 5 MR. CHEW: Again, Your Honor, it goes 6 to reputation, which is the core of the issue. 7 MS. BREDEHOFT: I think we're going to 8 get into hearsay. 9 THE COURT: I'll sustain the objection. 10 Next question. 11 MR. CHEW: Thank you, Your Honor. 12 Q Were you aware of Mr. Depp's 13 professional reputation at the time you became his 14 agent in October 2016? 15 MS. BREDEHOFT: I would say objection. 16 Leading, and I think it's going to call for 17 hearsay. 18 THE COURT: I'll overrule at this 19 point. Go ahead. 20 A I believe I was. 21 Q What was your understanding, if any, of 22 Mr. Depp's professional reputation at the time you	3491	1 A So in layman terms, I would say that a 2 studio film is a bigger-budgeted film. It has a 3 distributor, a studio in place. So when you think 4 of Disney, Marvel, Universal, these are big 5 companies. They're bigger budgeted and bigger 6 fees, and then independent, like, we call them 7 "indies," typically are smaller budgeted, more 8 artistically minded, smaller fees, and often don't 9 have distribution when they're made. 10 Q Starting in October 2016, what types of 11 opportunities have you pursued on Mr. Depp's 12 behalf? 13 A A wide variety, you know, primarily I 14 would say focused on film, television, and 15 producing. 16 Q What, if any, roles did Mr. Depp have 17 in progress as of that time, fall of 2016, going 18 into calendar year 2017? 19 A So we inherited some deals. There was 20 two films, as I remember, that were going to go 21 back to back. One was City of Lies, the Notorious 22 B-I-G film, and the other was Murder on the Orient

<p style="text-align: right;">3492</p> <p>1 Express, so those were filmed almost at the same 2 time. And then they had preexisting deals that we 3 serviced. 4 And then he had Fantastic Beasts, 5 Crimes of Grindelwald as well, and then we were in 6 the process -- we ended up finishing the sixth 7 film negotiation on Pirates of the Caribbean. 8 Q Mr. Whigham, you mentioned City of 9 Lies. When was that film actually shot? 10 A To the best of my memory, it was shot 11 right, you know, at the area, mostly the beginning 12 of 2017. 13 Q What was Mr. Depp's compensation for 14 City of Lies? 15 A I believe it was \$8 million. 16 Q And you mentioned Murder on the Orient 17 Express. When was that shot? 18 A So it was shot at almost the same time. 19 I actually can't remember which one went first. 20 They were both shot predominantly, call it January 21 to April of 2017. I remember I was having to work 22 out dates. But they were -- the beginning of</p>	<p style="text-align: right;">3494</p> <p>1 was the first business opportunity you were able 2 to secure for Mr. Depp after he came to you and 3 CAA in the fall of 2016? 4 A So I believe it was -- 2017 was 5 really -- it was busy. We had a slot that summer, 6 and he wanted to do a smaller film and it was The 7 Professor, I believe. 8 Q How much compensation, if any, did he 9 receive for performing in that smaller film, The 10 Professor? 11 A That deal was three and a half million. 12 Q Was The Professor an independent film, 13 or was it a studio film? 14 A It was independent. 15 Q And, Mr. Whigham, how, if at all, was 16 CAA compensated for closing the deal on The 17 Professor? 18 A So it would have been the normal 19 10 percent of the deal. So the deal was three and 20 a half million; the commission would be \$350,000 21 to the agency. 22 Q Mr. Whigham, was 2017 a typical year</p>
<p style="text-align: right;">3493</p> <p>1 2017. 2 Q What was Mr. Depp's compensation for 3 Murder on the Orient Express? 4 A If memory serves me, I think it was 5 \$10 million. 6 Q Was Murder a studio film or an 7 independent, what you call an indie film? 8 A It was a studio film. It was Fox. 9 Q Mr. Whigham, you also mentioned 10 Fantastic Beasts 2: Crimes of Grindelwald. When 11 was that film shot? 12 A I believe that film was shot in the 13 fall of 2017. 14 Q What was Mr. Depp's compensation for 15 Crimes of Grindelwald? 16 A Again, that deal predated us. I think 17 it was 13.5 million, if I remember correctly. 18 Q Was Crimes of Grindelwald a studio film 19 or an indie film? 20 A It was studio, and it was Warner 21 Brothers. 22 Q And backing up a bit, Mr. Whigham, what</p>	<p style="text-align: right;">3495</p> <p>1 for Mr. Depp in terms of the workload for an actor 2 of his caliber and track record? 3 MS. BREDEHOFT: Objection. Leading. 4 THE COURT: Overruled. I'll allow it. 5 Go ahead. 6 A Yes. 7 Q What other roles, if any, were you able 8 to secure for Mr. Depp during your tenure at CAA 9 before you went to the new company? 10 A A film called Waiting for the 11 Barbarians and a film called Minamata. 12 Q When was Waiting for the Barbarians 13 shot? 14 A Waiting for the Barbarians was fall of 15 2018. 16 Q What, if any, plans did you and 17 Mr. Depp have for 2018, calendar year 2018? 18 A We had a very specific plan for that 19 year because 2017 was busy and he had done three 20 studio films. And I remember him wanting to take 21 time off to rest and be with his kids for the 22 first half of the year, and then he wanted to go</p>

<p style="text-align: right;">3496</p> <p>1 on the music tour, which always just made him 2 really happy. And so that was the summer of 2018. 3 And then – and then we had the slot for the fall 4 of 2018, and that's where we spent a lot of time 5 thinking about what that movie was going to be, 6 and Waiting for the Barbarians was kind of a 7 little gift because it was based on the JM Coetzee 8 novel, and Johnny's very well read and knew the 9 literature, the underlying book; and Mark Rylance 10 was in the film. It was just, like, a dream actor 11 that he always wanted to work with. 12 Q What was Mr. Depp paid for Waiting for 13 the Barbarians? 14 A One million dollars. 15 Q And I apologize if you've already said 16 this. So is Waiting for the Barbarians an 17 independent film or studio film? 18 A It was an indie, independent. 19 Q Mr. Whigham, you also mentioned the 20 film Minamata. When was that film shot? 21 A That was the very beginning of 2019, so 22 I think January start.</p>	<p style="text-align: right;">3498</p> <p>1 Fantastic Beasts 5, which I know preceded you, 2 what, if any, understanding do you have of whether 3 Mr. Depp had any back-end rights for Pirates 5? 4 MS. BREDEHOFT: Objection, Your Honor. 5 Foundation. He said that deal was at the other 6 agency and he doesn't -- he wasn't -- 7 THE COURT: I'll allow it if he knows 8 it. That's fine. 9 Go ahead. 10 Q Her Honor said you may answer the 11 question. 12 A So you initially said Fantastic Beasts. 13 I think you meant Pirates 5. 14 Q Oh, I apologize. I did mean for 15 Pirates 5, what, if any, back-end did Mr. Depp 16 have for Pirates 5? 17 A I don't know what it was. I know that 18 he had one. 19 Q To what extent, if any, did Mr. Depp 20 ever have a deal to perform in Pirates 6? 21 A So when we started representing him, I 22 remember Brian Lourd and myself finishing a deal</p>
<p style="text-align: right;">3497</p> <p>1 Q Was Minamata an indie film or a studio 2 film? 3 A It was independent. 4 Q How much was Mr. Depp ultimately paid 5 for Minamata? 6 A So his fee became – it was \$3 million. 7 Q What, if any, role did Mr. Depp play in 8 the Pirates of the Caribbean 5? 9 A He played Captain Jack Sparrow. 10 Q Was he paid an actor's fee for that 11 film? 12 A Technically, it was before my tenure, 13 so – but, yes, I would assume he was. 14 Q Mr. Whigham, would you please explain 15 for the jury what are residual or back-end rights? 16 A I think the easiest way to explain a 17 back-end is it's an ownership stake on behalf of 18 the artist in the success of the movie and 19 typically is only granted to stars of certain 20 stature. 21 Q And in addition to the fee Mr. Depp -- 22 the up-front fee that Mr. Depp was paid for</p>	<p style="text-align: right;">3499</p> <p>1 that had started at the previous agency. 2 MS. BREDEHOFT: Objection, Your Honor. 3 May we approach? 4 THE COURT: Okay. Hold on a minute, 5 sir. 6 (Sidebar.) 7 MS. BREDEHOFT: Your Honor, there's 8 absolutely no agreement, no written agreement, on 9 Pirates 6. He admitted that it was negotiated at 10 UTA. 11 THE COURT: Okay. 12 MS. BREDEHOFT: In his deposition, he 13 said he thought that there might have been a deal 14 finished. Then he testified that he had talked 15 to -- and this is all going to be hearsay, so he's 16 not going to be able to talk to Sean Bailey -- 17 MR. CHEW: It's not hearsay. He worked 18 on the deal. He knows. 19 THE COURT: But there's no -- 20 MS. BREDEHOFT: No, there isn't. 21 There's never been a contract. 22 MR. CHEW: She can cross-examine him.</p>

3500	1 His testimony is there's a deal. He worked on the 2 deal. He finalized the deal. She can 3 cross-examine him. 4 THE COURT: I understand. 5 MS. BREDEHOFT: There's nothing in 6 writing. There's no contract. At best it's 7 hearsay. 8 MR. CHEW: It's not hearsay. It's his 9 direct knowledge that he negotiated the deal. He 10 finalized the deal. She can cross him on that. 11 MS. BREDEHOFT: It's hearsay, Your 12 Honor. And foundation. There's no document 13 whatsoever. 14 THE COURT: I'll overrule the 15 objection. 16 MR. CHEW: Thank you, ma'am. 17 (Open court.) 18 BY MR. CHEW: 19 Q Apologies for the interruption, 20 Mr. Whigham. Her Honor says you may answer the 21 question, which I believe is "To what extent, if 22 any, did Mr. Depp have -- ever have a deal to	3502	1 paid to Mr. Depp? 2 A It would be paid when he shoots 3 principal photography, so when the film shoots. 4 Q Who was the producer of the Pirates 5 franchise? 6 A Jerry Bruckheimer. 7 Q Does Mr. Bruckheimer work for Disney? 8 A No. 9 Q In 2017, to what extent, if any, was 10 Mr. Bruckheimer supportive of Mr. Depp remaining 11 in the Pirates franchise? 12 MS. BREDEHOFT: Objection, Your Honor. 13 Calls for hearsay. 14 THE COURT: I'll sustain the objection. 15 MR. CHEW: Thank you, Your Honor. 16 Q Putting aside his role in the Pirates 17 films, did Mr. Depp have any other affiliations 18 with Disney in June 2017? 19 A Yes. 20 Q What were those affiliations? 21 A He -- if I remember in the spring, you 22 know, he went down to Disneyland and put on the
3501	1 perform in Pirates 6?" 2 A So we finished the deal, and we closed 3 the deal at 22 1/2 million for that film is my 4 memory. 5 Q Which studio was involved in the 6 Pirates series, including Pirates 6? 7 A So that was Disney. 8 Q Was Disney the studio involved in all 9 of the Pirates movies? 10 A Yes. 11 Q What role was Mr. Depp to play in 12 Pirates 6? 13 MS. BREDEHOFT: Objection. Calls for 14 speculation. 15 THE COURT: I'll allow it. 16 MS. BREDEHOFT: And hearsay. 17 THE COURT: I'll allow it. 18 A Captain Jack Sparrow. 19 Q Was the 22.5 million to be paid to 20 Mr. Depp by Disney or by some other entity? 21 A Disney. 22 Q And when was that 22.5 million to be	3503	1 Captain Jack Sparrow outfit and wardrobe and went 2 into the ride. He and Disney had worked out a fun 3 little thing where he was going to take the place 4 of the automated, you know, Captain Jack Sparrow 5 on the Pirates ride so he would kind of surprise 6 people as they were going along there. So I 7 remember he did that. 8 And then in 2000 -- in May of 2017, he 9 went to Disney Shanghai to help open the Pirates 10 of the Caribbean ride there. 11 Q What, if any, did those affiliations 12 signify about the status of Mr. Depp's 13 relationship with Disney as of that time? 14 MS. BREDEHOFT: Objection, Your Honor. 15 Hearsay. 16 THE COURT: I'll sustain the objection. 17 Next question. 18 MR. CHEW: Thank you, Your Honor. 19 Q To what extent, if any, did Mr. Depp 20 socialize with anyone at Disney in 2017, to the 21 extent you know? 22 MS. BREDEHOFT: Objection, Your Honor.

<p>1 THE COURT: I'll allow it to the extent 2 he knows. 3 Q Do you know whether Mr. Depp socialized 4 with Disney during 2017, yes or no? 5 MS. BREDEHOFT: Objection, Your Honor. 6 Foundation and hearsay. 7 A I do. 8 THE COURT: If you can, lay a 9 foundation to how he knows. 10 Q How do you know that Mr. Depp 11 socialized with Disney in calendar year 2017? 12 A Because I was there. 13 Q Who -- would you please describe for 14 the jury what you mean when you said you were 15 there when Mr. Depp socialized with Disney? 16 A We had a dinner in spring of 2017 with 17 myself; Jerry Bruckheimer; Johnny; and Sean 18 Bailey, who was running film, you know, was 19 running -- was president of Disney. 20 Q How did the dinner conclude? 21 A Great. I mean, very nice. It was a 22 great dinner.</p>	<p>3504</p>	<p>1 document before? 2 A Yes. 3 Q What is it? 4 A I believe it's the opinionated op-ed in 5 The Washington Post that Ms. Heard wrote. 6 Q Mr. Whigham, when did you first see 7 Ms. Heard's op-ed in The Washington Post? 8 A It would have been right 9 contemporaneous to when it came out. 10 MR. CHEW: And, Tom, if you would, 11 please move ahead to the second page in 12 Plaintiff's Exhibit 1. 13 Q And draw your attention specifically to 14 the third paragraph of the op-ed, Ms. Heard 15 writes, "Two years ago I became a public figure 16 representing domestic abuse, and I felt the full 17 force of our culture's wrath for women who speak 18 out." 19 What if anything -- what, if any, 20 understanding do you have of that reference? 21 A That it was regarding Johnny and their 22 relationship.</p>	<p>3506</p>
<p>1 Q As of early December 2018, so we're now 2 in December of 2018, what, if anything, was your 3 understanding of the status of whether Mr. Depp 4 would actually appear in Pirates 6? 5 MS. BREDEHOFT: Objection, Your Honor. 6 Calls for hearsay. 7 THE COURT: Okay. I'll sustain the 8 objection. 9 Next question. 10 Q Mr. Whigham, did there come a time when 11 you saw an op-ed purportedly written by Amber 12 Heard that appeared in The Washington Post? 13 A Yes. 14 Q Mr. Whigham, I would like to show you, 15 please, what was entered previously into evidence 16 as Plaintiff's Exhibit 1. 17 MR. CHEW: Mr. Gibson, would you please 18 pull up Plaintiff's Exhibit 1. 19 And, Your Honor, may we please publish 20 this to the jury, as it's been previously -- oh, 21 it is. Thank you. 22 Q Mr. Whigham, have you ever seen this</p>	<p>3505</p>	<p>1 Q Directing your attention -- 2 MR. CHEW: Tom, if we could, just move 3 back up to the first page of Exhibit 1. 4 Directing your attention to the title 5 of the article, "Amber Heard: I spoke up against 6 sexual violence." 7 What, if any, understanding do you have 8 of that reference? 9 MS. BREDEHOFT: Objection, Your Honor. 10 It's irrelevant what his understanding is. 11 THE COURT: I'll allow it. 12 A That was rather shocking, I remember, 13 because it was the first time I'd heard an 14 allegation of sexual abuse. 15 Q And against whom was the allegation of 16 sexual abuse? 17 MS. BREDEHOFT: Objection, Your Honor. 18 How would he know? 19 THE COURT: I'll sustain the objection. 20 Next question. 21 Q Mr. Whigham, directing your attention 22 to the fifth paragraph of Plaintiff's Exhibit 1,</p>	<p>3507</p>

3508	1 Ms. Heard writes, "I had the rare vantage point of 2 seeing in real time how institutions protect men 3 accused of abuse." 4 To what does that refer? 5 MS. BREDEHOFT: Objection, Your Honor. 6 How would he know? 7 THE COURT: I'll sustain the objection. 8 Next question. 9 MR. CHEW: Mr. Gibson, if you would, 10 please take down Plaintiff's Exhibit 1. 11 Q Mr. Whigham, how, if at all, was 12 Ms. Heard's op-ed different from other articles 13 about the couple's relationship? 14 MS. BREDEHOFT: Objection, Your Honor. 15 Calls for hearsay, foundation. 16 THE COURT: All right. 17 MS. BREDEHOFT: Other articles. 18 Q Mr. Whigham, have you seen other 19 articles in the course of your duties as 20 Mr. Depp's agent about Amber Heard and Johnny 21 Depp? 22 A Yes.	3510	1 the date that Ms. Heard's op-ed appeared, and 2 October 2020, to what extent, if any, did Mr. Depp 3 perform in any studio films? 4 A Zero. No studio films. 5 Q How, if at all, did Ms. Heard's op-ed 6 impact Mr. Depp's ability to land roles in studio 7 films between December 2018 and October 2020? 8 MS. BREDEHOFT: Objection, Your Honor. 9 Calls for hearsay, foundation, and expert 10 testimony. 11 THE COURT: I'll sustain that 12 objection. Are you near the end, Mr. Chew? I 13 just want to make sure because it's -- 14 MR. CHEW: I am. 15 THE COURT: -- for the morning break. 16 Okay. 17 MR. CHEW: Probably five minutes. 18 THE COURT: That's good. Go ahead. 19 Q What effect, if any, did the op-ed have 20 on the release of Minamata, the indie film you 21 mentioned earlier? 22 MS. BREDEHOFT: Objection, Your Honor.
3509	1 MS. BREDEHOFT: Objection, Your Honor. 2 Calls for hearsay and foundation. 3 THE COURT: I'll allow it. 4 MR. CHEW: Thank you. 5 Q How, if at all, was the op-ed different 6 from other articles you had read about the Johnny 7 Depp/Amber Heard relationship? 8 A You know, it was a first-person 9 account, I mean, from the victim. It's extremely 10 impactful. 11 Q Impactful in a good or bad way? 12 A You know, with respect to Johnny, it 13 was catastrophic because it was coming from, you 14 know, a first-person account. It was not from a 15 journalist. It was not from someone observing. 16 It was from someone saying, "This happened to me." 17 Q Mr. Whigham, between December 18, 2018, 18 the date of the op-ed, and October 2020, did 19 Mr. Depp perform in any studio films? 20 A Sorry. Could you just repeat the 21 dates? 22 Q Between December 18th, 2018, which is	3511	1 Calls for hearsay, speculation. 2 MR. CHEW: He worked on the -- 3 THE COURT: Do you want to approach for 4 a moment? 5 MR. CHEW: Yes, Your Honor. 6 (Sidebar.) 7 THE COURT: Mr. Chew, I think he can 8 testify to what happened after the op-ed. I don't 9 think he can say the op-ed is actually the thing 10 that caused it. 11 MR. CHEW: Okay. So I can ask him what 12 happened? 13 THE COURT: Take out the op-ed. 14 MR. CHEW: What happened to Minamata 15 after the op-ed? 16 THE COURT: That will be fine. 17 MR. CHEW: Thank you. 18 MS. BREDEHOFT: And, Your Honor, I just 19 want to renew. I think he's opened the door 20 for -- 21 MR. CHEW: No, Your Honor, we were very 22 careful.

3512	1 THE COURT: I'll overrule that 2 objection. 3 MS. BREDEHOFT: Okay. 4 THE COURT: Okay. 5 (Open court.) 6 BY MR. CHEW: 7 Q What happened, Mr. Whigham, after the 8 op-ed, but before October 2020, with respect to 9 Minamata? 10 A So the op-ed came out in December, and 11 it was right as we were going on Christmas break. 12 And Minamata was supposed to start in January, and 13 I remember it was very, very difficult to keep 14 Minamata together. The financing became shaky. 15 The budget had to come down. Johnny's fee came 16 down in order to save the movie. 17 MR. CHEW: Tom, if you would, please 18 pull up Plaintiff's Exhibit 584. 19 And we're not asking to publish it 20 because it does not come in. 21 This is an email chain with the subject 22 line "Johnny Depp's Jack Sparrow Won't Return" --	3514	1 Let's see where we go. 2 Q Her Honor said you may answer that 3 question. 4 A Yes. I see, you know, what he's asking 5 me. 6 Q Would you please explain to the jury 7 what the message was about? 8 MS. BREDEHOFT: Objection, Your Honor. 9 Hearsay. Hearsay. He's asking him to essentially 10 say -- 11 THE COURT: Do you want to approach for 12 a moment? 13 (Sidebar.) 14 THE COURT: Are you refreshing his 15 recollection of this? Or are you just -- 16 MR. CHEW: Yes. 17 THE COURT: -- planning to read from 18 the email? 19 MS. BREDEHOFT: If you look at that 20 document, Your Honor, he's saying, "Were we told 21 this information by Disney?" He's not even 22 refreshing his recollection.
3513	1 MS. BREDEHOFT: I object to him reading 2 even from that -- 3 THE COURT: All right. 4 MS. BREDEHOFT: -- to the jury. 5 MR. CHEW: That's fine, Your Honor. 6 THE COURT: Okay. Move on. 7 Q Mr. Whigham, do you recognize this 8 email chain? 9 A Yes, now that I'm looking at it. 10 Q What is the date of this email chain? 11 A I think it's December 20th. 12 Q December 20th of what year, sir? 13 A December 20th of 2018. 14 Q Mr. Whigham, directing your attention 15 to the middle email message on Plaintiff's 16 Exhibit 584, did you receive this message from 17 Christian Carino in or about December 20th, 2018 18 at 3:30:00 p.m.? 19 MS. BREDEHOFT: Your Honor, I'm going 20 to object because it's a hearsay document. He's 21 asking questions from the hearsay document. 22 THE COURT: I'll allow that question.	3515	1 THE COURT: I'll sustain as to hearsay. 2 MR. CHEW: May I ask what the CC line 3 is? 4 THE COURT: What is the CC line? 5 MR. CHEW: It's if there's an attached 6 article. 7 THE COURT: No. I'll sustain the 8 objection. Thank you. 9 MR. CHEW: Thank you. 10 (Open court.) 11 MR. CHEW: Tom, if you could, please 12 take that down. 13 BY MR. CHEW: 14 Q Mr. Whigham, did there come a time 15 after Ms. Heard's publication of the op-ed on 16 December 18, 2018, but before October 2020, that 17 you learned more about Disney's plans about 18 whether it would cast Mr. Depp in Pirates 6? 19 MS. BREDEHOFT: Objection. Hearsay. 20 THE COURT: All right. 21 MR. CHEW: I'm just asking whether 22 he --

3516	1 THE COURT: Okay. I'll allow that. 2 A Yes. 3 Q When did that happen? 4 A In 2019. 5 Q What happened -- go ahead. 6 MS. BREDEHOFT: Your Honor. 7 THE COURT: Next question. 8 Q What happened in 2019 with respect to 9 Disney -- your learning about Disney's plans 10 whether to use Mr. Depp in Pirates 6? 11 MS. BREDEHOFT: Objection. Hearsay. 12 THE COURT: What happened? 13 MR. CHEW: Yes. 14 THE COURT: I'll allow what happened. 15 Go ahead. 16 A It became clear they were going in a 17 different direction. 18 Q When did you learn that Disney was 19 going in a different direction and no longer 20 planned to use Mr. Depp in Pirates 6? 21 A Early 2019. 22 Q Who is Margot Robbie?	3518	1 Q Did you reach out to Mr. Bruckheimer 2 and Mr. Bailey jointly or separately? 3 A Separately. 4 Q What, if anything, was the result of 5 your outreach to Mr. Bruckheimer and Mr. Bailey? 6 MS. BREDEHOFT: Objection. Still calls 7 for hearsay, Your Honor. 8 THE COURT: Calls for hearsay, 9 Mr. Chew. 10 MR. CHEW: I'm just asking what the 11 result was. 12 MS. BREDEHOFT: It's still based on his 13 communications with them. 14 THE COURT: All right. I'll sustain 15 the objection. 16 Next question. 17 Q After your outreach to Mr. Bailey 18 and -- strike that. 19 Was your outreach to Mr. Bruckheimer 20 and Mr. Bailey successful? 21 MS. BREDEHOFT: Objection. Leading. 22 THE COURT: I'll allow it.
3517	1 A She's a fantastic actress. She's a 2 client for CAA. 3 Q What, if anything, did you learn about 4 the role Margot Robbie would be playing in 5 Pirates 6? 6 MS. BREDEHOFT: I think that calls for 7 hearsay again, Your Honor. I'm going to object. 8 THE COURT: I'll overrule the 9 objection. 10 A I learned that they were developing a 11 Pirates project for her to star in. 12 Q After you learned that Disney was going 13 in a different direction in early 2019 and no 14 longer planned to use Mr. Depp, did you -- to what 15 extent did you reach out to Jerry Bruckheimer or 16 Sean Bailey? 17 MS. BREDEHOFT: Objection, Your Honor. 18 Calls for hearsay. 19 MR. CHEW: It does not, Your Honor. 20 THE COURT: Overruled. I'll allow it. 21 MR. CHEW: Thank you, Your Honor. 22 A A lot.	3519	1 A No. I successfully made contact with 2 them, but I was not successful in rescuing Pirates 3 for Johnny. 4 Q When was the last time you discussed 5 Mr. Depp's role in Pirates 6 with Jerry 6 Bruckheimer, Sean Bailey, or anyone else at 7 Disney? 8 MS. BREDEHOFT: I'm going to object, 9 Your Honor, on hearsay. 10 THE COURT: Overruled. 11 A 2019, I believe. 12 Q In addition to Pirates 6, did Mr. Depp 13 lose other films between December 2018 and 14 October 2020 because of Ms. Heard's op-ed? 15 MS. BREDEHOFT: Objection. 16 THE COURT: I'll sustain the objection. 17 Q In addition to Pirates 6, did Mr. Depp 18 lose any other films between December 2018 and 19 October '20 -- 20 MS. BREDEHOFT: Objection, Your Honor. 21 First of all, I don't think he testified that he 22 lost Pirates 6. Second, of all --

Transcript of Jury Trial - Day 13
Conducted on May 2, 2022

24 (3520 to
3523)

3520	1 MR. CHEW: She's now contradicting the 2 witness's testimony, which is inappropriate. 3 MS. BREDEHOFT: He asked the question. 4 THE COURT: Both of you, overruled. 5 Let's go. Go ahead. Answer the question. 6 A Yes. After the op-ed, it was 7 impossible to get him a studio film, which is what 8 we normally would have been focused on in that 9 time period. 10 Q Mr. Whigham, to what extent did 11 COVID -- or strike that. 12 To what extent, if any, did COVID 13 impact Mr. Depp's opportunities prior to 14 October 2020? 15 A I think it had an effect on Johnny, 16 like other actors, to some degree. But we were 17 still doing business, especially on behalf of, you 18 know, bigger stars that green-lit films, and so 19 what was happening is we were closing deals or put 20 together a movie and then just set a start date 21 for when people could get together and actually 22 shoot the movie.	3522 1 THE COURT: I'll sustain the objection 2 to leading. 3 MR. CHEW: Thank you, Your Honor. 4 Thank you, Mr. Whigham. 5 THE COURT: All right. 6 MR. CHEW: I'll pass the witness. 7 THE COURT: Mr. Whigham, we'll do 8 cross-examination in about 15 minutes. I'm going 9 to take a 15-minute morning recess, okay, sir? 10 THE WITNESS: Okay. 11 THE COURT: All right. Ladies and 12 gentlemen, we're going to take our morning recess. 13 Do not discuss the case with anybody, and don't do 14 any outside research, okay? 15 Mr. Whigham, what I'll do is I'll put 16 you in the lobby, and you won't see anything for 17 about 15 minutes, and we'll be right back, okay? 18 THE WITNESS: Okay. Thank you. 19 (Whereupon, the jury exited the 20 courtroom and the following proceedings took 21 place.) 22 THE COURT: All right. At this point,
3521	1 Q Mr. Whigham, in your many interactions 2 with Mr. Depp, have you ever seen him angry? 3 MS. BREDEHOFT: Objection, Your Honor. 4 It's leading. 5 THE COURT: I'll sustain as to leading. 6 Q In your many interactions -- 7 MR. CHEW: Thank you, Your Honor. 8 Q In your many interactions with 9 Mr. Depp, to what extent, if any, have you ever 10 seen him lose his temper? 11 A I never have, actually. 12 Q To what extent, if any, has Mr. Depp 13 ever raised his voice in your presence? 14 A He never has. 15 Q Mr. Whigham, to what extent have you 16 ever seen Mr. Depp engage in any violence? 17 A Never. 18 Q Mr. Whigham, other than Ms. Heard, are 19 you aware of any other woman who has ever accused 20 Mr. Depp of physical abuse? 21 MS. BREDEHOFT: Objection. Leading. 22 Foundation and hearsay.	3523 1 we'll just come back at noon, okay? 2 MR. CHEW: Thank you, Your Honor. 3 THE BAILIFF: All rise. 4 (Recess taken from 11:42 a.m. to 5 12:00 p.m.) 6 THE BAILIFF: All rise. Please be 7 seated and come to order. 8 THE COURT: All right. Are we ready 9 for the jury? 10 MS. BREDEHOFT: Yes. 11 MR. CHEW: Yes. 12 THE COURT: Okay. 13 (Whereupon, the jury entered the 14 courtroom and the following proceedings took 15 place.) 16 THE COURT: All right. Mr. Whigham, 17 can you hear me okay? 18 THE WITNESS: Yes, ma'am. 19 THE COURT: All right. As soon as you 20 ask your first question, he should pop up there. 21 MS. BREDEHOFT: Oh, he'll pop up? 22 THE COURT: Yeah. Cross-examination.

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<p>3524</p> <p>1 MS. BREDEHOFT: Thank you, Your Honor. 2 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND 3 COUNTERCLAIM PLAINTIFF 4 BY MS. BREDEHOFT: 5 Q Mr. Whigham, you testified that you 6 closed a deal for Mr. Depp for Pirates 6 with his 7 acting as Jack Sparrow. 8 Do you recall that testimony? 9 A Yes. 10 THE COURT: Mr. Whigham, could you do 11 me a favor and just count one to five for me so I 12 can get you on my big screens here. 13 THE WITNESS: Sure. One, two, three, 14 four, five. 15 THE COURT: Not getting him. There he 16 is. Okay. 17 MS. BREDEHOFT: There you go. 18 THE COURT: Thank you, sir. I 19 appreciate it. 20 BY MS. BREDEHOFT: 21 Q But, in fact, Mr. Whigham, it's not 22 true that Mr. Depp ever had a contract with Disney</p>	<p>3526</p> <p>1 agent, we would work on many deals where I 2 actually wouldn't see the contracts. They were 3 verbal in nature, and then, you know, especially 4 on optional pictures, just so there was an 5 understanding of what the money would be. 6 Q So do you have an explanation why there 7 is not even a piece of paper, not an email, not a 8 text, not a piece, not a document, nothing that 9 suggests that Mr. Depp is going to be in Pirates 6 10 as Jack Sparrow? 11 MR. CHEW: Objection. Asked and 12 answered. 13 MS. BREDEHOFT: I don't believe it was. 14 THE COURT: Overruled. I'll allow it. 15 A I mean, if you're asking my opinion, it 16 wouldn't necessarily be alarming because that 17 would be a conversation usually to understand 18 Disney's going to want to know are we on the 19 same -- are we on the same page about what the 20 money's going to be. 21 And most of that conversation, if I 22 remember correctly, was also with one of Johnny's</p>
<p>3525</p> <p>1 for Pirates 6; isn't that correct? 2 A Can you explain that question or that 3 position? 4 Q Have you ever seen a contract that 5 provides for Mr. Depp to play Pirates 6? 6 A To the best of my knowledge, my memory, 7 myself and my partner closed an optional picture 8 deal for the amount of money of what that picture 9 would be for Johnny. 10 Q And you would make sure to have that in 11 writing, wouldn't you? 12 A You know, that would normally go 13 through legal counsel in terms of the codification 14 of it. 15 Q Do you have any explanation for why 16 there exists nothing, no piece of paper, nothing 17 suggesting that Mr. Depp ever had a deal with 18 Disney for Pirates 6? 19 MR. CHEW: Objection. Lack of 20 foundation. Compound. 21 THE COURT: I'll allow it. 22 A So I often closed -- when I was an</p>	<p>3527</p> <p>1 lawyers at the time. 2 Q Okay. And so you had -- so Johnny's 3 lawyer was discussing this, but there's no 4 document. 5 Do you have an explanation for that? 6 A Well, you may know better than me if 7 there is a document. That was Jake Bloom, you 8 know, at the time, I believe, if memory serves me 9 correct. 10 Q All right. But would it be fair to say 11 that you have never seen a document that provides 12 that Mr. Depp was going to be in Pirates 6? 13 A It would be fair to say that it was 14 consistent with a lot of the conversations that I 15 would have on behalf of big stars where it was 16 verbal and there was an understanding of what the 17 deal was going to be. 18 Q Mr. Whigham, if you could, please 19 answer my question. 20 MR. CHEW: Objection. Harassment. He 21 did answer the question. 22 THE COURT: I'll allow it. You want to</p>

3528	1 ask your question? Go ahead. 2 MS. BREDEHOFT: Thank you. 3 A Could you repeat the question? 4 THE COURT: Judy, can you read that 5 back. Thank you. 6 (The requested text was read by the 7 reporter as follows: "All right. But would it be 8 fair to say that you have never seen a document 9 that provides that Mr. Depp was going to be in 10 Pirates 6?") 11 A It would be fair to say that I have not 12 seen a document on Pirates. 13 Now, just so you know – 14 Q Mr. Whigham, Mr. Whigham, I don't need 15 you to give me extra. I just want you to answer 16 mine. I just want to know, have you ever seen a 17 document that says Mr. Depp is going to be in 18 Pirates 6? 19 A I think – to fully answer the 20 question, though, I think there's some context. 21 It would – 22 Q That's an easy yes or no. Have you	3530	1 A That's correct. 2 Q Okay. 3 MS. BREDEHOFT: Given that he was able 4 to -- 5 THE COURT: I'll sustain as to hearsay. 6 It is hearsay. All right. 7 MS. BREDEHOFT: Okay. 8 Q So you determined, Mr. Whigham, that by 9 the fall of 2018, it was very likely that Mr. Depp 10 was not going to be in Pirates 6; is that correct? 11 A It's a two-pronged answer from my 12 perspective. Because there was really two 13 individuals involved in that decision. I would 14 say Jerry Bruckheimer and Sean Bailey. Jerry 15 Bruckheimer, in the fall of 2018, really wanted 16 Johnny in that next film, and Sean was 17 noncommittal, as you said. 18 Q And Mr. Bruckheimer made it clear to 19 you that Mr. Bailey was the one who gets to decide 20 because he's Disney, right? 21 A Ultimately. And I also wanted to be 22 the tip of the spear to really kind of convince
3529	1 seen a document? 2 A Technically, I perhaps have because it 3 connects to all the other Pirates films. It's 4 just a modification of a new document. So I have 5 not seen 22.5 million written on a page; you're 6 correct about that. 7 Q Okay. 8 Now, you, in fact, had discussions back 9 in 2016 and 2017 with Mr. Bailey, Sean Bailey. 10 You talked about him a little bit ago, right? 11 A Yeah. 12 Q And you also had discussions with Jerry 13 Bruckheimer in 2016 and 2017, correct? 14 A Yes. 15 Q About Mr. Depp potentially being in 16 Pirates 6, correct? 17 A Yes. 18 Q And then you had discussions in 2018 19 with Mr. Bailey, and he was quite noncommittal 20 about whether Mr. Depp would be in Pirates 6, 21 correct? 22 MR. CHEW: Objection. Hearsay.	3531	1 Sean. 2 Q Okay. Now, do you recall -- 3 MS. BREDEHOFT: Your Honor, if I may 4 approach. 5 MR. CHEW: Thank you. 6 THE COURT: Thank you. 7 Q Do you recall having your deposition 8 taken on January 20, 2021? 9 A Yes, ma'am. With you. 10 MS. BREDEHOFT: Okay. Can you pull 11 that up, Michelle, please? Thank you. 12 BY MS. BREDEHOFT: 13 Q I'm going to ask you to turn to 14 page 44. And, Mr. Whigham, you were under oath at 15 the time of this deposition, correct? 16 Correct? 17 A Yes, yes, ma'am. 18 Q Line 10, this is page 44, line 10, the 19 question: "Do you recall approximately when in 20 2018 you inferred from your discussion with 21 Mr. Bailey that the likelihood of Mr. Depp being 22 in Pirates 6 was not high or was going away?"

<p>3532</p> <p>1 And your answer at that time was "If 2 memory serves me, the latter part of 2018, maybe. 3 "QUESTION: When you say 'latter,' is 4 that any time from August to December? Or what 5 are you thinking? 6 "ANSWER: I would say fall, you know, 7 maybe, you know, October, November, December, in 8 that area." 9 Do you recall giving that testimony 10 under oath at that time? 11 A I do now that I see it, yes. 12 Q Okay. And, in fact, there were quite a 13 few things going on earlier in 2018 that might 14 have had a bit of an impact on Mr. Depp's 15 reputation. 16 Would you agree? 17 A If you – it might help if you – 18 Q Refresh your recollection? Sure. 19 Sure. 20 Before I go there, though, I think you 21 said that the reason it was so catastrophic for 22 Mr. Depp for the op-ed was because it was a</p>	<p>3534</p> <p>1 Exhibit 2. 2 Does this refresh your recollection? 3 A Very hard for me to see. Is that just 4 the paper? 5 Q We're going to try to scroll in a 6 little bit more. 7 A Again, just if you can help me, is that 8 the paper – 9 Q Yes. 10 A – with the article? 11 Q Yes. That's The Washington Post. 12 A So what's the question? Sorry. 13 Q Do you -- does this help refresh your 14 recollection of whether you saw it in print or 15 whether you saw it online? 16 A It does not. And I'll tell you that I 17 did not typically pick up The Washington Post, you 18 know. 19 Q Okay. And so while we're sitting here, 20 if you can, just for a second, you're saying that 21 then two years ago I became -- oops, I better not 22 do that. Let's clear that one. "Two years ago, I</p>
<p>3533</p> <p>1 first-person account of Johnny, right? Do you 2 remember saying that? 3 A Yes. 4 Q Okay. Wasn't it a first-person account 5 when Ms. Heard filed for the TRO in 2016? 6 A So that would have predated any 7 relationship I had to Johnny. So I had no 8 knowledge of that. 9 Q Okay. So you don't know whether it was 10 catastrophic then? 11 A You're asking me my opinion on 12 something I don't know. I can form an opinion 13 right now. It's a court document and probably a 14 little different than an op-ed in The Washington 15 Post. But I would agree it's not a – now that 16 I'm forming an opinion, that it's not a great 17 headline, sure. 18 Q When you read the op-ed, did you read 19 it online? Or did you read it in the actual Post 20 paper? 21 A I don't remember. 22 Q Well, let's pull up Plaintiff's</p>	<p>3535</p> <p>1 became a public figure representing domestic 2 abuse." 3 That's this first-person from Ms. Heard 4 that's catastrophic for Mr. Depp; is that your 5 testimony? 6 A My testimony is that it reads like a 7 victim statement from someone involved and the 8 recipient, and it became a, yes, a bit of a death 9 knell, catastrophic thing for Mr. Depp in the 10 Hollywood community. 11 Q All right. Well, let's go to -- let's 12 pull up Defendant's Exhibit 99. 13 Now, there was, in fact, an article 14 published in The Sun newspaper by Dan Wootton, the 15 editor-in-chief, on April 27, 2018. 16 Do you recall that? 17 A Now that I'm looking at it. 18 Q That refreshes your recollection? 19 A Yes. 20 Q And, in fact, this article calls 21 Mr. Depp a wife beater; does it not? 22 MR. CHEW: Objection. Hearsay.</p>

3536	1 THE COURT: I'll allow it. 2 A You know what? I can't see the print, 3 even with these glasses. But -- 4 Q All right. Well, we'll -- 5 A -- I'll take your word for it. 6 Q Well, the title here is "How can JK 7 Rowling be genuinely happy casting wife beater 8 Johnny Depp in the new Fantastic Beasts film?" 9 MR. CHEW: Objection. Hearsay, Your 10 Honor. 11 Q Do you see that? 12 THE COURT: I'll allow it. 13 A Yes. 14 Q Okay. 15 MS. BREDEHOFT: Your Honor, I would 16 like to move the admission of this exhibit. I 17 think at this point, it's not offered to prove the 18 matter asserted, but it's going to offer -- he's 19 testified to in comparison to the other articles. 20 He's testifying to the impact of the op-ed. I 21 think in fairness, we should be able to put this 22 in and be able to make a comparison.	3538	1 like on theirs. 2 MS. BREDEHOFT: Your Honor, the op-ed 3 is in. He's testified, Your Honor -- 4 THE COURT: Right. 5 MS. BREDEHOFT: -- that compared to all 6 the others, this is much more serious. This one 7 is much more serious and much more detailed, and 8 then it's responsive. And then -- we have to be 9 able to open the door. They completely opened the 10 door. 11 THE COURT: No, it is not. 12 MR. CHEW: She's not even quoting it 13 right. 14 MS. BREDEHOFT: I have to be able to 15 open the -- the door has been completely opened, 16 and it's manifestly unfair. 17 THE COURT: No, it has not, and I'll 18 sustain the objection. I'm not allowing it into 19 evidence, and you're not to read from it. Title 20 is for impeachment purposes. 21 MR. CHEW: Thank you, Your Honor. 22 MS. BREDEHOFT: Before you go, I plan
3537	1 MR. CHEW: It's clearly hearsay, Your 2 Honor. 3 THE COURT: I'll sustain the objection. 4 MS. BREDEHOFT: Not offered for to 5 prove the case of the matter asserted, Your Honor. 6 THE COURT: I'll sustain the objection. 7 MS. BREDEHOFT: Okay. 8 Q Well, let's go to the third page -- no, 9 let's go to the fourth page. So it has A5 I think 10 is what I'm trying to get to, so it says 11 "Paragraph 7." 12 So do you recall that it says in 13 here -- 14 MR. CHEW: Objection. Hearsay, Your 15 Honor. She's just trying to backdoor your ruling. 16 THE COURT: Come here. 17 (Sidebar.) 18 THE COURT: I allowed the title just 19 like I did for the other one for impeachment 20 purposes. You said it was op-ed impeachment. I 21 get that. We're not getting into the actual guts 22 of the articles just like on the other ones just	3539	1 on, now, asking him also about the lawsuit and the 2 trial and all of that information, the publicity 3 surrounding it -- 4 THE COURT: Right. The lawsuit, that 5 was in the U.K. trial? 6 I'll sustain the objection. 7 MR. CHEW: Thank you, Your Honor. 8 (Open court.) 9 BY MS. BREDEHOFT: 10 Q Mr. Whigham, the article also had 11 pictures, did it not? 12 A I don't recall. 13 Q Do you recall whether it had a picture 14 of Ms. Heard? 15 MR. CHEW: Objection. Hearsay, Your 16 Honor. 17 A I don't remember. 18 THE COURT: I'll allow that. 19 Q Do you recall -- 20 A I don't recall. 21 MS. BREDEHOFT: Can we go to the eighth 22 page.

<p>1 Q I'm showing you the picture right now. 3540 2 Does that refresh your recollection? 3 MR. CHEW: Your Honor, hearsay. Lack 4 of foundation. 5 THE COURT: I'll allow it. 6 A It doesn't speak to my impression of 7 when I read it or how I read it, but I see the 8 photo, yes, ma'am. 9 Q All right. And in fact it shows 10 bruises on it, doesn't it, on Ms. Heard's face? 11 MR. CHEW: Objection. Lack of 12 foundation. 13 THE COURT: Overruled. 14 A That would be what I see, yes. 15 Q Okay. Now, Mr. Depp filed a lawsuit 16 against the Sun newspaper and against Dan Wootton 17 for this article, correct? 18 A I believe so. 19 Q June 13, 2018? 20 MS. BREDEHOFT: Let's pull up 1599, 21 Defendant's 1599. 22 Q Does this refresh your recollection?</p>	<p>1 for speculation. 3542 2 THE COURT: I'll allow the question. 3 MS. BREDEHOFT: Thank you. 4 A No, I don't recall. 5 Q I'm going to ask you to take a look at 6 paragraph 11. 7 A I need new glasses. I'm sorry. 8 THE WITNESS: Your Honor, is there a 9 way to even make that screen bigger on mine? I 10 wish I was -- had better glasses or was more 11 technologically savvy. 12 THE COURT: They can make it a little 13 bigger, but I think that's about as far as it 14 goes. 15 Q I'm going to try to highlight it here 16 so that that might help you a little bit. Let me 17 switch the color. 18 So do you recall that Mr. Depp alleged 19 that the article in the Sun newspaper by Dan 20 Wootton had caused serious harm to the claimant's 21 personal and professional reputation? 22 A If you're asking me -- I don't recall</p>
<p>1 MR. CHEW: Objection. Hearsay, Your 3541 2 Honor. 3 THE COURT: Just for refreshing 4 recollection, I'll allow. 5 A Just so I understand the question, 6 you're asking does it refresh a memory that Johnny 7 filed a suit against the Sun? 8 Q Yes, and Dan Wootton, on June 13, 2018. 9 A Sure. 10 Q Okay. 11 A Now that I'm looking at it. 12 Q All right. And he did so in the U.K., 13 in the high court of justice, correct? 14 A I believe so. You would know better 15 than I. 16 Q Okay. 17 MS. BREDEHOFT: And if we can, just 18 turn to page 9. 19 Q And do you recall that Mr. Depp alleged 20 that that article had caused him serious harm to 21 his personal and professional reputation? 22 MR. CHEW: Objection. Hearsay. Calls</p>	<p>1 it. I was not involved in that case at all. I'm 3543 2 able to read what's in front of me. 3 Q But you don't recall it, and you don't 4 recall if that had any impact on Disney in 2018? 5 MR. CHEW: Objection. Asked and 6 answered. 7 THE COURT: I'll sustain the objection. 8 Next question. 9 Q All right. 10 Do you recall that Mr. Depp also 11 alleged that he was caused significant distress 12 and embarrassment by the publication of that 13 article? 14 A No, I don't recall that. 15 Q Okay. 16 A I see that, but I just was not involved 17 in that case. 18 Q All right. 19 A My memory of that was it was a tabloid, 20 so and that the lawyers were in it. 21 MS. BREDEHOFT: All right. Michelle, 22 you can take that down. Thank you.</p>

<p>3544</p> <p>1 Q Now, there was a trial in the U.K., was 2 there not, on Mr. Depp's claims of libel against 3 Dan Wootton and the Sun? 4 A I believe so. 5 Q And it was in July of 2020; was it not? 6 A I don't remember the date, actually. 7 Q All right. And it lasted three weeks? 8 Do you recall that? 9 A I don't, but I'll take your word for 10 it. 11 Q Do you recall there being an enormous 12 amount of publicity surrounding that trial? 13 MR. CHEW: Objection. Calls for 14 speculation. Lack of foundation. 15 Q He said he did. Thank you. 16 THE COURT: Overruled. 17 Q I'm sorry, Mr. Whigham, you said you 18 did recall that? 19 MR. CHEW: Asked and answered. 20 THE COURT: I'll allow it. 21 A I remember there being press around it, 22 yes, ma'am.</p>	<p>3546</p> <p>1 MR. CHEW: He's already said he knows 2 nothing about that. 3 THE COURT: I understand, but it's 4 cross-examination -- or direct examination, where 5 you said it was the implication of the op-ed. 6 She's getting very close to the line. 7 I think this is the last of your 8 questions on this, right? 9 MS. BREDEHOFT: I just have a few more 10 on this, yes? 11 THE COURT: Not get anywhere near the 12 judgment, if that's the concern. 13 MS. BREDEHOFT: We're not going into 14 the judgment. I understand. 15 MR. CHEW: Or anywhere near the 16 judgment. 17 THE COURT: I'm not sure where you're 18 going, but, yes, we're staying away from the 19 judgment, all right? 20 MS. BREDEHOFT: Right. Okay. 21 MR. CHEW: Thank you, Your Honor. 22 (Open court.)</p>
<p>3545</p> <p>1 Q Okay. And, in fact, do you recall that 2 Mr. Depp gave testimony for four days? 3 A Not specifically, I don't. 4 Q Do you recall that Ms. Heard gave 5 testimony for four days? 6 A I don't recall any specific memory of 7 who testified, for how long, or any details within 8 the case. 9 Q Do you recall there being many, many 10 witnesses testifying at that case -- on that case? 11 A I think I'd revert to my answer just 12 now. 13 Q Okay. And the press that surrounded 14 that case, do you recall it being focusing on 15 things like Mr. Depp's drug and alcohol use? 16 A Same answer. 17 Q Do you recall there being the video, 18 the kitchen video, being shown repeatedly? 19 MR. CHEW: Objection. Your Honor, may 20 we approach? 21 THE COURT: Sure. 22 (Sidebar.)</p>	<p>3547</p> <p>1 BY MS. BREDEHOFT: 2 Q I think my last question was "Do you 3 recall there being a lot of publicity surrounding 4 Mr. Depp's alcohol and drug use?" 5 A I think I answered that. 6 Q That's right. That was on the video, 7 the kitchen video. 8 Do you recall there being the -- the 9 kitchen video being played pretty repeatedly in 10 the press? 11 A No, I don't. 12 Q Do you recall a lot of pictures of 13 Ms. Heard reflecting bruises, cuts, injuries? 14 A I think just to be clear, I don't 15 recall anything that was going on within the case. 16 I was always consumed with next film and TV 17 opportunities, and that was being handled by the 18 lawyers. 19 Q Do you -- 20 A That's my memory. 21 Q Do you recall -- I just have a couple 22 more to ask you on this.</p>

3548	1 Do you recall there being allegations 2 of at least 14 incidents of domestic violence 3 against Ms. Heard in that trial? 4 A I do not with specificity, same answer. 5 MS. BREDEHOFT: Could we bring up 6 Exhibit Number 1 again, plaintiff's. 7 Q Now, Mr. Whigham, do you know who wrote 8 "Amber Heard: I spoke up against sexual violence 9 and faced our culture's wrath. This has to 10 change"? 11 A You're talking about the title? 12 Q Yes. 13 A I wouldn't say that -- to me, I would 14 have assumed it was Ms. Heard. 15 Q You assume, but you don't know, do you? 16 A I do not. 17 Q Okay. And were you aware that there 18 were also three pleaded incidents of sexual 19 violence in the U.K. trial against Ms. Heard by 20 Mr. Depp? 21 A No, ma'am. 22 Q Okay. Now, your testimony is --	3550	1 A Remind me the dates that you're asking 2 about. 3 Q So the answer, I take it, is no, you 4 don't know, correct? 5 A I'm just trying to make sure I give you 6 a correct answer so I understand the question. 7 You referenced after 2020? 8 Q Okay. 9 A Is that what you're saying? 10 Q The article was April of 2018. The 11 lawsuit was June of 2018. The trial was July of 12 2020. 13 What opportunities has Mr. Depp had 14 since July 2020? 15 A Since July 2020, he has not done a 16 film. 17 MS. BREDEHOFT: Thank you. I have no 18 further questions. 19 THE COURT: All right. Redirect. 20 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND 21 COUNTERCLAIM DEFENDANT 22
3549	1 MS. BREDEHOFT: You can take that down 2 now. Thank you. 3 Q Your testimony is that since some point 4 in 2020, Mr. Depp has not had any more movie 5 opportunities; is that correct? 6 A Since -- sorry. Repeat the date. 7 Q When is the last time Mr. Depp had a 8 movie opportunity? 9 A The last film that he shot was 10 Minamata, to the best of my memory. 11 Q All right. And, in fact, do you know 12 whether the article that was in the U.K., the 13 ensuing lawsuit that was brought by Mr. Depp, and 14 the ensuing trial and all the publicity, do you 15 know whether that had any impact on Mr. Depp's 16 career? 17 MR. CHEW: Objection. Compound. 18 THE COURT: All right. I'll sustain 19 the objection. 20 Q Do you know whether the collection of 21 all of those items I just listed had an impact on 22 Mr. Depp's career?	3551	1 BY MR. CHEW: 2 Q Good afternoon again, Mr. Whigham. 3 Do you recall Ms. Bredehoft asked you 4 questions about whether you ever actually saw a 5 document containing the 22 and a half million 6 dollar deal for Mr. Depp concerning Pirates 6? 7 Do you recall that? 8 A I do. 9 Q And do you recall when you were trying 10 to answer her question, you said you needed a 11 little more context? 12 Do you recall that? 13 A Yes. 14 Q And would you please, now, provide the 15 jury that context so they can have a fuller 16 understanding of what your testimony is? 17 A Often on a franchise movie, when you're 18 dealing with big stars and you're talking about 19 future optional pictures, you engage at the high 20 level, meaning the president or the top of the 21 studio, to get an understanding of what that deal 22 is going to be. They then get papered,

<p>3552</p> <p>1 typically -- when I say "papered," amended, 2 because it's based on the same contract, usually, 3 that's been in existence, and it would get -- 4 sometimes we don't see paperwork or get paperwork 5 until the film is happening. 6 Q And -- 7 A Not all the time. 8 Q Mr. Whigham, on a similar line, 9 Ms. Bredehoft asked you some questions about 10 whether after this deal was done, it was starting 11 to trend badly with respect to Disney and not 12 so -- and still well with respect to 13 Mr. Bruckheimer in the fall of 2018. 14 Do you remember that testimony? 15 A I do. 16 Q When was it that Disney made the final 17 decision as to whether Mr. Depp would be in 18 Pirates 6? 19 MS. BREDEHOFT: Objection. Calls for 20 hearsay. 21 THE COURT: I'll sustain the objection. 22 I'll sustain the objection.</p>	<p>3554</p> <p>1 MR. CHEW: Thank you very much, 2 Mr. Whigham. No further questions. 3 THE COURT: All right. Thank you. Is 4 this witness subject to recall? 5 MR. CHEW: Yes, Your Honor. 6 THE COURT: All right. Mr. Whigham, 7 since you're subject to recall, you're still 8 subject to the rule of witnesses. So you cannot 9 discuss your testimony with anybody, and you 10 cannot watch any of the trial; okay, sir? 11 THE WITNESS: Okay. 12 THE COURT: All right. But you're free 13 for today. Thank you. 14 THE WITNESS: All right. Thank you. 15 THE COURT: Thank you. 16 All right. Your next witness. 17 MS. LECAROZ: Your Honor, before we 18 call the next witness, may we approach briefly for 19 a moment? 20 THE COURT: Okay. Sure. 21 (Sidebar.) 22 THE COURT: Do we have another remote</p>
<p>3553</p> <p>1 Next question. 2 Q Mr. Whigham, it may have trending badly 3 as of that time, but Disney had not gone in the 4 other direction, correct? 5 MS. BREDEHOFT: Objection. 6 THE COURT: Overruled. I'll allow it. 7 Q You may continue. 8 A The email you showed me earlier was two 9 days after the op-ed, and I was saying that Disney 10 had never -- 11 MS. BREDEHOFT: Objection. 12 A -- said that Johnny would not be -- 13 MS. BREDEHOFT: Hearsay. 14 A -- in the film as of that date. 15 THE COURT: Overruled. 16 A And it was -- my testimony is the exact 17 same as in the deposition, which is it was 18 trending badly in the late fall on behalf of 19 Disney, but I was -- but Jerry Bruckheimer and I 20 were lobbying to make it happen. And so we had 21 hoped, and it became clear to me in early 2019 22 that it was over.</p>	<p>3555</p> <p>1 witness today? 2 MS. LECAROZ: We do not. 3 THE COURT: Okay. That's fine. I want 4 to make sure. It gets a little crazy to try to 5 get back into it. Okay. I'm sorry. Yes. 6 MS. LECAROZ: Just understanding 7 earlier from this morning, Your Honor, and that we 8 are not going backwards -- 9 THE COURT: Okay. Good. 10 MS. LECAROZ: -- I just want to be 11 clear that, you know, plaintiff's position is the 12 experts are entitled to express opinions or 13 conclusions as to any matter of fact, even if 14 they're the ultimate issue. And we have our case, 15 Chevrolet v Hayden, 253 Va. 50, on that. 16 THE COURT: Okay. 17 MS. LECAROZ: So I wanted to make an 18 offer of proof that had he been permitted to do 19 so, Mr. Marks would have testified that Mr. Depp 20 lost Pirates 6 as a result of the op-ed. 21 THE COURT: Okay. All right. Thank 22 you.</p>

3556	1 MR. CHEW: Thank you, Your Honor. 2 THE COURT: Thank you. 3 (Open court.) 4 MS. LECAROZ: Plaintiff calls Richard 5 Marks, Your Honor. 6 THE COURT: All right. Richard Marks. 7 RICHARD EDWARD MARKS, 8 Being first duly sworn, was examined 9 and testified as follows: 10 THE COURT: Good. How are you doing, 11 sir? Good afternoon. 12 You can sit down, sir. That's fine. 13 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND 14 COUNTERCLAIM DEFENDANT 15 BY MS. LECAROZ: 16 Q Good afternoon, Mr. Marks. 17 A Good afternoon. 18 Q Would you please state your full name 19 for the record. 20 A Richard Edward Marks. 21 Q And, Mr. Marks, where do you live? 22 A I live in Hollywood.	3558	1 firm," what do you mean by that? 2 A What I do is make deals. They're 3 transactions. I'm a deal guy. So my whole 4 practice, all these decades, has been about 5 getting to "yes." How do you make a deal? And 6 then how do you get it documented so people sign 7 it and then are able -- it's clear enough that it 8 can be administered and people can know what to do 9 after you've made the deal? 10 Q Specifically, what types of clients do 11 you work with? 12 A Well, as I said, I work with all kinds 13 of clients, but the -- my bigger clients and the 14 bulk of my practice is representing producers who 15 produce -- they develop and they produce content 16 for exploitation. 17 Q Are there any particular clients that 18 you can identify? 19 A Yeah. I've been working for a long 20 time with ITV, which is a huge British company 21 with worldwide reach in entertainment. They 22 produce The Voice, Love Island, and right now,
3557	1 Q Would you tell us a little bit about 2 your educational background, sir? 3 A I'm a product of the public school 4 system in Los Angeles and I went to UCLA 5 undergraduate and I'm a graduate of the UCLA 6 School of Law. 7 Q When did you graduate from UCLA School 8 of Law? 9 A I graduated in 1973, and I've been an 10 officer of the courts since then, almost 50 years. 11 Q Where do you work? 12 A I work at my own law firm, Richard 13 Marks and Associates. 14 Q What is Richard Marks and Associates? 15 A It is a transactional entertainment law 16 firm, and we represent individuals, writers, 17 directors, actors, books, but -- authors. But 18 mainly we represent producers who are developing a 19 product, if you will, to be produced and then 20 exploited on television, features, streaming, 21 things like that. 22 Q When you say a "transactional law	3559	1 I've done all the development, legal work, on a 2 miniseries that's about to shoot in France and 3 England starring Michael Douglas as Benjamin 4 Franklin based on a novel I helped them option 5 years ago. Then scripts were written for the 6 eight hours. Then Michael Douglas was engaged, 7 the director was engaged. And I do all those 8 contracts. And that's ITV. 9 Another one of my big clients is 10 Village Roadshow. They're an Australian company. 11 They partner with Warner Brothers, and they 12 produce movies like Matrix, Aquaman, Scooby Doo. 13 Right now I am working on a television 14 series for them, doing the legal production, and 15 before that it was development, but the production 16 legal work on a reboot of the old College Bowl 17 show, where two colleges come together with teams 18 and answer questions, and here they're going to 19 win scholarships. And the hosts are Peyton 20 Manning and Eli Manning. So that's currently what 21 I'm working on for Village Roadshow. 22 Q Any other clients?

<p style="text-align: right;">3560</p> <p>1 A My third big client is a company called 2 Media Rights, MRC, and they produce movies and TV 3 shows. Recently, I've done a lot of work for 4 them. They are finishing up a miniseries that I'm 5 doing the legal work for for Apple, starring Billy 6 Crudup. We just finished a miniseries for them 7 called Terminal List with Chris Pratt; that's for 8 Amazon. And we recently finished a miniseries, 9 doing the legal dealmaking, for MRC on a show 10 called the Shrink Next Door, which is aired at -- 11 starring Will Farrell and Paul Rudd. 12 And then, I can't leave out my longest 13 client, which is the producers of Bosch, for 14 Amazon, it's got to be nine, ten years ago when we 15 went into Amazon, they had never produced a 16 series, and we negotiated a deal for Michael 17 Conley's book series and we cast Titus Welliver as 18 Bosch. They wouldn't order a series; they would 19 only order a pilot. And now, in the next few 20 days, what I call the eighth season but which is 21 the first season of the spinoff will be available 22 and IMBDTV instead of on Amazon, but Amazon owns</p>	<p style="text-align: right;">3562</p> <p>1 you start making location deals. Then you start 2 renting equipment and props and getting releases 3 for photos you might show or for people who might 4 end up on camera. 5 And then when you're done shooting, 6 you're making deals for merchandising and deals 7 with distributors. In the old days, it might have 8 been for a DVD or for merchandising a doll. And 9 so it's really what I do is make deals. And all 10 deals, I've been doing it for almost 50 years, but 11 they're all the same. They have elements of time, 12 money, credit, rights, and perks. And I have 13 approached deals that way so that I've made myself 14 relevant. 15 When I started out there were three 16 networks and big studios, and attorneys said 17 "Well, I'm a TV lawyer. I'm a feature lawyer." I 18 just said, "I'm a transactional lawyer," and so 19 I've been able to adapt and make deals with 20 Netflix, Quibi, YouTube, you know, you name it, 21 I've made deals. I recently made a deal with 22 Hellmann's mayonnaise for an actress who is going</p>
<p style="text-align: right;">3561</p> <p>1 IMBDTV, and we're right now writing the ninth 2 season. So I've had this long run with this one 3 particular series. 4 Q Can you tell the jury a little bit 5 about the types of deals that you work on for 6 these clients? 7 A Well, when you think of a series or a 8 motion picture and you see the credits, there's 9 hundreds of credits there. And every one of those 10 people, you have to make a deal with them, and you 11 have to paper it so that they sign it and you know 12 what to pay them and what -- is there a guild 13 involved, the union, what are their services? And 14 what I do is all of that, soup to nuts, many 15 times. 16 Sometimes I work with in-house counsel 17 or other attorneys, and we split up the work. 18 But, basically, you know, you want to produce a 19 movie or a show. You might option a book. I do 20 that deal. You might hire a writer. Then you 21 might get a director, then a line producer, a UPM 22 versus AD. Then you start hiring your cast. Then</p>	<p style="text-align: right;">3563</p> <p>1 to be an influencer for them on the web. It was a 2 good payday for this actress, but that's the way I 3 look at deals. I'm a dealmaker, and that's my 4 practice. 5 Q Mr. Marks, you testified that you have 6 been working in the entertainment industry almost 7 50 years. How did you get started in the 8 entertainment industry? 9 A I got started in the entertainment 10 industry by being born in Hollywood. And it's our 11 talent industry, if you will. I've always been 12 interested in it. And when I went to UCLA, I took 13 all the film classes there were. And when I went 14 to UCLA law school, it was by design because, 15 number one, I couldn't afford the big law school, 16 so UCLA was a public school; it was virtually 17 free. 18 I went to UCLA law school because if 19 you want to practice entertainment law in 20 Hollywood, you go to UCLA or USC. Those are the 21 schools where you kind of create your contacts and 22 your network. And at UCLA they had some of the</p>

<p>3564</p> <p>1 best professors who taught entertainment 2 law-related subjects. So I took copyright, 3 trademark, entertainment contracts, if you will. 4 I took everything entertainment related. 5 And that's how I kind of built the 6 foundation for, then, my after-law school career. 7 Q What did you do after you graduated 8 from law school? 9 A Well, I wanted to do entertainment 10 transaction law, but I realized I could earn a 11 little bit more money if I went into entertainment 12 litigation, suing over copyrights and trademarks. 13 And so I took the highest-paying job that I could 14 get out of law school, and it was in 1973, and I 15 did IP litigation, disputes over copyrights, 16 trademarks, disputes over rights, things like 17 that. And I was a low-level litigator doing 18 depositions or motions, certainly not sitting at 19 the, you know, examining witnesses, except it 20 might be in a deposition. And I did that for 21 about -- it was my first year out of law school. 22 Q What did you do after that?</p>	<p>3566</p> <p>1 close a deal for our young client, George Lucas, 2 to make a film called Star Wars, a Western space 3 movie. And Fox would not give us the budget or 4 the salary he wanted. And this is the god's 5 honest truth, we said, "Okay, give us the 6 merchandising." And famously, they gave us the 7 merchandising because they didn't think there was 8 value there. And that's how much our business has 9 changed. 10 While I was at that -- my first 11 transactional firm, we also worked for a client, 12 his name is Sylvester Stallone. His claim to fame 13 is that he was a character actor, but he had 14 written a script that all the major stars wanted 15 to play. They wanted to play the role of Rocky, 16 and he said, "I will not sell this script unless I 17 play Rocky." And no one was happy about that. 18 And the deal we made was he got to play the role, 19 but it was a very low budget and he hardly had a 20 dressing room. He hardly had any perks. He 21 wasn't happy about it, but we were able to make up 22 for that in the deals for Rocky 2, 3.</p>
<p>3565</p> <p>1 A Well, after that, I kind of made a 2 decision that being a litigator wasn't for me, 3 that I wanted to make deals, that I wanted my 4 career to be about getting to yes. And that 5 involved a lot of, you know, conflict, sometimes, 6 but the goal was to get to yes so that both 7 parties could work together. Because the goal was 8 working together and creating the TV show, not 9 making the deal. The dealmakers had to step away 10 so that you closed the deal, and then people could 11 live with that deal. 12 And so I went to a transactional law 13 firm, and I was there a couple years and I made 14 deals. 15 Q What kind of projects did you work on 16 when you transitioned into that dealmaking role? 17 A Well, this is, you know, mid 1970s, and 18 this law firm was hot, if you will, and some of my 19 classmates were there; that's how I got the job. 20 I had to take a cut in pay to go there. And I'll 21 never forget, I'm the second-chair attorney in a 22 big conference room at Fox, and we're trying to</p>	<p>3567</p> <p>1 And that's the type of deals -- it was, 2 at that entertainment transactional firm, we 3 weren't representing major companies, if you will. 4 We were representing artists, writers, directors, 5 talent, like, you know, individuals. We weren't 6 representing the companies I do now, like ITV or 7 Village Roadshow. 8 Q How long were you at that law firm? 9 A I was at that firm for a couple years. 10 Q What did you do after that? 11 A After that, I made a decision that I 12 wanted to go in-house where the full-time business 13 was making a, you know, product and it was very 14 tied to production, and I wanted to move away from 15 law firms at that moment. And my first in-house 16 job was for the Ziegler Distel Agency, which was 17 one of the premier literary agencies in town. We 18 represented writers and books and states of books. 19 And at that time, in late '70s, early '80s, if you 20 wanted to hire a writer or a book -- or option a 21 book, there were three places you went: You went 22 to Swifty, which he's kind of famous, Swifty</p>

<p style="text-align: right;">3568</p> <p>1 Lazar's Oscar parties, or you went to Swanee, HL 2 Swanson, or you went to Ziggy, and I worked for 3 Ziggy. 4 Q Did you work for any other companies in 5 an in-house capacity as a dealmaker? 6 A Oh, yeah, yeah. I, you know, with 7 Ziggy, we made deals for the book The Princess 8 Bride. We did a lot of-- we worked for William 9 Goldman, who that was his book and his screenplay. 10 You know, it was a fabulous experience. But that 11 firm was bought by ICM, a much bigger agency. And 12 then I moved to Paramount. That's where I next 13 went. And at Paramount, I was the attorney on the 14 series Cheers and the series Family Ties, which 15 was the break for the young son, Michael J. Fox. 16 And then I did something because I have 17 never said, "I'm just a TV lawyer." I'm a 18 dealmaker; I get to yes. And it's sort of unheard 19 of, but I moved from network television -- doing 20 the deals for Cheers and Family Ties, I moved to 21 features Paramount because you get a little more 22 money in features. And I was married and I had a</p>	<p style="text-align: right;">3570</p> <p>1 Q Where did you go after that? 2 A After then, Jerry Weintraub, I went to 3 Disney, and I filled in for a year for the head of 4 legal in features who was on maternity leave and 5 taking a family leave. And so I headed up legal 6 on films like Dick Tracey, Madonna was in that; 7 Rocketeer, another live-action film. But what I 8 really remember about my time at Disney is they 9 were revamping the animation department, and they 10 wanted to make a different kind of Disney animated 11 film. 12 And part of it, in the old days, Disney 13 animated films, the voices weren't advertised. 14 They weren't the stars of the movie. Disney was 15 the star or Dumbo was the star. But the voices 16 were hardly known. And we broke that mold, and it 17 was the first deal where we paid real money to 18 someone to do a voice was a deal I made with Robin 19 Williams to voice Aladdin. And it changed the 20 whole history of Disney and feature animation. I 21 worked on Beauty and the Beast, and it was a 22 tremendous experience to be involved with them.</p>
<p style="text-align: right;">3569</p> <p>1 child, and in features, I was assigned to do the 2 development and production work for a producer 3 who's in this case, Jerry Bruckheimer, and, also, 4 served -- they had an overall deal with Eddie 5 Murphy, so I did his -- the legal work on his 6 films like Beverly Hills Cop, Coming to America, 7 things like that. And I was at Paramount about 8 four years. 9 Q Where did you go after Paramount? 10 A After Paramount, I got this opportunity 11 to head up business and legal affairs in the 12 feature division for Jerry Weintraub's studio. 13 Jerry was famous at the time for Karate Kid and 14 Ocean's 11, and he represented, you know, Elvis 15 and Frank Sinatra in music, and John Denver. But 16 this was his motion picture company, and I was in 17 features. We made a film called Troop Beverly 18 Hills, which is starring Shelley Long. We made 19 another film, The Big Blue. We acquired a film 20 library. He was positioning himself to be a major 21 company until he went bankrupt. And that was one 22 of his only failures.</p>	<p style="text-align: right;">3571</p> <p>1 Q After you worked at Disney, did you 2 continue to fill in-house dealmaking roles? 3 A Yeah. I continued my in-house road, 4 even in the world that I could see was 5 consolidating and it was going to be more and more 6 difficult to stay in house. 7 After Disney, I went to a company 8 called Media Home Entertainment, and they put up 9 money for films. And for their investment, they 10 got the VHS cassette rights. So Media Home 11 Entertainment was one of the producers, investors, 12 in the Nightmare on Elm Street series and Blue 13 Velvet, and what they got was the right to sell 14 video cassettes. They also manufactured and sold 15 Jane Fonda videos or NFL videos. It was a great 16 business, except the studios realized, "Are we 17 crazy? Why are we letting another company sell 18 video? We should keep that in-house." And so I 19 was not only head of legal, but I was on the board 20 of directors and we sold the company to Fox so 21 that they could take in the assets and eliminate a 22 competitor.</p>

<p>1 Q Where did you go after that? 2 A After Media Home Entertainment, I went 3 to a company called Kushner-Locke. It was at a 4 time in the business there were hundreds of 5 independent producing companies because the 6 networks couldn't produce for themselves; there 7 were laws preventing it. And Kushner-Locke, we 8 produced Pinocchio with Jonathan Taylor Thomas. 9 We produced a small movie called Freeway. It was 10 Reese Witherspoon's, one of her first roles, and 11 it was, you know, I was there for eight years. It 12 was a good, long run, until they, as all those 13 independent companies ultimately did -- not all, 14 most -- they went bankrupt after eight years. 15 Q What did you do after that? 16 A Now, you can see I'm still chasing the 17 in-house world. I went to a company, Nelvana. 18 They were a Canadian animation company, but they 19 had this big office in LA. I headed up business 20 legal. We manufactured, made, produced animated 21 television series like Care Bears and 22 merchandising, also, Babar, Big Bear, Little Bear,</p>	<p>3572</p> <p>1 Q What types of work were you doing when 2 you went back to the law firms? 3 A When I went back to the law firm, I did 4 a lot of -- you know, I worked on their clients, 5 and I helped a financier, Robert Silverman, in 6 effect buy the American Idol brand. I worked with 7 Berry Gordy's company, trying to turn some of his 8 world into theatrical plays. I worked with the 9 Nat King Cole estate, trying to do things. 10 So it was a lot of reality. I remember 11 I worked with J. Walter Thompson, and they were, 12 in effect, creating advertising opportunity 13 branding. And then the one that sticks in my mind 14 is I helped, you know, George Foreman market 15 things so that he made a deal to be the face of a 16 thing called the George Foreman grill. And it 17 was -- it was a good practice. 18 Q Mr. Marks, you testified that you now 19 are at a law firm called Richard Marks and 20 Associates. When did you start that firm? 21 A Well, after -- the firm I just told you 22 about is called Greenberg Traurig. It's a large</p>
<p>3573</p> <p>1 all sorts of animated subjects and merchandising 2 deals and cartoons, if you will. And then that 3 Canadian company closed the LA office and moved 4 back to Canada. I didn't want to move back to 5 Canada. 6 And so my last in-house situation, I 7 went to Universal Network Television, and I did 8 business and legal affairs on Just Shoot Me, a 9 television series; a series starring Josh Brolin 10 called Mister Sterling. It was kind of patterned 11 on Mr. Smith goes to Washington. 12 And at the same time I was at Universal 13 Network Television, I consulted with Nickelodeon 14 features, and I helped them sort of build out 15 their feature products. They were on the 16 Paramount lot. I had been at Paramount for a long 17 time, and we worked on films such as Sponge Bob 18 the animated film. And then when that consulting 19 ended and NBC came in and bought Universal, that, 20 you know, ended my job at Universal, and I made 21 the decision I would go back and be a lawyer at a 22 law firm.</p>	<p>3574</p> <p>1 international firm. I moved to a firm called The 2 Point Media in 2006, and I was there for 14 years 3 doing much the same work that I do now. And then 4 in 2020, right at the start of the pandemic, I 5 went out on my own and formed Richard Marks and 6 Associates. 7 Q Over the course of your career, what, 8 if any, changes have you observed in the 9 dealmaking space in the entertainment industry? 10 A Well, before I got involved in the 11 business, most deals for writers were "How much 12 money per week, and how many weeks?" 13 When I got into the business, it was 14 all even more complicated, but through my decades, 15 all that is happened is it's gotten more and more 16 complicated. Still the essential elements of 17 time, money, credit, perks, money, whatever, but 18 it's gotten more complicated. You had to deal 19 with merchandising, you had to deal with sequels, 20 you had to deal with all sorts of derivative 21 works, video games, you name it, you know, 22 publicity, promotion. It all expanded so that</p>

3576	<p>1 making a deal that might have been, you know, 2 simple 30 years before, now was a major 3 production. And, you know, lawyers became 4 integral. You couldn't get a good deal without 5 someone who was going to dive into the boilerplate 6 and make sure that it was right. 7 MS. LECAROZ: Your Honor, I'm about to 8 switch gears a little bit. I don't know if you 9 would like to break now for lunch. 10 THE COURT: That's fine. If you could, 11 approach just a moment. I just want to make sure. 12 (Sidebar.) 13 THE COURT: He's your expert, right? 14 MS. LECAROZ: Uh-huh. 15 THE COURT: At some point, you've got 16 to move him in as an expert. Is that coming any 17 day soon? 18 MS. LECAROZ: We just finished his 19 experience and expertise, yes. 20 THE COURT: Then the next thing is to 21 move him in as an expert. Are you voir diring him 22 as an expert?</p>	3578	<p>1 anybody about your testimony at this time, 2 including any lawyers or Mr. Depp, okay, sir? And 3 we'll be back at -- let's make it 2:00, okay? All 4 right. Thank you. 5 MR. CHEW: Thank you. 6 THE BAILIFF: All rise. 7 (Recess taken from 1:02 p.m. to 8 2:00 p.m.) 9 THE BAILIFF: All rise. 10 Please be seated. 11 THE COURT: Be seated, sir. All right. 12 Are we ready for the jury? 13 MR. CHEW: Yes, Your Honor. 14 THE COURT: Okay. 15 (Whereupon, the jury entered the 16 courtroom and the following proceedings took 17 place.) 18 THE COURT: All right. Have a seat. 19 Your next question. 20 MS. LECAROZ: Thank you, Your Honor. 21 BY MS. LECAROZ: 22 Q Mr. Marks, what work were you asked to</p>
3577	<p>1 MR. NADELHAFT: No, Your Honor. 2 THE COURT: So why don't we do that 3 officially, and then we'll take lunch? 4 MS. LECAROZ: Okay. That sounds great. 5 (Open court.) 6 MS. LECAROZ: Your Honor, before we 7 take lunch, plaintiff would move in Mr. Marks as 8 an expert in the entertainment industry. 9 THE COURT: All right. Any objection? 10 MR. NADELHAFT: No objection. 11 THE COURT: All right. So moved. 12 All right, ladies and gentlemen, we'll 13 go ahead and take our hour lunch, then. Please do 14 not talk to anybody, and don't do any outside 15 research. We'll see you back in an hour, okay? 16 Thank you. 17 Mr. Marks, if you can, just stay there 18 for a second. Stay there for a second. Just stay 19 right there. 20 THE WITNESS: Thank you. 21 THE COURT: Sir, since you're in the 22 middle of your testimony, you cannot talk to</p>	3579	<p>1 do in this case? 2 A I was asked to bring my years of 3 experience in the entertainment industry and look 4 at the damage that the op-ed of 2018 created in 5 Johnny Depp's career and his life and his 6 reputation. 7 Q What work did you do to determine 8 whether Mr. Depp's reputation had been damaged by 9 the op-ed? 10 A Well, again, I view the op-ed and the 11 fallout through almost 50 years in the business. 12 And what I did was I read the pleadings in the 13 case, the deposition transcripts, the articles, 14 the pleadings. All of the paperwork in this case, 15 which is voluminous. 16 Q Based on the analysis you've done and 17 your expertise in the entertainment industry, have 18 you formed any opinions in this case? 19 A Yes. 20 Q Generally speaking, what is your 21 opinion? 22 A My general opinion is that the op-ed</p>

<p>3580</p> <p>1 damaged Mr. Depp. Created a cancel situation, if 2 you will, harm to his reputation and his ability 3 to get work. 4 MR. NADELHAFT: Objection, Your Honor. 5 THE COURT: Hold on, sir. 6 MR. NADELHAFT: Can we approach? 7 THE COURT: Sure. 8 (Sidebar.) 9 MR. NADELHAFT: I want to make sure, 10 but he said it harmed his reputation, and then he 11 said getting work. 12 THE COURT: Right. 13 MR. ROTTENBORN: I thought that was -- 14 THE COURT: No, the only thing was that 15 he couldn't say that the op-ed was the reason that 16 Disney dropped him. What we agreed on was that he 17 would not say that the op-ed was the reason Disney 18 dropped him. 19 MR. NADELHAFT: Okay. 20 THE COURT: Right? 21 MS. LECAROZ: Right. 22 THE COURT: And he's not going to say</p>	<p>3582</p> <p>1 their marketing or advertising? 2 A Well, as you can imagine, they consider 3 reputation. This is a capitalist society and 4 they're looking to make money. They want to add 5 value to their investment. They want actors who 6 have reputations that will bring eyeballs to the 7 screen, bodies in the seats. 8 They're looking for added value, not 9 negativity. 10 Q Do you have experience negotiating 11 agreements for actors to play a certain role in a 12 film? 13 A Yes. As I explained, I negotiate deals 14 with actors to play roles in films and... 15 Q What's the significance of the actor in 16 a starring role in the context of a feature film? 17 A The actor's starring role becomes the 18 face of the film, the product, the series. That 19 actor is synonymous with the product. And, again, 20 in hiring an actor or actress, you want a 21 reputation that supports the value that you spent 22 on creating the product.</p>
<p>3581</p> <p>1 that. 2 MR. NADELHAFT: Okay. 3 MS. LECAROZ: Thank you. 4 THE COURT: Uh-huh. 5 (Open court.) 6 BY MS. LECAROZ: 7 Q Mr. Marks, do you have experience 8 working with companies looking to engage actors to 9 market or advertise their products? 10 A Yes. 11 Q And what's that experience? 12 A Well, virtually, every company I work 13 for, they are engaging actors to advertise their 14 products. Most of the time those products are TV 15 shows or streaming series or feature films that 16 all involve product spinoffs and derivatives, and 17 sometimes they are just products and spokespeople 18 getting together. 19 But, yes, I have experience in hiring a 20 star to be the face of your product. 21 Q What types of things do companies 22 consider when they're looking at using actors in</p>	<p>3583</p> <p>1 You might say Pirates of the Caribbean 2 is Johnny Depp and vice versa. That's the 3 importance of hiring a star. 4 Q What aspects of an actor's reputation 5 might impact their ability to get hired by brands 6 or studios? 7 A Well, again, on the other side of the 8 coin, you wouldn't want to hire an actor who has 9 negativity following them. You wouldn't want to 10 pay to actually bring your brand down, your movie, 11 and -- so that's very important, and especially in 12 the last five years with the #MeToo movement, you 13 wouldn't want negativity, hiring an actor who "has 14 been canceled." 15 Q Is there anything in particular that 16 might prevent an actor from getting hired by a 17 brand or studio? 18 A Well, we're talking about legal 19 activity, criminal record. But right now, the 20 pinnacle of negativity in Hollywood is being 21 accused of domestic abuse, sexual abuse, violence, 22 and what we've seen is, almost immediately,</p>

<p style="text-align: right;">3584</p> <p>1 terminations and cancellations to -- for the 2 investors, for the people who create that product, 3 to move away from that negativity. 4 Q I think you mentioned the #MeToo 5 movement. What's your understanding of what the 6 #MeToo movement is? 7 A My understanding of the #MeToo movement 8 is that, finally, society is listening to the 9 victim, giving the victim of domestic abuse, 10 sexual abuse, the benefit of the doubt. And there 11 has been a shift in our society from not doing 12 that to now the victim gets the benefit of the 13 doubt until there's too much doubt. And to me, 14 that's the #MeToo movement. One person can come 15 forward and accuse Harvey Weinstein and another 16 person can come forward and another and another, 17 that's the Me Too part of it. But they get the 18 benefit of the doubt; whereas, in the past, the 19 victim didn't have that benefit. 20 Q What impact has the #MeToo movement had 21 on how Hollywood conducts business? 22 A In my many decades in the business,</p>	<p style="text-align: right;">3586</p> <p>1 A Yes. 2 Q What was that experience? 3 A I did some of the production legal work 4 on a film called All the Money in the World. It 5 was about the life of the Gettys, J. Paul Getty. 6 J. Paul Getty was played by Kevin Spacey. He 7 acted in the part; he finished his role; he was 8 paid. And then, these Me Too accusations came 9 out. And immediately, my client, in conjunction 10 with Sony, they made a decision to take him out of 11 the movie and Christopher Plummer was hired. They 12 reshot all his scenes and seamlessly cut them into 13 the movie. If you see All the Money in the World, 14 you won't know that Kevin Spacey was ever in it. 15 So I had that personal experience. And 16 then coincidentally, when that happened, I was also 17 doing work for MRC, which produces House of Cards, 18 and a very successful series, and he was the star 19 of it. And he was immediately cut out. And 20 everything was redone to get rid of the notion 21 that Hollywood would support an abuser after the 22 #MeToo movement.</p>
<p style="text-align: right;">3585</p> <p>1 Hollywood has changed and morphed, but never as 2 quickly as to respond to the #MeToo movement that 3 started in 2017. 4 When I started in the business, every 5 contract for an actor, or someone involved in the 6 movie, had a morals clause, that if you did 7 certain things, you could be fired for it. They 8 wanted to protect their brand. 9 Before the #MeToo movement, that morals 10 clause was fading out. People with leverage, 11 people have said, wait a second, you just can't 12 get rid of us because you think this or that. 13 With the #MeToo movement, Harvey Weinstein, Bill 14 Cosby, if you will, the morals clause has come 15 back and it is a demanded feature in every 16 entertainment employment agreement because the 17 studios want that verbiage. They want those 18 rights so that they can act quickly and decisively 19 when there is a claim. 20 Q Mr. Marks, do you have any experience 21 working on a project where an actor was accused of 22 domestic abuse or sexual violence?</p>	<p style="text-align: right;">3587</p> <p>1 And then, because I was in the mix of 2 all of it, I also know that Kevin Spacey had 3 completed another movie for Netflix, and unlike 4 All the Money in the World, they couldn't reshoot 5 it. And it sits on the shelf, a movie about Gore 6 Vidal that was finished, but has never seen the 7 light of day. 8 Q What's your understanding of why these 9 companies wanted Kevin Spacey removed from those 10 projects? 11 A Can you repeat the question? 12 Q What's your understanding of why these 13 companies wanted Kevin Spacey removed from those 14 projects? 15 A These companies, as I've said, they 16 wanted Kevin Spacey removed because they didn't 17 want the negativity. They want anyone removed so 18 that they can get a return on their investment in 19 our society so that they are not seen as being in 20 the old generation, where women were not given the 21 benefit of the doubt. Where victims were not 22 given the benefit of the doubt.</p>

<p>3588</p> <p>1 And a switch has been turned and, 2 certainly, by 2017. 3 Q Are there certain types of companies 4 that are particularly sensitive to these kinds of 5 allegations made by women in light of the #MeToo 6 movement? 7 A Well, I would say the bigger the 8 company, the bigger the budgets, they're all 9 sensitive. But, at the pinnacle of sensitivity 10 are the family-friendly companies, like Disney. 11 They're particularly sensitive, not in a general 12 way, but in a very specific way. 13 Q Mr. Marks, are you familiar with the 14 op-ed Ms. Heard published in the Washington Post 15 on December 18th, 2018? 16 A Yes. 17 Q What's your understanding of how that 18 op-ed was received in Hollywood? 19 A My understanding of how that op-ed was 20 received -- 21 MR. NADELHAFT: Objection, Your Honor. 22 Objection.</p>	<p>3590</p> <p>1 MR. NADELHAFT: Objection, Your Honor. 2 Objection. Now he's mischaracterizing the 3 document. 4 MS. LECARAZ: He's expressing his 5 understanding of how it was perceived. 6 THE COURT: I'll overrule the 7 objection. 8 Go ahead. 9 MS. LECARAZ: Thank you, Your Honor. 10 A What I'm saying is Hollywood got the 11 subject matter of the op-ed loud and clear. Amber 12 Heard was calling out Hollywood for supporting, 13 since 2016, supporting her abuser and she felt the 14 wrath of Hollywood. She was calling them out to 15 do something in the Washington Post, and on the 16 eve of her biggest film, a big film for Hollywood, 17 the publicity machine was in high gear. There was 18 lots of publicity and news out there. 19 This was the height of her fame and she 20 used it, at that moment, to call Hollywood out. 21 In my opinion, as a member of Hollywood, they 22 heard that plea loud and clear and it also got her</p>
<p>3589</p> <p>1 THE COURT: I'm sorry, sir. 2 MR. NADELHAFT: Is this his personal 3 understanding, his expert understanding? Seems 4 like if it's a personal understanding, it's not 5 relevant. 6 MS. LECARAZ: I'm asking Mr. Marks, 7 based on his nearly 50 years in the 8 entertainment -- 9 THE COURT: I'll overrule the 10 objection. 11 MS. LECARAZ: Thank you, Your Honor. 12 A As I said before, I'm a member of the 13 Hollywood community. That op-ed, for the first 14 time, is in a mainstream publication called The 15 Washington Post. This is a flagship journal, if 16 you will, of American news. We're not talking 17 about a trade paper. We're not talking about a 18 rag. We're talking about The Washington Post. 19 And it is geared to Hollywood. It says, two years 20 ago, when I was getting my divorce, Amber Heard is 21 saying "I was the abuser" and, Hollywood, you 22 stood up for my abuser not for me, the victim --</p>	<p>3591</p> <p>1 publicity for her movie, you know. I don't think 2 that that -- in my perception, the people in 3 Hollywood didn't see that as a coincidence, that 4 date. And, so, yeah, in Hollywood, I think the 5 message was received that she was sending. 6 Q Mr. Marks, do you have an understanding 7 of Mr. Depp's reputation in Hollywood with respect 8 to whether or not he's on time to his film sets? 9 A Yes. 10 Q What's your understanding? 11 A Hollywood has a history of putting up 12 with major artists' and major stars' idiosyncratic 13 behaviors. You know, we've always had divas, like 14 Marilyn Monroe, who would stay in her trailer for 15 half a day. Johnny Depp has a reputation of being 16 Johnny Depp. And when you hire Johnny Depp, you 17 get all of Johnny Depp, and that includes being 18 late. And, fortunately, in Hollywood, because of 19 the budgets and the box office, you can budget for 20 lateness. You can have second unit. You can have 21 other shots. You can -- you have padding in 22 budgets. You have insurance for accidents. But,</p>

<p>3592</p> <p>1 Hollywood knows Mr. Depp's reputation, and, you 2 know, I heard someone say Hollywood puts up with 3 divas and drugs. They only do that when money's 4 involved and big stars are involved and artistry 5 is involved. 6 Q Mr. Marks, did you have an 7 understanding of Mr. Depp's overall reputation in 8 Hollywood prior to the publication of the 9 December 2018 op-ed? 10 A I would say that Johnny Depp was one of 11 the few major actors in Hollywood who managed to 12 keep most of his personal life personal. Kept 13 himself shrouded, if you will, a bit. And his 14 reputation, you know, preceded him as a major 15 artist in Hollywood. 16 But what also marked him in this 17 business is that he was congruent. He was 18 likeable. You know, he was, you know, one of the 19 guys. And it -- I never heard any complaints, you 20 know, if you will. 21 Q Do you have an opinion about the impact 22 of the publication of the op-ed on Mr. Depp's</p>	<p>3594</p> <p>1 Q But never that high, correct? 2 A That's correct. 3 Q How much have you charged -- how much 4 have you received for this case? 5 A I'd have to look at my billing. During 6 my deposition, the attorney who deposed me asked 7 me the same question. I said I would look it up. 8 I did during lunch. And then she never got back 9 to it again. I don't remember how much it was 10 then, and I don't have the figures now. 11 Q And you don't know how many hours 12 you've worked on this case? 13 A I would guess -- again, I'd be guessing 14 and I don't know if you want me to guess. I have 15 a full-time, transactional practice. This is a 16 very small part of my practice. 17 Q Okay. Now, you said you worked for 18 Disney for less than a year, right? 19 A I worked for Disney about a year. 20 Q Yeah, and that was in 1990, right? 21 A Yes. 22 Q So that was about 32 years ago?</p>
<p>3593</p> <p>1 reputation in Hollywood? 2 A It's devastating. It's the type of 3 claim, the Me Too claim of sexual violence, 4 domestic abuse, that has canceled a list of 5 actors, Chris Noth, recently, I just read 6 something about Frank Langella. We know 7 newscasters, Les Moonves, head of CBS. Now, 8 Johnny Depp is in their ranks. It's devastating. 9 MS. LECAROS: Thank you, Your Honor. 10 No further questions. 11 THE COURT: All right. 12 Cross-examination, Mr. Nadelhaft. 13 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND 14 COUNTERCLAIM PLAINTIFF 15 BY MR. NADELHAFT: 16 Q Good afternoon. 17 Your rate in this case is \$975 per 18 hour; is that right? 19 A That's correct. 20 Q And you've -- you've never charged that 21 high a rate in any other case; isn't that right? 22 A I've charged near that amount, but --</p>	<p>3595</p> <p>1 A Yeah. 2 Q Okay. And you worked at Greenberg 3 Traurig from 2004 to 2006; is that right? 4 A That's correct. 5 Q Your leaving was a mutual decision; was 6 it not? 7 A Yes. 8 Q Now, Mr. Depp still has an endorsement 9 deal with Dior, correct? 10 A I understand that, yes. 11 Q He's had that endorsement deal since 12 2015; isn't that right? 13 A I believe he's had the endorsement deal 14 for a while, and I think he still has it. 15 Q Right. And Dior hasn't dropped 16 Mr. Depp, correct? 17 A As far as I know, Dior has not dropped 18 him. 19 Q And Mr. Depp did not have a contract 20 for Pirates 6; isn't that right? 21 A As far as I know, there is no contract 22 for Pirates 6.</p>

<p>1 Q Right. And all the documents you've 2 looked at, you've looked at all the documents in 3 this case, and you've not seen a contract for 4 Pirates 6, right? 5 A That's my memory of the documents, 6 there was no contract for Pirates 6. 7 Q And in all the documents you looked at, 8 you didn't see a text saying Mr. Depp got the 9 contract for Pirates 6 for 22.5 million, right? 10 MS. LECAROZ: Objection. Asked and 11 answered. 12 THE COURT: Overruled. 13 A I didn't see paperwork on an agreement 14 for Pirates of the Caribbean 6. 15 Q So not an email, not a text, not any 16 written document about Pirates 6, correct? 17 MS. LECAROZ: Objection. Asked and 18 answered. 19 THE COURT: I'll sustain that 20 objection. 21 Next question. 22 Q And you don't know, one way or the</p>	<p>3596</p>	<p>1 after May of 2016, right? 2 A Yes. 3 Q Okay. Now, you would agree that there 4 was negative publicity about Mr. Depp being 5 publicly drunk before the op-ed, correct? 6 A I agree with the proposition that there 7 was negative publicity before the op-ed. The 8 op-ed was something different. 9 Q And you agree, in 2014, there was an 10 article in the Guardian that said apparently drunk 11 Johnny Depp cut off at Hollywood film awards 12 ceremony; would you agree with that? 13 A Again, I don't remember reading the 14 Guardian, and I don't remember that particular 15 incident. But I'll take you at your word. 16 Q And you remember, in looking through 17 all the documents that you saw another report that 18 Johnny Depp allegedly showed up drunk to a movie 19 premiere, reports say, right? That was in 2017? 20 A I think I've testified that there is, 21 certainly, Johnny Depp behavior and negativity out 22 there, yes.</p>	<p>3598</p>
<p>1 other, whether Mr. Depp will be in Pirates of the 2 Caribbean 6, you don't have a crystal ball; is 3 that right? 4 MS. LECAROZ: Objection. Speculation. 5 MR. NADELHAFT: He's an expert. 6 THE COURT: I'll allow that. Go ahead. 7 Overruled. 8 Go ahead, you can answer, sir. 9 A Well, as an expert, of course, I don't 10 have a crystal ball, but as an expert, I think 11 Disney will do everything possible to try to put 12 him back in Pirates, but not under this cloud. 13 Q Okay. You agree that there was 14 negative publicity about Mr. Depp before the 15 op-ed, correct? 16 A Yes. 17 Q You know that Ms. Heard made her 18 accusations public starting in May 2016, right? 19 A Yes. 20 Q And Hollywood knew about that, right? 21 A Yes. 22 Q Okay. And Mr. Depp still had movies</p>	<p>3597</p>	<p>1 Q And that a family -- that a family 2 production studio, like Disney, wouldn't want to 3 be associated with, correct? 4 A Again, you're talking about a very 5 specific, you know, series of five films that are 6 in billions of dollars, and there is a line in 7 Hollywood, as I've said, they'll put up with divas 8 and drugs to make money, but now we've drawn a 9 line, in Hollywood, at the domestic and sexual 10 abuse. 11 Q And in looking through the documents, 12 you saw articles, in June of 2018, that said vodka 13 for breakfast, 72-hour drug binges and spending 14 sprees that beggar belief? You saw that? 15 A I know these articles exist. I know 16 they're not in the Washington Post. I don't know 17 what article you're referring to, who wrote it, 18 you know, what publication it was in, but I know 19 that those articles exist. 20 Q And you'd agree that before the op-ed, 21 Mr. Depp had a run of movie flops; would you 22 agree?</p>	<p>3599</p>

<p>3600</p> <p>1 A Every actor has, you know, ups and 2 downs. Mr. Depp's career has been decades long. 3 Q You would agree that in January of 4 2015, there was an article that said Johnny Depp 5 is on his way to becoming the most overpaid actor 6 in Hollywood? 7 A Again, you'd have to show me the 8 article, but I don't doubt that some commentator 9 trying to trade on being a smartypants wrote that. 10 Q And you agree that there was another 11 article in 2015 that says "Has Johnny Depp become 12 Hollywood's biggest joke?" 13 A I don't know; Netflix has a whole 14 festival going now, Netflix is a Joke. 15 Q You'd agree there's an article in 16 Business Insider, from 2015, that says "Johnny 17 Depp has his fifth box office bomb in a row"? 18 A If that's what it says, it said. 19 Are you just going to keep reading 20 this? 21 Q Mr. Depp's reputation, that's what 22 you're talking about, in terms of Hollywood,</p>	<p>3602</p> <p>1 Depp was involved in major studio projects, yes. 2 Q Do you know, one way or the other, 3 whether Mr. Depp was involved in major studio 4 projects after June 23rd, 2017? 5 A I think, again, I haven't quoted his 6 IMDB page to memory, but he was in an animated 7 film called Sherlock Gnomes, I think it was 8 released, Paramount is one of the producers, I 9 think it was released in 2017. 10 Q Would you agree that before the op-ed, 11 there was negative publicity about Mr. Depp 12 punching a crew member on a film set? 13 A I heard about that. 14 Q So that's people who work in Hollywood 15 that Mr. Depp had an accusation of assault, 16 correct? 17 A I heard about it, yes. 18 Q And would you agree that there were 19 stories about Mr. Depp drinking heavily on the set 20 of Pirates 5? 21 A There were lots of stories that came 22 out, and I'm sure that was one of them.</p>
<p>3601</p> <p>1 correct? And in 2016, December of 2016, there's 2 an article that says "Johnny Depp is Hollywood's 3 most overpaid actor for the second year in a row." 4 Do you recall reading that? 5 A Was that written by the second 6 underpaid actor? 7 Q You would agree that before the op-ed, 8 there was negative publicity for Mr. Depp about 9 assassinating President Trump; would you agree? 10 A No, I missed that one. 11 Q You didn't see an article in the New 12 York Times that said "Johnny Depp flirts with idea 13 of Trump's assassination and then apologizes"? 14 A Again -- 15 Q Did you see it or not? 16 A Johnny Depp talks with irony and 17 panache, and I don't particularly remember that. 18 I have a lot of stuff in front of me. 19 Q Disney wouldn't want to be involved 20 with someone who is calling for the assassination 21 of the president, would it? 22 A I'm sure, after those articles, Johnny</p>	<p>3603</p> <p>1 Q And those stories came out in 2016 and 2 2017, before the op-ed, right? 3 A Again, you'd have to show me a 4 timeline, but I'll take your word that there were 5 articles written in various rags or trade pub -- 6 Q New York Times is a rag? Is that what 7 you're saying? 8 A No, I'm not saying that New York Times 9 is a rag. What I'm saying is, at the height of 10 the #MeToo movement, we have this op-ed directed 11 at Hollywood. And in the Hollywood I know, the 12 rest of the stuff is background noise. 13 Q Now, Pirates 5 did not make as much 14 money in the box office as the prior Pirates 15 movies did; isn't that true? 16 A That's true. It made about 17 \$800 million. 18 Q It made less, though, than the first 19 four, correct? 20 A Yeah. And any company would want to 21 have a box office hit that made \$800 million. 22 MR. NADELHAFT: Now, can you put up</p>

<p>3604</p> <p>1 Exhibit -- Defendant's Exhibit 99, please. 2 And if you could blow it up. 3 Q You said the #MeToo movement started in 4 2017; is that what you're saying? 5 A It actually started long before that, 6 but it picked up steam to what we now call the 7 #MeToo movement in 2017. 8 Q Okay. Do you recognize this article 9 from Dan Wootton that says how can JK Rowling be 10 genuinely happy casting wife beater Johnny Depp in 11 the new Fantastic Beasts film? 12 A Yes, this article was in the U.K. Sun, 13 which came to prominence by publishing topless 14 women on page 3. 15 Q And the article came out in April -- on 16 April 27th, 2018, correct? 17 A I haven't skimmed through this, but 18 I'll take your word for it. 19 Q And I think what you're trying to say 20 was that The Sun was a rag, so no one would pay 21 any attention to it. Is that what you're trying 22 to say?</p>	<p>3606</p> <p>1 Q And the old news that was coming out in 2 2018, that would also affect Mr. Depp's 3 reputation, correct? 4 A Again, I've tried to draw a line, the 5 line that Hollywood draws between the #MeToo 6 movement, and starting in 2017, and the gossip and 7 the claims back and forth. I mean, there was also 8 press about Amber Heard being an abuser in those 9 years. There was also the other side of the coin. 10 Q But the op-ed that didn't mention 11 Mr. Depp at all and didn't mention any accusations 12 that happened to her, that's what caused Mr. Depp 13 reputational harm; is that what you're saying? 14 A I don't agree that this article was not 15 about Mr. Depp. 16 Q That it's Mr. Depp; that's what I asked 17 you. 18 A Does she have another husband who 19 abused her? 20 Q Does it talk -- does it talk, at all, 21 about Mr. Depp's abuse? 22 MS. LECAROS: Objection, Your Honor.</p>
<p>3605</p> <p>1 A I'm saying The Sun is The Sun. And 2 it's in the U.K. And what this article is, is 3 repeating stuff from 2016. Repeating all the 4 stuff that you might say should be all past 5 history after the divorce. It's one -- Wootton's 6 opinion in a newspaper that's claim to fame is 7 page 3 women, topless and, yeah. 8 Q Mr. Depp sued The Sun over this, right? 9 A What's that. 10 Q Mr. Depp sued The Sun in the U.K. over 11 this article, right? 12 A As far as I know, he wanted to clear 13 his name. That's right. 14 Q And Mr. Depp, that lawsuit occurred in 15 2020, correct? It was tried in 2020? 16 A I believe so. Yeah. 17 Q And there were accusations of abuse 18 that came out based on that lawsuit, correct? 19 A As far as I know, the accusations were 20 all old news and predated. Yeah, I mean, this is 21 a 2018 article, and in 2020, they probably were 22 rehashing it.</p>	<p>3607</p> <p>1 He's tried to answer the first question, which was 2 not exactly what the second question was that he 3 asked. 4 THE COURT: Just ask your question one 5 more time. 6 Q The op-ed article didn't mention any 7 specific abuse by Mr. Depp towards Amber Heard, 8 correct? 9 A The only name is this is Amber Heard 10 telling her story that started in 2016 when she 11 was domestically abused and ignored. 12 Q Now, there were headlines about the 13 U.K. trial, correct? 14 A I'm sure there were, yes. 15 Q Like, let's burn Amber texts allegedly 16 sent by Johnny Depp about ex read in court? 17 A I didn't hear you. 18 Q Let's burn Amber texts allegedly sent 19 by Johnny Depp about ex read in court. 20 A Yeah. 21 Q And there was a headline, from 22 July 19th, 2020, that said "Hollywood nervously</p>

<p>1 awaits fallout from explosive Johnny Depp trial." 2 So, Hollywood was following the case, 3 correct? 4 A When was that headline? 5 Q In 2020. 6 A 2020. Yeah, look, Johnny Depp is a 7 decade's-long fixture in Hollywood, and people 8 were following something across the pond. You 9 know, we thought we kind of got rid of the U.K. in 10 1776, but they were still following it, 11 absolutely. 12 Q Mr. Depp thought enough about this 13 article to have a three-week trial in the U.K., 14 correct? 15 MS. LECARAZ: Objection. Calls for 16 speculation about what Mr. Depp thought. 17 THE COURT: I'll sustain the objection. 18 Next question. 19 Q There was a three-week trial in the 20 U.K. based on this article by Dan Wootton, 21 correct? 22 A I think I've said Mr. Depp finally had</p>	<p>3608 1 talk about the U.K. trial to be able to explain 2 what the purpose was of the trial, but that 3 doesn't mean that -- we didn't get into the 4 judgment. 5 MR. NADELHAFT: He said it twice now. 6 THE COURT: He said it twice. He said 7 it twice, that he wanted to clear his mind [sic]. 8 MR. NADELHAFT: I never asked him about 9 it. He brought it up on his own, about clearing 10 his name. 11 THE COURT: It came from your direct 12 examination. He said that Mr. Depp wanted to 13 clear his name. 14 MS. LECARAZ: It wasn't in the question 15 that I asked. 16 THE COURT: Well, I understand. But 17 it's the answer that came out. 18 MS. LECARAZ: I understand. I 19 understand. It's too difficult, Your Honor. I 20 think the only way that they can get there -- 21 MR. NADELHAFT: He said it twice. I 22 should be able to ask him.</p>
<p>3609 1 enough and he sued to clear his name. 2 MR. NADELHAFT: Could I approach, Your 3 Honor? 4 THE COURT: All right. 5 (Sidebar.) 6 MR. NADELHAFT: I would like to ask 7 him, and did Mr. Depp clear his name in that 8 lawsuit? 9 THE COURT: Your expert keeps saying he 10 did the lawsuit to clear his name. 11 MS. LECARAZ: Uh-huh. 12 THE COURT: The results of it is he 13 didn't clear his name, so his question is, can he 14 ask, did he clear his name? 15 MS. LECARAZ: I understand the lawsuit 16 is not -- 17 THE COURT: No, he said that the U.K. 18 lawsuit, he did it to clear his name. So they 19 want to ask -- they want to know if they can ask 20 did it clear his name? 21 MS. LECARAZ: My prior objection, I 22 think we talked about the same way we couldn't</p>	<p>3611 1 THE COURT: He should be able to ask 2 him, did he clear his name? Now, what he's going 3 to say, I don't know. Because if he goes too far. 4 MR. NADELHAFT: I mean that -- I mean, 5 he's opening the door to this. I mean... 6 MS. LECARAZ: I understand that's their 7 position. I don't think he opened the door. 8 THE COURT: I know. I really think you 9 can make it clear it's a yes-or-no question, did 10 he clear his name. 11 MR. NADELHAFT: Okay. What if he 12 says -- okay. Okay. What if he says, yes, 13 though? 14 THE COURT: That's it. You're done. 15 MR. NADELHAFT: What's that? 16 THE COURT: Oh, if he says yes? We'll 17 have to cross that bridge when we come to it, 18 sorry. Okay? Does it make sense to you? 19 MS. LECARAZ: Yeah. 20 THE COURT: Okay. 21 (Open court.) 22</p>

<p>1 BY MR. NADELHAFT: 3612 2 Q Mr. Marks, you testified that in the 3 U.K. case, Mr. Depp was looking to clear his name, 4 correct? 5 A That's my assumption, yes. 6 Q And yes or no, did Mr. Depp clear his 7 name through that lawsuit. 8 A I wasn't in the U.K., and I'm not going 9 to opine on that. That's not what I've been 10 engaged to talk about. 11 THE COURT: All right. 12 Q You don't know, one way or the other, 13 whether Mr. Depp cleared his name through that 14 lawsuit? 15 MS. LECAROZ: Objection, Your Honor. 16 Asked and answered. 17 THE COURT: I'll sustain the objection. 18 Next question. 19 Q You understand -- 20 MR. NADELHAFT: Can you please put up 21 Defendant's Exhibit 115. 22 Q In looking through the documents, did</p>	<p>1 Q And do you recall that the corporate 3614 2 designee testified that Disney produced all 3 documents related to its business relationship 4 with Mr. Depp, including considering Mr. Depp for 5 any work with Disney or future Pirates films, and 6 she did not recall seeing the op-ed or any 7 documents referring to the op-ed in that 8 production of documents? 9 A I read the deposition. I don't recall 10 seeing the op-ed in what Disney produced. What I 11 do recall is the -- that the person giving that 12 deposition for Disney really had no contact with 13 Jerry Bruckheimer or Sean Bailey, just was someone 14 that Disney put up who didn't know anything, is 15 what I took from that deposition. 16 Q You're a lawyer, right? You understand 17 that a corporate designee is supposed to be in the 18 shoes of the corporation talking for Disney, 19 correct? 20 MS. LECAROZ: Objection, Your Honor. I 21 think that's outside the scope of his expertise in 22 this case.</p>
<p>1 you see headlines from October 25th, 2018, almost 3613 2 two months before the op-ed, that Mr. Depp would 3 not be in Pirates 6? 4 A Yeah, I saw that there was speculation 5 in different publications, none quoting a Disney 6 executive, if you will. None being definitive. 7 Q Okay. And -- 8 A And, by the way, I can't see, where's 9 this article from? I just see the headline. 10 Q The dailymail.com. 11 A The Daily Mail is a U.K. publication? 12 Q All right. Let's move -- do you know 13 or not? 14 A Do I know what? 15 Q Do you know if it's a U.K. publication 16 or not? 17 A I think that the Daily Mail is, but I'm 18 not sure. 19 Q Okay. Now, did you review the 20 deposition testimony in this case of the 21 Walt Disney corporate designee? 22 A Yes.</p>	<p>1 THE COURT: Overruled. 3615 2 Go ahead. 3 A I understand that that's what the 4 corporate designee is supposed to be. But when I 5 read that they are not -- 6 Q That was the question. 7 A -- not in touch with the president of 8 the company, it gives me pause. 9 Q So Disney, itself, represented, through 10 this person, through this witness, that it had 11 no -- it did not have the op-ed in any of its 12 files, correct? 13 A I don't remember that passage in the 14 deposition, but I can't remember. She certainly 15 did not quote the op-ed or produce the op-ed or 16 talk about the op-ed. 17 Q Okay. Now -- 18 A But I -- in Hollywood, actions 19 sometimes speak much louder than words. 20 Q And did you recall that same corporate 21 designee said that Pirates 6 is still possibly in 22 development?</p>

<p>3616</p> <p>1 A Until Disney says it's not in 2 development, it's in development. 3 Q Okay. 4 MR. NADELHAFT: And can we put up 5 Defendant's Exhibit 134. 6 Q And you see this is from November 5th, 7 2020? 8 A And where is this from? Some rogue 9 website? Where is this from? 10 Q Insidethemagic.com [sic]. 11 A Okay. 12 Q Okay. And it says Disney reportedly 13 scraps plans for Depp's Pirates of the Caribbean 14 Disney return, and that was on November 5, 2020, 15 correct? 16 A Assuming that this is a correct copy of 17 this random website, yeah, that's what it says. 18 They're not quoting the head of production. It's 19 not a statement by Disney, but that's what this 20 woman, Rebekah Barton says. 21 Q Well, two years after the op-ed, it was 22 still a question as to whether Mr. Depp was going</p>	<p>3618</p> <p>1 judgment -- 2 THE COURT: No. That's fine. That's 3 fine. He just said it, but that's not opening any 4 door. He just said judgment. 5 MR. NADELHAFT: Can I ask him if he 6 knows what happened? 7 THE COURT: No, no, no. We're done. 8 We're done. 9 MR. NADELHAFT: I can't? Okay. 10 THE COURT: Okay. Thank you. 11 (Open court.) 12 BY MR. NADELHAFT: 13 Q Now, isn't it true that you don't 14 recall when you first read the op-ed? 15 A As I sit here today, I don't recall 16 when I first read it. 17 Q I mean, it wasn't a big deal to you -- 18 you didn't read it in 2018, correct? 19 A I have a wife, two kids, a full-time 20 job. I don't remember. 21 Q Okay. And you have no idea when you 22 first read it? I just want to make sure I</p>
<p>3617</p> <p>1 to be in Pirates 6? 2 A There was no contract for Mr. Depp to 3 be in Pirates 6, but he was Pirates, and there 4 would always be that question until Pirates is 5 produced or until Disney says otherwise. 6 Q And November 2020 was at the same time 7 as all the publicity surrounding the U.K. case, 8 correct? 9 A I think the U.K. judgment came out in 10 November 2020. 11 Q And this article came out three days 12 after the judgment, correct? 13 A If the judgment came out the 2nd, this 14 is three days later. And what's this again? 15 Moviemagic.com [sic]? 16 Q Correct. 17 A By Rebekah Barton. 18 MR. NADELHAFT: Can I approach, Your 19 Honor? 20 THE COURT: All right. 21 (Sidebar.) 22 MR. NADELHAFT: Without mentioning the</p>	<p>3619</p> <p>1 understand that. 2 MS. LECAROS: Objection. Asked and 3 answered, Your Honor. 4 THE COURT: Sustain the objection. 5 A I -- 6 THE COURT: I sustained the objection. 7 THE WITNESS: What's that? 8 THE COURT: I sustained the objection. 9 Next question. 10 Q Now, you, as an expert in the 11 entertainment field, do you know of any actresses 12 whose careers have gotten better after making 13 accusations of domestic abuse against an actor in 14 Hollywood? 15 A I think, you know, that the taint 16 sticks and -- to both sides, and I can't think of 17 any actresses who have prevailed and who have been 18 canceled. 19 Q Do you know any actresses whose career 20 has gotten better after making accusations of 21 domestic abuse against a man in Hollywood? 22 A I haven't been asked to opine on that,</p>

3620	<p>1 but I can – I certainly will look into it. 2 I don't think that this is something – 3 Q The answer is no, right? You don't 4 know? 5 A Again, I assume that – 6 Q It's a yes or no. Do you know or not? 7 A – she thought her career would get 8 better by bringing this out. I don't know. 9 MR. NADELHAFT: Thank you. I have 10 nothing further. 11 THE COURT: All right. Redirect. 12 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND 13 COUNTERCLAIM DEFENDANT 14 BY MS. LECAROZ: 15 Q Mr. Marks, you were asked a series of 16 questions about a number of publications and 17 publicity related to Mr. Depp by Mr. Nadelhaft. 18 Do you recall those questions? 19 A He asked a lot of questions about a lot 20 of articles. 21 Q And, sir, based on your experience in 22 the entertainment industry, do you have an</p>	3622	<p>1 A My opinion about the op-ed in the 2 Washington Post is, was it different? That was – 3 had a different quality of headline and article. 4 MS. LECAROZ: Thank you, Your Honor. 5 No further questions. 6 THE COURT: All right. Is this witness 7 subject to recall? 8 MS. LECAROZ: He is, Your Honor. 9 THE COURT: Since you're subject to 10 recall, the rule does apply to you. You cannot 11 discuss your testimony or watch any of the case, 12 okay, sir? But you're free to go today, sir. 13 Thank you. 14 THE WITNESS: Thank you. 15 THE COURT: Watch your step there. 16 All right. Your next witness. 17 MS. LECAROZ: Plaintiff calls Douglas 18 Bania, Your Honor. 19 THE COURT: All right. Spell the last 20 name for me. 21 MS. LECAROZ: B-A-N-I-A. 22 THE COURT: Thank you.</p>
3621	<p>1 understanding what types of publication carry the 2 most weight in Hollywood? 3 A The publications that carry the most 4 weight in Hollywood, in my opinion, after all 5 these decades, are Variety, Hollywood Reporter, 6 Washington Post, Wall Street Journal, New York 7 Times. Those are the publications. 8 Q And Mr. Nadelhaft asked you a number of 9 questions about certain headlines related to 10 Mr. Depp in various news coverage related to 11 Mr. Depp. Do you have an opinion about the impact 12 of those articles, that you looked at with 13 Mr. Nadelhaft on cross-examination, on Mr. Depp's 14 reputation in Hollywood? 15 A Again, I don't remember all the 16 articles, but what I do know is that Johnny Depp 17 had always had articles about him and that that 18 didn't change the baseline. If you had a big 19 project and it had a role for Johnny Depp, that 20 didn't change the baseline. 21 Q Is your opinion about the op-ed 22 Ms. Heard authored different than that?</p>	3623	<p>1 MS. LECAROZ: Your Honor, may I 2 approach for just a moment? 3 THE COURT: Sure. Mr. Nadelhaft. 4 MS. LECAROZ: You told Mr. Marks that 5 he could not watch the proceedings, but he's an 6 expert. 7 THE COURT: He can stay. I went on 8 autopilot. 9 DOUGLAS BANIA, 10 being first duly sworn, was examined 11 and testified as follows: 12 THE COURT: Good afternoon, sir. 13 Yes, ma'am 14 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND 15 COUNTERCLAIM DEFENDANT 16 BY MS. LECAROZ: 17 Q Good afternoon, Mr. Bania. 18 A Good afternoon. 19 Q Would you please state your full name 20 for the record. 21 A Yes, Douglas Bania. 22 Q Mr. Bania, what do you do for work?</p>

<p>1 A I am an intellectual property damages 2 and valuation expert. 3 Q Do you have any particular specialty in 4 your line of work? 5 A Yes. My specialty is using Internet 6 and social media analysis when I'm quantifying 7 value or I'm calculating damages, or if I'm 8 analyzing the impact of social media or Internet 9 events. 10 Q Where do you work? 11 A I work at Nevium, which is located in 12 San Diego, California. 13 Q How long have you worked there? 14 A Ten years. 15 Q What's your position? 16 A I'm a founding principal and an 17 analyst. 18 Q I would like to talk a little bit about 19 your educational background for a moment. 20 Where did you attend college? 21 A I received my bachelor's degree in 22 cinema from San Diego State University. I</p>	<p>3624</p>	<p>1 property, and I started working for a small 2 boutique IP firm back in San Diego. 3 Q What was the boutique firm you went to? 4 A What was the name of the firm? 5 Q Yes. 6 A The name of the firm was CONSOR. 7 Q And what did CONSOR do? 8 A CONSOR values intellectual property for 9 various business reasons. They do litigation 10 support services as well. 11 Q And when you say "intellectual 12 property," what do you mean? 13 A When I talk about intellectual 14 property, I'm mostly talking about copyrights, 15 patents, and trademarks. I might include related 16 and tangible assets such as domain names, 17 websites, Internet accounts. But IP, for me, is 18 mostly brands, publicity rights, copyrights, 19 trademarks. 20 Q What type of work did you do while you 21 were at CONSOR? 22 A I had various positions there, but I</p>	<p>3626</p>
<p>1 graduated in 1997. 2 Q After you graduated in 1997, did you 3 pursue another degree? 4 A Yes, I went directly to San Diego State 5 University, got a master's degree in television, 6 film, new media production. 7 Q Is there any particular reason you 8 chose to go to San Diego State for that? 9 A The new media production side of that 10 program, I really liked. This was a -- I 11 graduated from there in 2000, so this was even 12 before YouTube was founded, so the whole idea of 13 putting film on the Internet, kind of analyzing 14 Internet and using analytic tools to see how 15 things are doing on the Internet is what -- that's 16 what attracted me, and that's what I learned there 17 as well. 18 Q What did you do after you got your 19 master's degree? 20 A After my master's degree, I moved to 21 Los Angeles and I was an independent filmmaker for 22 a while, then I got introduced to intellectual</p>	<p>3625</p>	<p>1 was a research analyst as a financial analyst; I 2 was a director of business development. My last 3 position there was principal. 4 Q And what kinds of things did you work 5 on? 6 A We worked on, you know, valuation. Our 7 clients, you know, they needed valuation of their 8 IP portfolio for maybe tax or estate reasons. You 9 know, a lot of litigation support, like I'm doing 10 now, somebody infringes on a trademark or 11 publicity rights, that's actually the place I got 12 my -- my first expert witness job, I was a named 13 expert on the right of publicity case representing 14 the retired players of the NFL, against the NFL, 15 using their name and likeness without permission. 16 So services such as that. 17 Q How long did you work at CONSOR? 18 A I was at CONSOR for ten years. 19 Q And after CONSOR, where did you work? 20 A Nevium, where I am now. 21 Q And did you found Nevium? 22 A Yes.</p>	<p>3627</p>

3628	1 Q What kind of work does Nevium do? 2 A Nevium does several things, provides 3 several services. We value intellectual property 4 for various reasons, tax, estate, M&A, business 5 transactions. You know, we not only provide the 6 value of a business, but we can break that value 7 up, percent of the value, trademark policy or 8 patent portfolio. We do litigation support, so 9 like I'm here, I testify in cases, you know, maybe 10 a false endorsement case, some use of a 11 celebrity's name and likeness without permission; 12 trademark infringement case, using a brand without 13 permission; you know, a defamation case, such as 14 this. Know what the impact of something that was 15 posted online. 16 So, the third kind of bucket of 17 services we offer is brand modernization 18 strategies. I think the best way to explain that 19 is companies have business plans, they have 20 marketing plans, they don't have IP plans. So we 21 come in and work with customers, with our clients, 22 understand their business and their marketing	3630	1 Google Analytics is? 2 A Yeah. So Google Analytics is a web 3 service provided by Google, and it's used by 4 business owners and website owners to understand 5 the traffic that comes to their websites. So, 6 essentially, once you signed up for your Google 7 Analytics account, you're given a bit of code and 8 you embed that code into your various web pages, 9 then you can log in and see, like, who's coming to 10 my website, what are they doing? Really, 11 essentially, it's a tool for search engine 12 optimization. You know, the goal of the web is to 13 show up number one in Google organic, so then 14 you'll tweak your website a bit, you'll look at 15 your analytics, see if you're showing up on the 16 first page of Google. If not, you can use those 17 analytics, keep playing around, and try to end up 18 on the first page of Google. 19 Q Are you a member of any professional 20 organizations? 21 A I'm a member of the International 22 Trademark Association, that is an organization,
3629	1 plans, and help them build an IP plan that fits in 2 with those two so they can, essentially, make more 3 money off their branded products and services. 4 And I think what's important with all 5 that is, you know, what differentiates us with 6 competitors is we use Internet and website 7 analytic tools in all, everything we do. You 8 know, everything's online now, and understanding 9 those tools when calculating value or calculating 10 damages is important. 11 Q Do you have any professional 12 certifications? 13 A I'm a certified licensing professional. 14 That is a designation given by the licensing 15 executive society, LES. LES not-for-profit 16 organization that supports professionals, like me, 17 who deal with a lot of licensing. But I'm a 18 Google Analytics Individual by the Google 19 Analytics Individual Qualification. That is a 20 test given by Google for those that understand and 21 pass the test related to Internet analytics. 22 Q Can you explain a little bit about what	3631	1 they're actually having their annual conference 2 here in D.C., so I'm popping back and forth to 3 that. I'm on their right of publicity panel. I 4 just gave a presentation on Monday. I'm a 5 non-attorney member of the American Bar 6 Association. I'm on their copyright and social 7 media committee. 8 MS. LECAROZ: Your Honor, at this 9 point, Plaintiff would offer Mr. Bania as an 10 expert in Internet and social media analytics. 11 THE COURT: Any objection. 12 MR. NADELHAFT: No, Your Honor. 13 THE COURT: All right. So moved. 14 Thank you. 15 Q Mr. Bania, what were you asked to do in 16 this case? 17 A I was asked to analyze the impact of 18 the -- this -- the allegations of domestic abuse 19 made by Ms. Heard as it relates to her 2016 20 restraining order, and then asked, also, to 21 analyze the publication of that alleged abuse in 22 her 2018 Washington Post op-ed.

<p>3632</p> <p>1 Q What work have you done in connection 2 with forming your opinions relative to that? 3 A So, I identified the best tools to use 4 in this case, which are Q scores, Google trends, 5 and historic Google search results. 6 Q You used a few terms in there; I want 7 to break them down a little bit. 8 What's a Q score? 9 A A Q score is, there's a Q score company 10 that's been around for about 50 years and what 11 they do is they measure how well a brand or a 12 celebrity, a sports character is known and how 13 much they're liked. And they also measure how 14 much they're disliked. 15 Q Who else, besides you, uses Q scores? 16 A Q scores are used by, you know, any 17 company that, you know, organizations that license 18 a celebrity or a brand to endorse their product or 19 service. The PGA golf tour is actually using Q 20 scores right now. They're using Q scores in 21 Google search results. They have a pool of 22 \$40 million that they're doling out to their</p>	<p>3634</p> <p>1 results? 2 A So historical Google search results all 3 search -- using Google, there's actually an area 4 where you can go back in time and see what was 5 showing up in Google during that time. It's 6 really the best indication of what websites would 7 have appeared back in time. Oftentimes, you know, 8 working with my monetization clients, we want to 9 know, hey, how were you ranking years ago for your 10 brand service or branded company? We'll go back 11 in time and look. And then in litigation, you 12 know, we're always going back in time. So we want 13 to figure out what was most likely happening, what 14 websites were served back then, and when you know 15 what websites were served back then, you typically 16 know what people were reading and thinking about. 17 Q Why do you choose these particular 18 tools for your analysis in this case? 19 A Well, the Q scores, I really thought it 20 was the best idea to understand Mr. Depp's Q 21 scores right before 2016, before the abuse 22 allegations, just so see where he was at. Then I</p>
<p>3633</p> <p>1 players. So depending on their Google search 2 results and their Q scores and other metrics, I'm 3 sure, they're using those to, you know, divide up 4 that pool of money. 5 Q And I think you also mentioned Google 6 Trends. 7 What's that? 8 A Google Trends is another service 9 offered by Google. You know, as we know, 10 everything starts with a Google search these days. 11 There's been 5 billion daily searches on Google. 12 Google Trends allows a user, like me or you, to go 13 into Google Trends and analyze a search traffic 14 for various key terms, anything you really want. 15 Maybe there's a new football player and you want 16 to see how that football player is trending 17 compared to the team over time, or maybe something 18 related to, you know, Ukraine or maybe a 19 celebrity. So Google Trends just shows you what 20 kind of search volume is happening during various 21 points of time. 22 Q What are historical Google search</p>	<p>3635</p> <p>1 wanted to see his Q scores right after the 2016 2 alleged -- abuse allegations. And then I wanted 3 to see his Q scores after the 2018 Washington Post 4 op-ed, just to see if there was any changes during 5 that period of time. 6 Q And what about your decision to use 7 Google Trends and historical Google search 8 results? 9 A Yeah, I felt like those two tools 10 together were perfect because what I wanted to do 11 is understand -- you know, as I mentioned, 12 everyone's going to Google to figure things out. 13 What were people -- when people Google Johnny Depp 14 prior to these alleged abuse allegations, what 15 websites were coming up and what was the public 16 consuming about him? Then I wanted to know that 17 after and then after the op-ed. So I used Google 18 Trends just to identify the dates in time in 19 which. Then I went into the historic Google 20 search results. I searched for Mr. Depp, and then 21 I changed those dates to go back in time. And 22 then I analyzed the top three websites of each</p>

<p>1 search. 2 Q Based on the analysis you did in this 3 case, have you formed any opinions? 4 A Yeah. My analysis shows that prior to 5 2016 and the allegations, the abuse allegations, 6 Mr. Depp was not portrayed in a negative 7 connotation. That's the first thing that I 8 identified. 9 Q Did you form any other conclusions? 10 A I realized that those websites were 11 coming up were mostly about his career, his 12 characters, Johnny Depp as an individual, you 13 know, with his interests. Then after the 2016 14 mark, you know, the majority of those results 15 turned into negative things about the abuse 16 allegations. And then, even more so after the 17 op-ed, there seemed to be kind of a theme or a 18 flavor of not only the abuse allegations, but his 19 drinking and drug use. 20 Did that answer your question? 21 Q Yes. 22 A Okay.</p>	<p>3636 1 MR. NADELHAFT: No objection, if this 2 is where it came from. 3 MS. LECAROZ: Yeah. 4 MR. NADELHAFT: No objection to the 5 demonstrative. 6 THE COURT: A, B, C. I want to mark 7 it. 8 MS. LECAROZ: Do you just need the next 9 Plaintiff's exhibit number or do you want to do it 10 some other way? 11 THE COURT: Plaintiff's exhibit number 12 that we can mark it. 1246 -- 1236 is the next 13 number. Mark it 1236. No objection to use as 14 demonstrative, but it won't come into evidence, 15 but we will show it to the jury. Okay. 1236. 16 MS. LECAROZ: Thank you, Your Honor. 17 (Open court.) 18 MS. LECAROZ: Thank you, Your Honor. 19 Tom, can we pull up Bania 20 Demonstrative A. Just for the record, we've 21 marked these as Plaintiff's 1236 for 22 identification.</p>
<p>3637 1 Q Yeah. Mr. Bania, have you prepared a 2 demonstrative that depicts how you used Google 3 Trends in this case? 4 A Yes. 5 MS. LECAROZ: Your Honor, at this time, 6 we'd like permission to approach. I have hard 7 copies. 8 THE COURT: All right. 9 (Sidebar.) 10 THE COURT: Do you have a number for 11 this? 12 MS. LECAROZ: I just -- we can mark it 13 as demonstrative A, demonstrative A, B, and C. 14 They're from his expert designation. 15 THE COURT: I understand, but is this 16 something you're going to show the jury? 17 MS. LECAROZ: With your permission, 18 we'd like to publish to the jury. 19 THE COURT: First, we need an evidence 20 number. Start with. And then is there any 21 objection? Is this something you might use as 22 well?</p>	<p>3638 1 THE COURT: Do you want to publish to 2 the jury? 3 MS. LECAROZ: Yes, please. 4 THE COURT: Okay. 5 BY MS. LECAROZ: 6 Q And, Mr. Bania, can you explain for the 7 jury what is depicted in this demonstrative that 8 you prepared? 9 A Yes. So this is the Google Trends 10 data. You're going to see that it runs from 2004 11 into 2020. And you're going to notice the 12 different spikes. Those spikes represent when 13 people were searching for Mr. Depp. You're going 14 to also notice here, I've got the redline, just 15 showing the date when Ms. Heard filed the 16 restraining order. 17 Can I write on this? 18 THE COURT: You can touch the screen, 19 yes, sir. 20 THE WITNESS: Thank you, Your Honor. 21 THE COURT: Uh-huh. 22 A So, here, I'm talking about, in this</p>

<p>3640</p> <p>1 line here, is just the date and time in which 2 Ms. Heard alleged the abuse and filed the 3 restraining order. And then this line here, the 4 December 18th, 2018 op-ed. 5 And what I wanted to do is identify the 6 peaks of interest in Mr. Depp. And you're going 7 to notice here, I found 17 spikes of interest that 8 I analyzed. And then the 51 key web pages we're 9 going to get into later, I've analyzed the top 10 three search results for each spike. And then, 11 here, I analyzed the seven spikes after, you know, 12 the 2016 allegations of abuse. And then, again, 13 after the December 18th, 2018 op-ed. 14 Q Once you determined these spikes, the 15 periods of significant interest and searches for 16 Johnny Depp, on Google, what did you do with that 17 information? 18 A So, again, the purpose of using Google 19 Trends was just to understand when is the most 20 interest in Johnny Depp. Because for some reason, 21 when something was going on in the news and the 22 media, people are turning to Google to search for</p>	<p>3642</p> <p>1 second Bania demonstrative, please. 2 A Yeah. So this is an example of, I 3 believe it was spike, or point O in the Google 4 Trends. So what I did, I went into Google, I 5 cleared everything, as I told you, made sure I was 6 logged out of Goggle. As here, you can see I 7 typed in Johnny Depp, I hit the search, and then 8 what I did is went to this tool area, which pulls 9 a drop-down area for the date, and I set the date 10 to match the Google Trends spike of November of 11 2004. 12 Then I had these top three websites 13 that came up. I downloaded those websites, and 14 then I analyzed them. 15 Q So did you do -- undertake this 16 analysis for each of the 17 points on the prior 17 slide that we looked at? 18 A Yes, correct. 19 Q What did you do once you had your web 20 page results, such as on this demonstrative? 21 A You mean when I reviewed each web page? 22 Q Yes.</p>
<p>3641</p> <p>1 Mr. Depp. So then I went to my web browser and 2 then I searched for Johnny Depp in Google. But 3 before I did so, I have a separate web browser, I 4 call it my "work bench browser." You know, I 5 don't log into anything. It's important to be 6 logged out of Google because Google keeps a 7 profile on you and your search results can be 8 biased based on that profile. Then, also, when 9 you go into a web browser, you have to clear your 10 cache, you have to clear your history, clear all 11 your data, and make sure you get the most unbiased 12 search results possible. 13 So I went into Google, I typed in 14 Johnny Depp, and then I searched and set the time 15 periods for the various points here that you see 16 labeled with letters. 17 Q Do you have a demonstrative that shows 18 an example of one of those points that you 19 examined? 20 A Yes. 21 Q Okay. 22 MS. LECARAZ: Tom, could we go to the</p>	<p>3643</p> <p>1 A Yes, so what I was looking for is, you 2 know, were these web pages or articles? Did they 3 have anything to do with the alleged abuse? Did 4 they have anything to do with his alcohol/drug 5 use? Did they have anything to do with his work 6 ethics? I basically, you know, tried to 7 understand, you know, the content of each website 8 or article. 9 Q Did you look at all of the results that 10 turned up when you ran these historical searches? 11 A I only reviewed the top three. 12 Q Why did you choose the top three? 13 A I reviewed the top three because 14 research shows that about 50 to 75 percent of the 15 people only click on the top three. So I wanted 16 to get the majority of the searches. 17 MS. LECARAZ: Tom, I think we can take 18 that down for now. Thank you. 19 Q What did you determine about the 20 results that you found for the period prior to 21 Ms. Heard's first allegations of abuse? 22 A So, I determined that, you know,</p>

<p>3644</p> <p>1 Mr. Depp was not portrayed in any negative 2 connotation. The web results were about his life 3 and his career, his acting, his – you know, 4 pictures of him, you know, relationships he was 5 in, you know, just pretty normal stuff. 6 Q And what did you determine about the 7 top results after Ms. Heard's initial allegations 8 in 2016 and then the republication in the op-ed in 9 2018? 10 MR. NADELHAFT: Objection, Your Honor. 11 May we approach? 12 THE COURT: Okay. 13 (Sidebar.) 14 MR. NADELHAFT: I'd prefer her not 15 using the word republication, I think that's a 16 legal term and then we're going to be -- I mean, 17 she can say something different. I don't mind her 18 saying something about it, but I think 19 republication is a legal term which -- 20 MS. LECAROZ: I mean, no objection to 21 changing the use. We're in agreement. 22 THE COURT: Okay. There we go. We're</p>	<p>3646</p> <p>1 A That didn't? I formed an opinion 2 that – well, I'm not following your question, I'm 3 sorry. 4 Q That's all right. We can move on. 5 Did any of the results that you 6 analyzed refer to Mr. Depp's work ethic? 7 A No. 8 Q Did you form any overall opinions about 9 the results in the web pages that you looked at 10 following Ms. Heard's accusations of abuse? 11 A Yes. As I stated, you know, prior to 12 2016, the web pages were just about his daily life 13 and career. After the 2016 marker point, they 14 tended to include – the majority of them 15 included, you know, the allegations of abuse. And 16 then after the 2018 op-ed, the ones that included 17 the allegations of abuse were also talking about 18 drinking and drug use. 19 Q What was your overall view of the 20 connotation of those results, then? 21 A Yeah, Mr. Depp was portrayed in a 22 negative connotation after the 2016 allegations of</p>
<p>3645</p> <p>1 in agreement. Thank you. 2 (Open court.) 3 BY MS. LECAROZ: 4 Q Mr. Bania, what did you find about the 5 results of the top web pages that you determined 6 after Ms. Heard's initial allegations and then 7 again after the publication of the op-ed? 8 A Yeah, so after the initial allegations 9 in 2016, I found that the majority of them had to 10 do with the alleged abuse. And then after I 11 realized that the ones – the web pages that we're 12 dealing with, the alleged abuse, then started 13 talking about his drinking and drug – drinking 14 and doing drugs. 15 So it appeared to me that, you know, 16 they became negative after 2016. But then after 17 2018, they even included, you know, the alleged 18 abuse, but also included this – the drinking and 19 drug use. 20 Q Did you form any opinions about the 21 results that didn't refer to the allegations of 22 abuse?</p>	<p>3647</p> <p>1 abuse, and even more so after the 2018. 2 Q You mentioned you also looked at Q 3 scores as part of your analysis. 4 How are Q scores calculated? 5 A So Q scores, it's a survey of 1,800 6 people that happens twice a year. And what they 7 do is it's Internet based, and they measure how 8 well a celebrity or brand is known; how much 9 they're liked and how much they're disliked. Q 10 scores, you know, include sports figures, 11 celebrities, even cartoon characters, brands. So 12 that's how the scoring system works. 13 Q Do you have a demonstrative that 14 reflects the Q score analysis that you prepared? 15 A Yes. 16 Q Okay. 17 MS. LECAROZ: Tom, can we have 18 demonstrative C, please. 19 Q And Mr. Bania, what does this tell us 20 about the Q score analysis that you completed. 21 A Yeah, so what this is saying, again, 22 these spikes are the Google Trends that you've</p>

<p style="text-align: right;">3648</p> <p>1 already seen, but what I've overlaid are his Q 2 scores shown in the red, green, and purple area. 3 As you recall, I wanted to find out his Q score 4 prior to the allegation of abuse in 2016, where he 5 had a positive Q score of 11 and a negative Q 6 score – I'm sorry, a positive Q score of 35 and a 7 negative Q score of 11. Then I looked at the Q 8 scores after and then after the op-ed. 9 Q What did you determine about those Q 10 scores? 11 A Yeah, so what you can see here, his 12 positive Q score, which is represented in red, was 13 a 35, and that was prior to the alleged abuse and 14 the restraining order. Then after that, his Q 15 score, positive Q score dropped to a 31. And what 16 that's saying is less people liked him after – 17 after the date of the 2016 alleged abuse. 18 And then his negative Q score went up 19 from an 11 to a 16, which is telling you that more 20 people disliked him during that time frame. 21 Q What did you find about the final Q 22 scores that you look at for Mr. Depp?</p>	<p style="text-align: right;">3650</p> <p>1 completed in this case, what are your final 2 opinions about Mr. Depp's reputation over this 3 period of time? 4 A Yeah, so my opinions are that, you 5 know, Mr. Depp was not portrayed in the negative 6 connotation prior to the 2016 allegations of 7 abuse. And then Mr. Depp's image, he was 8 portrayed in a negative connotation after the 2016 9 allegations of abuse and then more so after the 10 2018 Washington Post op-ed. And then the Q scores 11 represent that, you know, the public thinks he's 12 damaged. They think less likely of him. His 13 positive Q score has gone down, and they don't 14 like him even more, because his negative Q score 15 went from the 11 to 15. 16 MS. LECAROZ: I have no further 17 questions of this witness, Your Honor. 18 THE COURT: All right. Ladies and 19 gentlemen, let's go ahead and take our afternoon 20 recess of 15 minutes. Do not discuss the case, do 21 not do any outside research. Just stay right 22 there for a second, sir.</p>
<p style="text-align: right;">3649</p> <p>1 A Then you can see the Q score C, that I 2 have there in purple, his positive Q score went 3 from a 31 to a 29. His negative Q score went from 4 a 16 to a 15. So, now, his positive Q score 5 dropped again, from a 31 to a 29, meaning less 6 people had a positive impression of Mr. Depp. And 7 then his negative Q score did go from a 16 to a 8 15. So not as many people disliked Johnny during 9 that time frame. 10 Q What are your overall opinions about 11 the Q scores that you analyzed? 12 A So my overall opinions are, you know, 13 as I mentioned earlier, I wanted to analyze the Q 14 scores during this snapshot of time. I wanted to 15 understand what they were before, during, and 16 after the op-ed. And what this tells me is his 17 positive Q score went from a 35 to a 29, and then 18 his negative went from 11 to a 15. So what the Q 19 score is telling me is that the public perception 20 of Mr. Depp has been damaged. You know, they like 21 him less and they dislike him more. 22 Q Based on all of the analyses that you</p>	<p style="text-align: right;">3651</p> <p>1 (Whereupon, the jury exited the 2 courtroom and the following proceedings took 3 place.) 4 THE COURT: Sir, since you're in the 5 middle of your testimony, do not discuss the case, 6 even with the attorneys, at this point, or your 7 testimony. Okay, sir? 8 THE WITNESS: All right. 9 THE COURT: You can step down. We'll 10 be back in about 15 minutes, so let's come back at 11 3:35. Okay. 12 MS. LECAROZ: Thank you, Your Honor. 13 THE COURT: Okay. 14 THE BAILIFF: All rise. 15 (Recess taken from 3:19 p.m. to 16 3:35 p.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. NADELHAFT: Your Honor, we have one 22 exhibit to hand up.</p>

Transcript of Jury Trial - Day 13
Conducted on May 2, 2022

57 (3652 to
3655)

3652	1 THE COURT: Good. That means you're 2 only down one, right? 3 MR. NADELHAFT: That's right. 4 THE COURT: All right. 1639. Thank 5 you. 6 All right. Go ahead and get the jury. 7 (Whereupon, the jury entered the 8 courtroom and the following proceedings took 9 place.) 10 THE COURT: All right. Please be 11 seated. 12 All right. Cross-examination. 13 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND 14 COUNTERCLAIM PLAINTIFF 15 BY MR. NADELHAFT: 16 Q Good afternoon, Mr. Bania. 17 A Good afternoon. 18 Q Mr. Bania, you understand that this 19 case is about the op-ed in December of 2018, 20 correct? 21 A I understand this case to be about the 22 allegations of domestic abuse both as it relates	3654	1 suing Amber, in this case, from his complaint, 2 about the accusations she made in 2016, correct? 3 A That is my understanding. 4 Q All right. And you're not able to 5 separate out how Mr. Depp's reputation was 6 impacted from the op-ed in 2018 versus how it was 7 impacted when Ms. Heard filed for divorce in 2016, 8 correct? 9 A That is not correct. 10 Q Okay. 11 MR. NADELHAFT: May I approach, Your 12 Honor? 13 THE COURT: Yes, sir. Thank you. 14 Q Mr. Bania, you took [sic] a deposition 15 in this case? 16 A Yes, I did. 17 Q And I was asking you the questions in 18 that case; is that right? 19 A That's correct. 20 Q Okay. And you took that deposition on 21 March 21st, 2022? 22 A That is correct.
3653	1 to the 2016 and republication of that in the 2018 2 Washington Post op-ed. 3 Q You understand that Mr. Depp is only 4 suing Amber about the op-ed from 2018, correct? 5 A My understanding is -- based on my 6 understanding of my analysis, which includes the 7 2016 allegations -- 8 Q That's your analysis. But do you 9 understand what Mr. Depp is suing Amber for in 10 this case? 11 MS. LECAROZ: Objection, Your Honor, to 12 the extent it calls for a legal conclusion. 13 THE COURT: All right. I'll sustain 14 the objection. 15 Next question. 16 Q Did you read the complaint in this 17 case? 18 A Yes. 19 Q Did you understand that Mr. Depp was 20 only suing for the op-ed, about the op-ed? 21 A Yes. 22 Q Okay. And he was not, Mr. Depp was not	3655	1 Q Okay. And you were under oath at the 2 time, correct? 3 A Yes. 4 Q Okay. And you're under oath to tell 5 the truth, correct? 6 A Correct. 7 Q Can you turn to page 83 of your 8 transcript, which is on the 21st page of the -- 9 A I'm here. 10 Q Okay. You see line 9? 11 A Yes. 12 Q And I asked you "Are you able to 13 separate out how Mr. Depp's reputation was 14 impacted from the op-ed versus how it was impacted 15 by when Ms. Heard filed for divorce?" 16 And your answer was "No," correct? 17 A Correct. 18 Q And you're not able to separate out how 19 Mr. Depp's reputation was impacted from the op-ed 20 in 2018 versus the publicity surrounding when 21 Mr. Depp sued The Sun newspaper in the United 22 Kingdom when The Sun writer called Mr. Depp a wife

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<p>1 beater, correct? 2 A Are you still reading from my 3 deposition? 4 Q No, I'm asking you a question now. 5 A Please repeat that. 6 Q You're not able to separate out how 7 Mr. Depp's reputation was impacted from the op-ed 8 in 2018 versus the publicity surrounding when 9 Mr. Depp sued The Sun newspaper in the United 10 Kingdom when a Sun writer called Mr. Depp a wife 11 beater? 12 MS. LECAROZ: Objection. Compound, 13 Your Honor. 14 THE COURT: Sustained. 15 Q You're not able to separate out how 16 Mr. Depp's reputation was impacted from the op-ed 17 in 2018 versus the publicity surrounding when 18 Mr. Depp sued The Sun in the United Kingdom, 19 correct? 20 A My analysis shows that the web 21 documents that I reviewed after the 2018 22 allegations --</p>	<p>3656 1 Q Did you understand -- do you know if 2 that article came out before Ms. Heard's op-ed? 3 A I don't know. 4 Q Now, you're not offering an opinion as 5 to how the op-ed for Ms. Heard, in December 2018, 6 impacted Mr. Depp's career, correct? 7 A Repeat that, please. 8 Q You're not offering an opinion as to 9 how the op-ed from Ms. Heard, in December 2018, 10 impacted Mr. Depp's career? 11 A Correct. 12 Q Okay. And you're not offering an 13 opinion as to how the op-ed from Ms. Heard, in 14 December 2018, impacted Mr. Depp's reputation? 15 A What I'm doing is I'm -- 16 Q It's a yes or no. Are you offering an 17 opinion as to that or not? 18 A My opinion is related to his public 19 image. 20 Q You're not offering an opinion as to 21 how the op-ed from Ms. Heard, in December 2018, 22 impacted Mr. Depp's reputation, correct?</p>
<p>3657 1 Q Respectfully, this is a yes-or-no 2 question. This is a yes-or-no question. 3 A Please repeat the question. 4 Q You're not able to separate out how 5 Mr. Depp's reputation was impacted from the op-ed 6 in 2018 versus the publicity surrounding when 7 Mr. Depp sued The Sun newspaper in the United 8 Kingdom? 9 A That was not part of my analysis, to 10 carve that out. 11 Q And you didn't? You were not able to 12 separate it, correct? 13 A I didn't try to. 14 Q And so you couldn't? 15 A I didn't try it. 16 Q Okay. And you understand that the 17 article Mr. Depp sued The Sun over had the 18 headline that said "How can JK Rowling be 19 genuinely happy casting wife beater Johnny Depp in 20 the new Fantastic Beasts film," correct? 21 A I don't recall if that's one of the 22 articles I reviewed.</p>	<p>3658 1 A I'm not talking exactly about his 2 reputation, correct. 3 Q Okay. And you're not offering an 4 opinion as to how the op-ed from Ms. Heard, in 5 December 2018, impacted Mr. Depp's public image, 6 correct? 7 A I'm offering an opinion that after the 8 2018 -- 9 Q It's a yes or no, sir. It's a yes or 10 no. 11 You're not offering an opinion as to 12 how the op-ed from Ms. Heard, in December 2018, 13 impacted Mr. Depp's public image? 14 A I am. 15 Q Turn to your deposition transcript, 16 please. And if you go to page 74, which is on 17 page 19. 18 And you see -- are you there? 19 A Yes. 20 Q You see line 1, starting on line 1, I 21 asked you "And you're not going to testify how the 22 December 2018 op-ed impacted Mr. Depp's public</p>

3660	1 image?" 2 "Answer: That's correct." 3 That was your testimony at the time, 4 correct? 5 A Well, the – 6 Q That was your answer at the time, 7 correct? 8 A The perception – 9 Q Sir, that was your answer at the time, 10 correct? 11 A Okay. Yes. 12 Q And that was your answer on March 21st, 13 2022, correct? 14 A Yes, the date of the deposition. 15 Q So that was a month and a half ago -- 16 A Right. 17 Q -- correct? 18 Okay. And you're not offering an 19 opinion as to whether the op-ed from Ms. Heard 20 made Mr. Depp more hireable or less hireable, 21 correct? 22 A Correct.	3662	1 January 2004, correct? 2 A Correct. 3 MR. NADELHAFT: I guess you guys have 4 it. Can you put up the demonstrative, 1236? 5 Q And can you see that, Mr. Bania? 6 A Yes. 7 MR. NADELHAFT: Can we make it just a 8 little bigger. 9 Q Okay. So the -- if I'm understanding 10 you correctly, A is where the most searches were 11 conducted about -- for Johnny Depp, correct? 12 A Correct. 13 Q And that's from January 2004, correct? 14 A Correct. 15 Q So that was 18 years ago. 16 A Correct. 17 Q Okay. And that was when Ms. Heard was 18 18 years old? 19 A I don't know. 20 Q Okay. The top spike, you mark as a 21 hundred, correct? 22 A I did not mark that, but Google Trends
3661	1 Q As to the articles that came up in the 2 Google searches that you spoke about, it was -- 3 you made the determination whether the articles 4 had a "negative connotation" or not, right? 5 A Correct. 6 Q So that's just your view, if the 7 article had a negative connotation about Mr. Depp, 8 right? 9 A Yes, that's my opinion, that they had a 10 negative connotation. 11 Q So if an article criticizes Mr. Depp's 12 acting, for example, you're not considering that 13 article as having a negative connotation about 14 Mr. Depp, correct? 15 A Repeat that, please. 16 Q So if an article criticizes Mr. Depp's 17 acting, you're not considering that article as 18 having a negative connotation about Mr. Depp, 19 correct? 20 A Correct. 21 Q Now, in your analysis of Google spikes, 22 the highest spikes in searches for Mr. Depp was in	3663	1 identified that spike as 100. 2 Q And where it says 100, you don't know 3 how many people actually searched for Johnny Depp 4 at that point, correct? 5 A Well, the Google Trends algorithm marks 6 the highest point of search as a hundred, and then 7 everything is compared to that as a ratio or a 8 percent. So if you notice, that A is a hundred, 9 everything else is lower than that because 10 everything is being compared to that highest 11 point. 12 Q Right. So you don't know how many 13 people actually did the search for Johnny Depp in 14 January 2004, correct? 15 A Correct. 16 Q It could be a hundred or it could be a 17 million, right? 18 A I don't know. 19 Q And you don't know if it's actually 20 human beings doing these searches, correct? 21 A As opposed to? 22 Q As opposed to bots or something like

<p>1 that? 2 A I did not do an analysis to determine 3 if it was a bot or a human being, but Google 4 Trends is a tool that's going to show you, during 5 the time frame, the highest points of search 6 interest as a hundred. 7 Q Okay. But you don't know if it's 8 humans, bots, my cat doing the searches, correct? 9 MS. LECAROS: Objection. Asked and 10 answered, Your Honor. 11 THE COURT: Sustained. 12 Next question. 13 Q Now, in all of these Google spikes, 14 Ms. Heard's op-ed never came up as one of the top 15 three searches in any of the Google spikes, 16 correct? 17 A Well, that is correct because Google 18 Trends is based on a search of a word or a name. 19 And because Mr. Depp's name was not mentioned in 20 that op-ed, Google Trends did not pick that up. 21 Q So, a person does a search for Johnny 22 Depp and the op-ed doesn't come up, correct?</p>	<p>3664 1 date. 2 Q Right. You didn't look at any articles 3 for that -- for this bullet, correct? 4 A That's correct. 5 Q And since Ms. Heard's op-ed came out on 6 December 18th, 2018, you would agree with me that, 7 by definition, all the spikes you analyzed before 8 December 18, 2018, could not have been caused by 9 the op-ed, right? 10 A Correct. 11 Q Okay. So articles about Mr. Depp's 12 drug use, before December 2018, could not have 13 been caused by the op-ed, correct? 14 A Correct. 15 Q Okay. And you, in this chart, analyzed 16 only two spikes after the op-ed; isn't that right? 17 A That is correct. 18 Q Okay. And the first spike you analyzed 19 after December 2018 is V, correct? 20 A Yes. 21 Q And is that from -- is that 22 January 2020?</p>
<p>3665 1 A In my analysis, the op-ed did not come 2 up. 3 Q Okay. And, in fact, the red dotted 4 line, all the way to the right, that shows when 5 the op-ed was published on December 18th, 2018, 6 correct? 7 A Yes. 8 Q Okay. And the searches are actually 9 going down right after the red line, correct? 10 A As opposed to the searches in 2004? 11 Q Look at the red line. Look at the red 12 dotted line, and you have two points here. Right 13 there. And those go down from the time of the 14 op-ed, correct? 15 A Correct. 16 Q Okay. And isn't it true that the next, 17 I guess, spike happens in March of 2019, correct? 18 Right there. 19 A Yes. 20 Q And do you know that it was March of 21 2019 when Mr. Depp sued Amber Heard in this case? 22 A No, I don't -- I didn't look at that</p>	<p>3667 1 A Roughly, yes. 2 Q Okay. So that's -- January 2020 is 3 over a year after the op-ed by Ms. Heard, correct? 4 A That's correct. 5 Q Okay. And then the next spike you 6 analyzed was T, correct? 7 A Yes. 8 Q And that was in, approximately, 9 July 2020? 10 A Correct. 11 Q So that was a year and a half after 12 Ms. Heard's op-ed, correct? 13 A Yes. 14 Q And, again, none of the articles -- and 15 then you -- for V and T, if I understand it, you, 16 then, analyzed the top three searches that came up 17 or the top three websites that came up after a 18 search? 19 A Correct. 20 Q Okay. And none of the articles you 21 analyzed in those Google spikes, after the op-ed, 22 were the op-ed, correct?</p>

<p>3668</p> <p>1 A Correct. 2 Q Okay. And isn't it true that the 3 headlines of the articles, over a year after the 4 op-ed, that you analyzed were about Mr. Depp suing 5 the Sun in the U.K. for a Sun writer calling 6 Mr. Depp a wife beater? 7 A You would have to pull those articles 8 back up. I don't have those in front of me. 9 Q Isn't it true that the article -- and 10 just so I understand it, V and T, that would mean 11 there were six articles, correct, that you 12 analyzed? 13 A Correct. 14 Q Okay. Isn't it true that the article 15 on February 6, 2020, the headline was "Johnny 16 Depp's disturbing alleged text messages read aloud 17 in court as libel lawsuit begins"? 18 A Again, I don't have that article in 19 front of me. I did produce those as part of my 20 analysis. I don't have that in front of me. If 21 you'd like to show it to me. 22 Q And you understand that that was about</p>	<p>3670</p> <p>1 You don't recall, one way or the other, 2 whether that was one of the articles in either V 3 or T? 4 A Again, I know, if you want to bring up 5 my documents, I know document 9J, 9O, 9K, and 9M 6 are mentioning the op-ed. Again, I don't have 7 those in front of me. 8 Q And when you say "mentioning the 9 op-ed," does that mean that it just references 10 that Mr. Depp sued Amber Heard in Fairfax? 11 A No. It talks about how he's alleged to 12 have abused her. Doesn't relate to the op-ed. 13 Q Doesn't it say, another headline, from 14 July 19th, 2020, the headline was "Hollywood 15 nervously awaits fallout from explosive Johnny 16 Depp trial"? 17 MS. LECAROS: Objection. Asked and 18 answered. 19 THE COURT: I'll sustain the objection. 20 Q You understood that was about the 21 lawsuit against the Sun in U.K., correct? 22 MS. LECAROS: Objection. Asked and</p>
<p>3669</p> <p>1 the lawsuit against the Sun in the U.K., not about 2 the op-ed, correct? 3 A Again, I do not have that in front of 4 me. 5 Q Another article that came up, on 6 February 27th, 2020, is one of the top three hits 7 when you searched for Johnny Depp, what the -- the 8 headline was "'Let's burn Amber': Texts allegedly 9 sent by Johnny Depp about ex read in court"? 10 A I mean, if you want to talk about these 11 articles, we need to bring them up. 12 Q This is your opinion. You don't recall 13 what articles you analyzed? 14 A I mean, there's a lot of articles here. 15 I didn't memorize each title. 16 Q There were six articles that you 17 analyzed in the almost two years after the op-ed. 18 A But can you bring those up and we can 19 talk about them? 20 Q And on July 19th, 2020, the headline 21 was "Hollywood nervously awaits fallout from 22 explosive Johnny Depp trial."</p>	<p>3671</p> <p>1 answered. 2 MR. NADELHAFT: I didn't ask about 3 that. 4 THE COURT: Overruled. 5 A Again, I would like to talk about these 6 articles, but I need to see them. 7 Q On July 19th, 2020, the headline was 8 "Johnny Depp vs. Amber Heard: All the nasty bits 9 of the U.K. trial- and it's all nasty." 10 That was in point T, correct? 11 A Again, I do not have that list in front 12 of me. If you'd like to bring that up, we can 13 talk about it. 14 Q And you understood that was about the 15 lawsuit against the Sun in the U.K., correct? 16 A I do not. 17 Q Okay. And on July 19th, 2020, the 18 headline was "Johnny Depp: Claims in the Sun he 19 beat ex-wife 'complete lies,' court told." 20 That was the quote, correct? 21 A I don't see that here. 22 Q That was in your report, correct?</p>

<p>1 A I would have to look at the documents 2 again. I would be happy to discuss them, if you 3 would bring those up. 4 Q And then you previously had a chart 5 that had articles from November 2020, correct? 6 A I'm sorry? Say that. 7 Q You previously had a chart that 8 included articles from November 2020, correct? 9 MS. LECAROZ: Objection, Your Honor. 10 May we approach, Your Honor? 11 THE COURT: Sure. 12 (Sidebar.) 13 MR. NADELHAFT: I should be allowed to 14 ask him that. I'm not going into what happened. 15 THE COURT: No, I'm going to sustain 16 the objection. 17 MR. NADELHAFT: Okay. 18 (Open court.) 19 BY MR. NADELHAFT: 20 Q You understood it was Mr. Depp's 21 decision to sue the Sun, correct? 22 A I don't know. That's not part of my</p>	<p>3672 3674 1 A That's correct. 2 Q And in comparing the Q scores from 3 before the op-ed to the Q scores after the op-ed, 4 Mr. Depp's Q scores dropped by two points, 5 correct? 6 A I don't have those Q scores in front of 7 me, but if you're looking at them – 8 Q We can show the third page of this 9 demonstrative. 10 A What was your question, please? 11 Q Mr. Depp's positive Q scores from B to 12 C dropped by two points, correct? 13 A Yes. 14 Q You're not an expert on statistics, 15 correct? 16 A Correct. 17 Q And even though you're not an expert, 18 you have an idea about what the term 19 "statistically significant" means, correct? 20 A Yes. 21 Q And statistical significance is a 22 measure of whether your findings are meaningful,</p>
<p>3673 1 analysis. 2 Q Now, you talked about Q scores in your 3 direct testimony, correct? 4 A Correct. 5 Q Okay. And you testified about three 6 particular Q scores for Mr. Depp, right? 7 A Three periods of time is – the Q 8 scores that I analyzed. 9 Q And you're not offering an opinion as 10 to why Mr. Depp's Q scores changed, correct? 11 A That's correct. 12 Q And Q scores can go up and down for 13 actors for any sort of reason, correct? 14 A That's possible. 15 Q Do you recall testifying that they 16 could go up and down for any sort of reason, in 17 your deposition? 18 A Yeah, they can go up and down for many 19 different reasons. 20 Q So you're not offering an opinion that 21 Mr. Depp's Q scores were damaged because of 22 Ms. Heard's op-ed, correct?</p>	<p>3675 1 right? 2 A Yes. I don't think you need statistics 3 to understand Q scores. 4 Q And you don't know if there's any 5 significance to a drop in two points in positive Q 6 score, correct? 7 A There absolutely is. When you're 8 ordering Q scores, points at a time – 9 Q Mr. Bania, go to your deposition, 10 page 113, which is on 29. 11 A Okay. 12 Q At 10, page 113, line 10, it says "So 13 you're not offering an opinion as to the 14 significance of a change in Q score, correct?" 15 "Answer: Correct." 16 A Well, you're talking about 17 statistically a difference. What I'm talking 18 about is how we use Q scores in the industry. 19 When you see a Q score that's dropping from a 31 20 to a 29, there's an issue. Is this somebody you 21 really want to hire to endorse your products or 22 service? No, probably not. You want to look into</p>

<p style="text-align: right;">3676</p> <p>1 why. Why? What is going on in the public to make 2 these Q scores drop like that? 3 Q And you don't know exactly the 4 significance between five or six points drop in Q 5 score, correct? 6 A Correct. 7 Q Okay. Now, and it shows here that 8 Mr. Depp's negative Q score actually got better 9 from point B to point C, correct? 10 A Correct. 11 Q So that's actually better for Mr. Depp, 12 correct? 13 A Correct. 14 Q Okay. And you understood -- do you 15 understand that Dr. Allen Jacobs reviewed your 16 opinions in this case? 17 A Yes. 18 Q And you understand that Dr. Jacobs 19 reviewed additional Q score data, correct? 20 A Yes. 21 Q Okay. 22 MR. NADELHAFT: Can we, please, put up</p>	<p style="text-align: right;">3678</p> <p>1 of me, but sounds right. 2 Q And so, would you know when the summer 3 scores come out? 4 A I don't. 5 Q And this chart shows -- 6 MR. NADELHAFT: Permission to publish 7 the chart as a demonstrative, Your Honor. 8 THE COURT: Any objection? 9 MS. LECARAZ: I don't think this 10 witness has laid an appropriate foundation for it, 11 Your Honor. 12 MR. NADELHAFT: He said he has no 13 reason to question the Q scores. 14 THE COURT: I'll allow it as a 15 demonstrative. 16 Q And, so, this chart shows Mr. Depp's 17 positive and negative Q scores, correct? 18 A Correct. 19 Q And the positive Q scores are in blue? 20 A That's correct. 21 MR. NADELHAFT: Can you blow it up a 22 little bit, Michelle.</p>
<p style="text-align: right;">3677</p> <p>1 Plaintiff's Exhibit 889 at 117. 2 Q Mr. Bania, do you understand this is a 3 chart of Mr. Depp's Q scores from winter 2012 4 through summer of 2021? 5 A Yes. 6 Q Do you have any reason to question the 7 Q scores that are shown in this chart? 8 A Like I said in my deposition, I've not 9 received the actual data to build this chart, but 10 I don't have any reason to not believe that this 11 is accurate. 12 Q As I understand, Q scores are performed 13 on a celebrity like Mr. Depp twice a year, 14 correct? 15 A Yes. 16 Q So there is winter of a particular 17 year, and then there's summer of a particular 18 year? 19 A Yes. 20 Q And the winter scores come out around 21 February; is that right? 22 A I don't have that information in front</p>	<p style="text-align: right;">3679</p> <p>1 Q And the negative Q scores are in red? 2 A Yes. 3 Q Okay. 4 MS. LECARAZ: Objection. Your Honor, 5 may we approach for a moment? 6 THE COURT: Yes. 7 (Sidebar.) 8 MS. LECARAZ: I'm sure this goes beyond 9 the November 2020 cutoff as data -- 10 MR. NADELHAFT: I wasn't trying to do 11 that intentionally. 12 THE COURT: All right. So are you done 13 with it, then? 14 MR. NADELHAFT: No, I'm not done with 15 it. But I won't -- 16 THE COURT: You're not going to comment 17 on it? 18 MR. NADELHAFT: I won't comment on 19 November. 20 THE COURT: All right. He won't 21 comment on that. We're making sure. 22 MR. NADELHAFT: Yeah, I won't.</p>

<p>1 (Open court.) 2 BY MR. NADELHAFT: 3 Q Mr. Bania, the positive Q score for 4 Mr. Depp in the winter of 2012 is 42, correct? 5 A It's in -- yeah, it's in between 40 and 6 45. 7 Q Okay. And did you check the actual Q 8 scores that Mr. Jacobs demonstrated in his report? 9 A No. My analysis was a snapshot of 10 time. I wanted to know Johnny Depp's Q scores 11 directly before the 2012 allegations -- 2016 12 allegations of abuse and after. 13 Q Okay. And you see here that the 14 positive Q scores for Mr. Depp dropped from 42, in 15 the winter of 2012, to 35, in the summer of 2016, 16 correct? 17 A Yes. 18 Q That's a seven-point drop, correct? 19 A Yes. 20 Q And that's before Ms. Heard had her 21 divorce filing, correct? 22 A That's correct.</p>	<p>3680</p>	<p>1 abuse in '16 to after the op-ed in 2018. 2 Q You looked at three Q scores and you 3 could have looked at one, two, three, four, five, 4 six, seven, eight, nine, 10, 11, 12, 13, 14, 15, 5 16, 17, 18. I won't even count the 2021 scores. 6 18 Q scores, correct? 7 A Yeah. 8 Q And you looked at three, right? 9 A That's correct. 10 Q And that's what you're basing your 11 opinion on, that the op-ed damaged Mr. Depp's Q 12 scores? 13 A Sir, what you seem to misunderstand is 14 these sores -- 15 Q My question is -- your counsel can come 16 back and ask you whatever they want. 17 A You need to -- 18 MR. NADELHAFT: Your Honor. 19 THE COURT: Sir. Sir, if you could 20 answer the question. 21 THE WITNESS: I'm sorry. That's fine. 22 A I didn't hear your question.</p>	<p>3682</p>
<p>1 Q And that drop in Mr. Depp's positive Q 2 scores could have nothing to do with Ms. Heard's 3 op-ed, correct? 4 A Correct. 5 Q And that drop could have nothing to do 6 with the allegations Ms. Heard made after the 7 divorce filing, correct? 8 A Correct. 9 Q And would you agree that the positive Q 10 scores actually start to show an increase for 11 Mr. Depp after the op-ed? There's a decrease and 12 then there's an increase? 13 A Yeah. 14 Q And the same for the negative, that Q 15 scores -- there's a bit of a positive and then it 16 goes down, correct? 17 A Yes. 18 Q So, really, the op-ed had no effect on 19 Mr. Depp's Q scores, correct? 20 A As I mentioned, my analysis looked at 21 the snapshot of time and it shows that he was 22 harmed, you know, from before the allegations of</p>	<p>3681</p>	<p>1 Q You looked at two Q scores instead of 2 18 Q stores, correct? 3 A That's correct. 4 Q Did you look at the Q scores, at all, 5 after the Dan Wootton article that came out in 6 April of 2018? 7 MS. LECARAZ: Objection. Asked and 8 answered, Your Honor. 9 MR. NADELHAFT: I don't think I asked 10 that. 11 THE COURT: Overruled on that. 12 A No. 13 Q Okay. 14 MR. NADELHAFT: Thank you. I have 15 nothing further. 16 THE COURT: All right. Redirect. 17 EXAMINATION BY COUNSEL FOR THE PLAINTIFF AND 18 COUNTERCLAIM DEFENDANT 19 BY MS. LECARAZ: 20 Q Mr. Bania, on cross-examination, you 21 were asked some questions about the fact that you 22 made a determination about which of these articles</p>	<p>3683</p>

<p>1 had a negative connotation. 2 Do you recall that? 3 A Yes. 4 Q Is that something that you do in 5 situations other than in your analysis in this 6 case? 7 A Yeah. Yeah. So in non-litigation, 8 when we're building brand monetization strategies, 9 especially if you're going to work with a 10 celebrity or an athlete, you want to look at 11 what's going on out there, you know, about that 12 personality because celebrities and athletes, you 13 know, Q scores can go up and down. You want to 14 analyze the time and see what's going on out in 15 the media. Do I really want my client to license 16 in a celebrity that there's problems out there or 17 an athlete? So, yes, it's important to look at 18 this. 19 Q And I believe you were asked whether 20 you're offering an opinion, in this case, about 21 the impact of the op-ed on Mr. Depp's public 22 image.</p>	<p>3684</p>	<p>1 MS. LECARAZ: Thank you. I have 2 nothing further, Your Honor. 3 THE COURT: Is this witness subject to 4 recall? 5 MS. LECARAZ: He is, Your Honor. 6 THE COURT: Sir, do not discuss your 7 testimony with anyone since you are subject to 8 recall. But since you are an expert, you are 9 allowed to stay in the courtroom, if you wish. 10 THE WITNESS: Thank you, Your Honor. 11 THE COURT: All right. Next witness. 12 MS. LECARAZ: Your Honor, I believe 13 we're calling Erin Falati by deposition. 14 MR. NADELHAFT: Your Honor, there are 15 at least two exhibits that I think -- 16 THE COURT: Could you put -- I'm sorry; 17 can you put your microphone on? 18 MR. NADELHAFT: Can we approach? 19 There's two exhibits that we have a dispute on. 20 THE COURT: All right. While we're 21 getting the TV monitor up. 22 (Sidebar.)</p>	<p>3686</p>
<p>1 Do you recall that? 2 A Yes. 3 Q And I believe you testified that you 4 are offering an opinion on that; is that right? 5 A Yes. 6 Q What's that opinion? 7 A Well, the opinion is that he's 8 portrayed in a negative connotation after that 9 date. 10 Q And with respect to the Q scores that 11 you analyzed, Mr. Nadelhaft was asking you about 12 the three points in time that you looked at. Why, 13 in your opinion, was it appropriate to look at 14 just those three Q scores? 15 A As I was trying to explain, you know, Q 16 scores do go up and down. We're analyzing a 17 period of time. We want to see what's happening 18 right before an event, during that event, and if 19 there's another event, after that event. And that 20 is our area of analysis. So that's why just these 21 three sets of Q scores are the appropriate way to 22 analyze this.</p>	<p>3685</p>	<p>1 THE COURT: So, this is an hour and a 2 half one, right? So we'll not quite get to the 3 end of it today. 4 MS. VASQUEZ: Right. 5 THE COURT: Find a good break point for 6 me, either a little before five or a little after 7 five. I appreciate it. 8 MS. VASQUEZ: I'll speak with Tom and 9 we will find a spot.) 10 THE COURT: Okay. Thank you. I'll 11 start waving if I'm done. 12 MS. VASQUEZ: So we redacted, this is 13 Nurse Falati, who treated Amber Heard. 14 THE COURT: I remember the deposition, 15 all right. Got it. 16 MS. VASQUEZ: There are nursing notes 17 that Your Honor has looked at. So these are 18 proposed redactions that Plaintiff offers. 19 THE COURT: Okay. Have you seen these 20 redactions? 21 MR. NADELHAFT: I think I have, Your 22 Honor.</p>	<p>3687</p>

Transcript of Jury Trial - Day 13
Conducted on May 2, 2022

66 (3688 to
3691)

3688	1 MS. VASQUEZ: He's proposing -- 2 Defendant is proposing additional redactions, 3 highlighted here. 4 THE COURT: Do you have any objection? 5 MS. VASQUEZ: We do have an objection 6 to the additional redactions, Your Honor, just 7 because they are discussed in the deposition. So 8 if Your Honor would like to wait until -- in other 9 words, she laid the foundation and discussed the 10 notes that Mr. Nadelhaft proposed as redacted, and 11 we disagree with that. 12 THE COURT: You're not going to show 13 them during the deposition? 14 MS. VASQUEZ: No. 15 MR. NADELHAFT: Okay. 16 MS. VASQUEZ: Would you like to -- so 17 this is defendant's, and the highlighted portions 18 are the portions that -- 19 THE COURT: They would like to have 20 redacted as well. 21 MR. NADELHAFT: And my position is, I 22 just don't believe she testified to those portions	3690	1 but... 2 THE COURT: Okay. I appreciate it, all 3 right. Over objection. I'll allow it. 4 What is that? 733? 5 MR. NADELHAFT: 733. 6 THE COURT: That's Defendant's 733. 7 MR. NADELHAFT: And 1038. It's the 8 same thing. 9 THE COURT: Same thing? 10 MR. NADELHAFT: Similar. 11 THE COURT: 733. And there's no 12 redactions there or do I have it? 13 MR. NADELHAFT: We have to give them to 14 you. 15 THE COURT: You have to give them to 16 us. 733. What's the other one? 17 MS. VASQUEZ: 1038. 18 MR. NADELHAFT: 1038. Well, I guess 19 I'll give it to you after. 20 THE COURT: Okay. 21 MS. VASQUEZ: Do you want these 22 played -- or shown?
3689	1 of -- 2 THE COURT: Okay. Well, I'll try to 3 keep a bingo card, so see if I can figure it out. 4 MR. NADELHAFT: Your Honor, we do want 5 to show here on -- 6 THE COURT: On -- 7 MR. NADELHAFT: During the deposition. 8 THE COURT: Okay. 9 MR. NADELHAFT: There are text messages 10 that Amber sent to Ms. Falati. We've redacted all 11 the words. 12 THE COURT: Just want the pictures. 13 MR. NADELHAFT: Just the pictures that 14 she received. She testified to that she received. 15 It's not hearsay. It would be no different than 16 if she were handed the picture. 17 MS. VASQUEZ: We disagree, obviously. 18 We think it is hearsay. It was sent by Ms. Heard. 19 THE COURT: But it's a picture, not 20 words. 21 MS. VASQUEZ: Well, it's ambiguous. 22 Well, I didn't think this was going to be a winner	3691	1 MR. NADELHAFT: When she's testifying. 2 THE COURT: 1038 is in evidence. 3 Defendant's 1038 and -- 4 MR. NADELHAFT: 733. 5 THE COURT: 733. Yeah, they're just 6 going to give us redactions after. And then I'm 7 working on this, yeah. 8 MS. VASQUEZ: Okay. It would be 9 helpful, Adam, if you don't mind, giving me item 10 and when you want it shown. 11 MR. NADELHAFT: I will do that. Thank 12 you. 13 THE COURT: Okay. I will keep my ears 14 up. 15 MS. VASQUEZ: Okay. If I may introduce 16 the deposition, that Mr. Nadelhaft is the first 17 one to ask the questions. 18 THE COURT: When it switches, if you 19 want to do that, that's fine, okay? Thank you. 20 (Open court.) 21 THE COURT: All right. 22 Your next witness, then.

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<p>3692</p> <p>1 MS. VASQUEZ: Thank you, Your Honor. 2 Plaintiff calls Erin Falati, also known as Erin 3 Boreum Falati. And Ms. Heard's counsel begins the 4 questioning. 5 THE COURT: Okay. Thank you. 6 EXAMINATION BY COUNSEL FOR THE DEFENDANT AND COUNTERCLAIM PLAINTIFF 7 8 BY MR. NADELHAFT: 9 Q Provide your full name. 10 A Erin Falati. 11 Q And is Boerum your maiden name? 12 A Correct. 13 Q Okay. So, Boerum was your last name in 14 the 2014 to 2016 time frame, correct? 15 A That's correct. 16 Q Have you communicated with anybody else 17 from Mr. Depp's counsel, other than Ms. Vasquez? 18 A Not that I recall. Oh, excuse me, 19 excuse me, I do. I don't remember his name. I'm 20 so sorry. I feel like I spoke with -- I don't 21 know his last name. 22 Q Did you speak to or communicate with</p>	<p>3694</p> <p>1 I used to, but previously, I was trained in 2 addictions and mental health. 3 Q And when you say "addictions," are 4 there specific types of addictions you were 5 trained in? 6 A No, but I primarily worked with 7 clinical dependency. 8 Q And where did you receive training for 9 addiction in mental health? 10 A Different employment places, and then I 11 became a certified registered addiction nurse. 12 Q You know who Dr. David Kipper is, 13 correct? 14 A Correct. 15 Q Did you work for Dr. Kipper? 16 A Not directly, but he would hire the 17 agency I provided nursing services for, which was 18 Turning Point, I believe. So I worked under his 19 guidance, but not specifically for him. Most of 20 the time. There have been times where I have 21 worked specifically for him. 22 Q Okay. When did you start working for</p>
<p>3693</p> <p>1 Adam Waldman? 2 A Perhaps. I don't recall his last name. 3 Q Okay. And do you recall when that 4 occurred? 5 A That would have been 2019, because I 6 had a newborn at that time. So, maybe May, June, 7 July, something like that, 2019. 8 Q So, this is a text exchange between you 9 and Mr. Waldman? 10 A It appears so. 11 Q Okay. And do you recall speaking to 12 Mr. Waldman at all? 13 A Yes. 14 Q And do you recall that when you were 15 communicating with Mr. Waldman, Mr. Waldman was 16 Mr. Depp's attorney? 17 A Yes. 18 Q Ms. Falati, you're a trained nurse; is 19 that correct? 20 A That's correct. 21 Q Do you have any specialties? 22 A I haven't been working, you know, like</p>	<p>3695</p> <p>1 Turning Point nursing services, or whatever the 2 name of that company was? 3 A I don't recall. My best guess would be 4 somewhere between 2007 or '08. 5 Q And when did you start to begin to do 6 any work for Dr. Kipper? 7 A I believe 2014. 8 Q What were the circumstances that 9 started you working for Dr. Kipper in 2014? 10 A If I recall correctly, it would be for 11 services for Ms. Heard. 12 Q Were you ever responsible for 13 Mr. Depp's nursing care while he was under the 14 treatment of Dr. Kipper? 15 A I provided him with nursing care. 16 Q So, Ms. Falati, I'm showing you what's 17 been marked as Exhibit 2 to your deposition, and 18 these are -- these are AH_TPD_16929 through 16959. 19 Is that the paper documents you have, a 20 set of the paper documents you have in front of 21 you? 22 A The first page.</p>

<p>3696</p> <p>1 Q The first page might have said at the 2 bottom, also, K182. 3 A Yes, I have that. 4 Q Okay. Do you recognize these as 5 your -- what are these? 6 A These are my nursing notes for 7 Ms. Heard. Yes. 8 Q And these are notes you created? 9 A Yes. 10 Q Did you create these notes in the 11 ordinary course of business? 12 A Yes. 13 Q Were you trained in how to prepare 14 these notes? 15 A Yes. 16 Q Would you write these -- how long after 17 your visit would you write up these notes? 18 A It would depend. Sometimes I would 19 keep notes on my phone that are -- that were 20 transferred to the Word document, when I was in 21 front of my laptop. And if not possible, I would 22 do it as soon as feasible.</p>	<p>3698</p> <p>1 Q Would you agree that Mr. Depp and Amber 2 would get into verbal arguments? 3 A I do recall a general sense of discord 4 in the relationship. 5 Q What do you mean by "general sense of 6 discord"? 7 A I just recall there being disagreement, 8 reconciliation, and kind of that repeating 9 pattern. 10 Q And would you be, at times, taking care 11 of Amber because of this -- the disagreements 12 between Mr. Depp and Amber? 13 A I provided emotional support. I 14 wasn't -- was not present with her, often, but was 15 available over the phone, via text, and sometimes 16 in person. 17 Q Do you recall that in March 2015, Amber 18 went to Australia to be with Mr. Depp? 19 A Yes, I remember she went to Australia. 20 As to the dates, I would have to look through 21 documentation to ascertain the exact dates. 22 Q Okay. And on Exhibit 2, this is your</p>
<p>3697</p> <p>1 Q And how often would you show these 2 notes to Dr. Kipper? 3 A I don't recall. At intervals, but I 4 don't recall. 5 Q So, if you look at the first page of 6 the notes, the first entry is August 27th, 2014, 7 correct? 8 A Yes. 9 Q And you wrote RN has been hired to 10 provide private nursing care for client Amber 11 Heard, right? 12 A Correct. 13 Q And "RN" refers to you, correct? And 14 RN means registered nurse, correct? 15 A Correct. 16 Q And throughout the notes, and you say 17 this here, Amber Heard would be referred to as 18 "client" or "AH," correct? 19 A That's correct. 20 Q All right. And Johnny Depp would be 21 referred to as "JD"? 22 A That's correct.</p>	<p>3699</p> <p>1 note of March 7th, 2015? 2 A That's correct. 3 Q And you wrote "client informs RN via 4 text of increasing anxiety"? 5 A Yes, I wrote that. 6 Q And then, on 3/8/15, you wrote "RN 7 received report from Debbie RN." 8 "Debbie" being Debbie Lloyd, correct? 9 A That's correct. 10 Q Do you recall what the report you 11 received was on March 8th, 2015, from Debbie? 12 A Hang on, I'm just reading my notes. 13 Q Sure. 14 A To answer your question, no, I don't 15 recall specifics of what the report would have 16 been. I assume, based on this note, that would 17 have been a phone call. 18 Q And it says "Client will be returning 19 to Los Angeles on March 9th, 2015, accompanied by 20 house manager Ben." 21 Do you see that? 22 A I do.</p>

<p>3700</p> <p>1 Q Do you have an understanding as to why 2 Amber was leaving Australia in March of 2015? 3 A Yes. I don't know if this is the exact 4 timing, but you know better than I, there was an 5 incident in Australia, and they had to be -- 6 Ms. Heard and Mr. Depp had to be separated. So 7 Ms. Heard returned to Los Angeles, from my nursing 8 notes, and I believe Mr. Depp must have stayed in 9 Australia. 10 Q What was your understanding as to why 11 Mr. Depp and Amber had to be separated? 12 A It's hard to recall specifics because I 13 wasn't there or involved at the time, but became 14 involved again. I remember hearing from other 15 people that there was quite the argument between 16 the two in Australia. 17 Q Do you have any understanding if anyone 18 was injured during the argument between -- the 19 argument between Amber and Mr. Depp? 20 A Physically injured? 21 Q Physically, yeah. 22 A Again, I wasn't present, so I'm only</p>	<p>3702</p> <p>1 A That's what I wrote. 2 Q Do you recall what Amber was sad about 3 on, approximately, March 9th, 2015? 4 A I can't speak to the -- you know, I 5 don't remember specifically, but I would assume, 6 based on my March 8th note, I would make the 7 assumption that those feelings were in relation to 8 the relationship issues. 9 Q You wrote "client states she would like 10 to discuss recent events between her and husband 11 with RN in private tomorrow. Plans are made for 12 RN to visit client at her home tomorrow"? 13 A Yes, I wrote that. 14 Q Do you recall the conversation you had 15 with Amber regarding events between her and 16 Mr. Depp at this March -- around this March 9th, 17 2015 time frame? 18 A No, I don't recall specifics. 19 Q Do you recall anything in general? 20 A I really don't; I'm sorry. 21 Q Did Amber express any fear of Mr. Depp 22 at this time?</p>
<p>3701</p> <p>1 speaking as to what I recall during that time 2 period and what I sort of remember hearing from 3 others and, also, I just remember Mr. Depp's 4 finger was injured. I can't tell you specifically 5 which one, but I remember there was an injury to 6 his finger. 7 Q Do you have any understanding as to how 8 his finger was injured? 9 A No. 10 Q And then, Erin, you wrote the next note 11 on March 9th, 2015, that says "RN and CT in touch 12 via text and phone calls after client arrived at 13 1500"? 14 A Yes, I wrote that. 15 Q And 1500, you're using military time, 16 correct? 17 A That's correct. 18 Q So that would be 3:00 p.m.? 19 A Correct. 20 Q And you wrote "client expressed feeling 21 'sad.'" 22 Right?</p>	<p>3703</p> <p>1 A I don't recall. I don't see that in 2 this note, so I can't speak to that. 3 Q And in the note for March 10th, 2015, 4 do you see that note? 5 A I do. 6 MR. NADELHAFT: We can take this down. 7 Can you put up attachment 25, please. 8 AV TECHNICIAN: Stand by. 9 Exhibit 4. 10 Q Ms. Falati, I'm showing you a text 11 exchange between you and Whitney Heard on 12 March 23rd, 2015. 13 Do you see that? 14 A Yes, I do. 15 Q And on March 23rd, 2015, you texted to 16 Whitney Heard "Debbie just told me what's going on 17 and to check with you. Is Amber awake or fall 18 asleep?" 19 Do you see that? 20 A I do. 21 Q And then Ms. Heard wrote "She finally 22 fell asleep."</p>

<p>1 Do you see that? 2 A Yes. 3 Q And you wrote "Thanks goodness" -- 4 A I'm sorry; just to confirm, this is 5 from Whitney Heard, not Amber Heard, correct? 6 Q As I understand it. It says Whit 7 Heard. 8 Is that your understanding? 9 A I assume. Thank you. 10 Q And then you -- do you recall ever 11 communicating with Whitney Heard via text or chat? 12 A That sounds familiar. 13 Q Okay. And you wrote "Thanks goodness. 14 She must be exhausted. Do you want me to come to 15 the loft or is she safe and sound asleep?" 16 Do you see that? 17 A I do see that. 18 Q Okay. And then Whitney wrote "Safe? 19 No, she's not. Kept saying she wants to kill 20 herself." 21 Do you see that? 22 A I see that.</p>	<p>3704</p> <p>1 A Yes, I believe. 2 Q Ms. Falati, I'm showing you what's 3 marked as Exhibit 7. And these are texts that 4 Mr. Depp produced between you and him. And I'm 5 focusing on this text message of October 31st, 6 2015. 7 Do you see that? 8 Well, so, this text message between you 9 and Whitney is on March 23rd, 2013. 10 Do you see that? 11 A I do. 12 Q And if we go back to Exhibit 2, and 13 I'll go back. 14 There's no entry for March 23rd, 2015. 15 Do you see that? 16 A Yeah. 17 Q Not everything you did for Ms. Heard, 18 as a nurse, is reflected in these notes, correct? 19 And the next notes we have are on November 25th, 20 2015. 21 Do you know why there's a long period 22 where there's no notes?</p>
<p>3705</p> <p>1 Q Were you ever concerned about 2 Ms. Heard's safety as it relates to Mr. Depp? 3 A So, if she made comments to me that she 4 was not safe, I would be concerned about her, to 5 ensure that she was safe, yes. 6 Q Do you recall Ms. Heard making comments 7 to you about her safety? 8 A I remember a general sense when they, 9 meaning Ms. Heard and Mr. Depp, would have 10 arguments. She would often have her friends 11 around her for support, but from a general, you 12 know, physical sense, she was always in a safe 13 place. 14 Q And you mean -- in a general, physical 15 sense, she was always in a safe place, what do you 16 mean by that? 17 A Meaning she was always -- not always, I 18 should say often, often surrounded with friends. 19 She had friends that lived right down the hallway 20 from her, so she was always supported. 21 Q Was Mr. Depp friends with Marilyn 22 Manson?</p>	<p>3707</p> <p>1 A Yes. Perhaps I can shed some light for 2 you and everyone on the relationship. 3 When I was first hired to care for 4 Ms. Heard, I worked full-time, you know, I was 5 assigned 24/7, basically. And after a period of 6 time, I became more part-time and on call, and I 7 was working with different clients at the time. 8 So I would -- how do I put it? I would 9 not be working regularly, but would also be 10 available if an issue arose or a medication change 11 needed, or things like that. 12 So, I would assume that would account 13 for this, this gap. 14 Q Why did you move from full-time to 15 part-time? 16 A I don't know the exact answer, but I 17 assume -- that's not my decision to make. That's 18 usually the client and/or treating physician. 19 Q Okay. So that's the first page of 20 Exhibit 2. 21 A Yes. Thank you. 22 So, if you can maybe go down to -- it's</p>

<p>3708</p> <p>1 about the third paragraph. A little bit -- yes. 2 "Per report from JD," which refers to 3 Mr. Depp, "Debbie RN and Dr. Kipper, client AH," 4 which is Ms. Heard, "has reportedly been 5 experiencing increased anxiety and agitation 6 recently and has had several outbursts of anger 7 and rage." 8 From what I remember, when I was 9 involved in the case, it was to help assist 10 Ms. Heard with some emotional issues, anxiety 11 issues, in attempts to assist, layman terms, kind 12 of calming things down a bit. 13 Q Do you recall any examples, that you 14 knew of, of anger and rage showed by Amber? 15 A I do recall her being very angry. I 16 have to refer to my notes. It was in London, so 17 that would have been 2014. And I believe it was 18 in reference to a violating incident where her 19 phone had been hacked and she was quite upset. I 20 saw her angry at that time. And other times, I 21 don't recall. 22 Q Were you in London with Amber at the</p>	<p>3710</p> <p>1 told RN about argument with husband. RN offered 2 emotional support, but reminded client that RN 3 could not stay as was on duty with another client 4 and only visiting in order to deliver medication. 5 Per client, she had not" been -- "had not had 6 contact with husband since altercation. Client 7 had visible bright red blood appearing at center 8 of lower lip. When RN made client aware that she 9 was actively bleeding on her lip client stated it 10 was from injuries sustained in the," and then it's 11 blank. 12 Do you see that? 13 A Yeah. 14 Q And we can keep going down. "In the 15 argument between her and her husband, and that it 16 continues to bleed actively." 17 You wrote that? 18 A Yes. 19 Q And then you also wrote "client also 20 states that her head is bruised and that she lost 21 clumps of hair in altercation." 22 You wrote that?</p>
<p>3709</p> <p>1 time? 2 A Yes. 3 Q And how was Amber showing her anger? 4 A I recall loud, kind of elevated voice, 5 yelling, crying. Quite upset. 6 Q Do you recall receiving a call from 7 Amber, around December 16th, 2015, regarding this 8 argument between Mr. Depp and Amber? 9 A I do not recall a specific phone call. 10 Q Would you doubt that a phone call 11 occurred, if you wrote it down in your notes? 12 A If I wrote it, I don't doubt that 13 occurred. I just don't have memory of it. 14 Q And now you see the note on 15 December 17th, 2015? 16 A Yes. 17 Q And you wrote "RN in contact with 18 client to notify her that she'd be able to deliver 19 medications to her home. RN waited at door for 20 several minutes after knocking. Client greeted RN 21 at door looking disheveled. Hair appeared 22 unbrushed. Client appeared weepy and sad. Client</p>	<p>3711</p> <p>1 A I assume so. It's in my notes. 2 Q Okay. And then you wrote "RN briefly 3 looked at client's scalp but was unable to 4 visualize the hematomas client had described." 5 You wrote that? 6 A Yes, I would agree. 7 Q And you wrote "RN encouraged client to 8 be seen by physician Dr. Kipper or go to 9 emergency/urgent care for thorough assessment." 10 Do you see that? 11 A I do. 12 Q You wrote "Client states she will 13 contact Dr. Kipper tomorrow. Client is supported 14 by friends Rocky and iO, who will be staying at 15 client's home with her." 16 You wrote that? 17 A I agree, yes. 18 Q Okay. And then on December 18th, 2015, 19 you wrote "Client states she went to Dr. Kipper's 20 office and was assessed by NP Monroe T as 21 Dr. Kipper was out of the office." 22 You wrote that.</p>

<p style="text-align: right;">3712</p> <p>1 A Yes.</p> <p>2 Q And "NP" stands for nurse practitioner?</p> <p>3 A That's correct.</p> <p>4 Q And you understand "Monroe T" stood for</p> <p>5 Monroe Tinker?</p> <p>6 A Yes.</p> <p>7 Q Do you recall if Mr. Depp ever forgot</p> <p>8 to take any of his medication?</p> <p>9 A At a specific time or ever?</p> <p>10 Q At any time when you were working with</p> <p>11 him.</p> <p>12 A I would say, vaguely, yes.</p> <p>13 Q Ms. Falati, I'm showing you what's been</p> <p>14 marked as Exhibit 11 to your deposition, which is</p> <p>15 Falati 96 through 106.</p> <p>16 Do you see that?</p> <p>17 A Yes.</p> <p>18 Q Do you recall -- and you recall</p> <p>19 receiving this text message, right?</p> <p>20 A I have a vague memory of this.</p> <p>21 Q Do you recall if you spoke to Amber</p> <p>22 after you received this text message, or at any</p>	<p style="text-align: right;">3714</p> <p>1 A I'm not an expert, so -- I mean,</p> <p>2 there's color on her face in different areas. I'm</p> <p>3 not sure what's what.</p> <p>4 Q You received this first picture of</p> <p>5 Amber at 12:36 a.m., correct?</p> <p>6 A That's the timestamp there.</p> <p>7 Q You received another picture at</p> <p>8 12:36 a.m.?</p> <p>9 A It appears so.</p> <p>10 Q And who do you see in that picture?</p> <p>11 A Also Ms. Heard.</p> <p>12 Q And you received a third picture of</p> <p>13 Amber at 12:36 a.m.?</p> <p>14 A Yes, it appears so.</p> <p>15 Q And is that third picture of Amber?</p> <p>16 A Yes, that's Ms. Heard.</p> <p>17 Q And you received a fourth picture of</p> <p>18 Amber at 12:36 a.m.?</p> <p>19 A Yes.</p> <p>20 Q And just so it's clear, the fourth</p> <p>21 picture is of Amber, correct?</p> <p>22 A That's correct.</p>
<p style="text-align: right;">3713</p> <p>1 time after you received this text message, around</p> <p>2 May 21st, May 22nd, 2016?</p> <p>3 A Are you saying phone call or just --</p> <p>4 Q Yeah, phone call.</p> <p>5 A I don't really recall.</p> <p>6 Q It could have happened, you just don't</p> <p>7 recall one way or the other?</p> <p>8 A I would agree with that.</p> <p>9 Q And you received this picture from</p> <p>10 Amber?</p> <p>11 A That's correct.</p> <p>12 Q What is this a picture of?</p> <p>13 MR. NADELHAFT: I was just asking if</p> <p>14 you could scroll down.</p> <p>15 Could you rewind it just a little bit?</p> <p>16 A Ms. Heard.</p> <p>17 Q And does the picture show redness under</p> <p>18 Ms. Heard's eyes?</p> <p>19 MR. MCKENNA: She can answer as a</p> <p>20 layperson, if she has such an opinion.</p> <p>21 If you have an opinion, one way or the</p> <p>22 other, you can let him know.</p>	<p style="text-align: right;">3715</p> <p>1 Q And you received that at 12:36 a.m.?</p> <p>2 A Yes, that's the timestamp.</p> <p>3 Q And these are pictures of Amber's face,</p> <p>4 correct?</p> <p>5 A Yes, that's a picture of her face and</p> <p>6 neck.</p> <p>7 Q Do you recall if you -- and you recall</p> <p>8 receiving those pictures?</p> <p>9 A Like I said, I have a vague memory of</p> <p>10 this, but I don't specifically remember receiving</p> <p>11 this.</p> <p>12 Q Okay. Do you know if you reported</p> <p>13 these pictures or what Ms. Heard reported to you</p> <p>14 to Dr. Kipper?</p> <p>15 A I would assume that if any information</p> <p>16 was presented to me, I would have contacted</p> <p>17 Dr. Kipper.</p> <p>18 Q And do you know how you would have</p> <p>19 contacted Dr. Kipper?</p> <p>20 A No. Depending on the day/time, I would</p> <p>21 sometimes call, email, text.</p> <p>22 Q Do you recall if you wrote nurse notes</p>

3716	1 for this incident? 2 A I don't recall. 3 Q Do you want to look at Exhibit 2? 4 A That's the nursing notes? 5 Q Yeah. Why don't we do that. 6 So there's notes from May 11th, 2016. 7 Do you see that? 8 A Yes. 9 Q And then the next notes for May 26th, 10 2016? 11 A Yes. 12 Q Okay. Do you know why you didn't 13 include notes for May 21st, 2016? 14 A I don't know. 15 Q And on May 26th, you wrote "Client 16 texted RN requesting Ambien as she states she's 17 suffering from insomnia due to stress and anxiety. 18 Client reports 'having the hardest week of my 19 life'. 20 You wrote that? 21 A Yes. 22 Q And you wrote "Client states she cannot	3718	1 correct. 2 Q Okay. And the nursing note for 3 April 23rd, 2015, you wrote that "Dr. Kipper will 4 introduce Rosalind Phillips to Debbie, RN and 5 clients Amber H and Johnny Depp. Debbie, RN will 6 coordinate sessions with clients and 7 Ms. Phillips." 8 Do you know if Mr. Depp and Amber ever 9 saw Rosalind Phillips? 10 A I don't know. 11 Q And at Falati 117, it shows notes for 12 June 7th, 2016, correct? 13 A That is correct. 14 Q You wrote "The following medications 15 were approved per Dr. Kipper to be given to the 16 client," and then there's a list of medications. 17 You wrote these notes, correct? 18 A Yes, that's correct. 19 Q And did you understand that Mr. Depp 20 was taking those medications as of June 7th, 2016? 21 A Per this nursing note, it appears that 22 he was taking these medications listed.
3717	1 deal with the negative media publicity she has 2 received surrounding the divorce she requested 3 from her husband JD. Dr. Kipper notified. Ambien 4 10 milligrams, qhs prn 14 ordered. Per 5 Dr. Kipper, client encouraged to make appointment 6 with Dr. Kipper in office to be assessed. Client 7 did not respond." 8 You wrote that? 9 A Yes. 10 Q Ms. Falati, I'm showing you what's been 11 marked as Exhibit 12 to your deposition, which is 12 Falati 114 through 119. 13 You can take a look through them. It 14 appears to be notes of your -- of when you were 15 Mr. Depp's nurse as opposed to Ms. Heard. 16 Feel free to take a look. 17 A That's correct. I think these are 18 Mr. -- or excuse me, my nursing notes in relation 19 to Mr. Depp. 20 Q So "client," now, is Mr. Depp, correct? 21 A That's correct. Because these nursing 22 notes are in reference to Mr. Depp. Yeah, that's	3719	1 Q And then there's a nursing note for 2 June 26th, 2016. 3 Do you see that? 4 A Yes. 5 Q And it says, you wrote "Client is going 6 through divorce with wife Amber H and dealing with 7 loss of his mother (passed away one month ago). 8 Client was provided with a divorce request from 9 wife AH three days after mother passed away." 10 Do you see that? 11 A Yes. 12 Q And you wrote that? 13 A Yes. 14 Q So was it your understanding that Amber 15 asked for the divorce? 16 A This note says that Mr. Depp was 17 provided with divorce request from Ms. Heard. So 18 it appears she was the one requesting the divorce. 19 Q Right. And you wrote, next, "Client 20 states he was not aware AH wanted divorce and 21 expresses confusion regarding AH's desire to 22 terminate marriage."

3720	1 You wrote that? 2 A Yes. 3 Q And is that what Mr. Depp told you? 4 A I would assume if I wrote it in my 5 notes. 6 Q Then you wrote that "Client's divorce 7 has been highly publicized and wife AH has accused 8 him of several character damaging allegations, 9 including domestic violence." 10 You wrote that, correct? 11 A Correct. 12 Q Was this -- did you write this based on 13 information Mr. Depp provided you? 14 A I don't know. I would assume that I've 15 had discussions with him regarding this, 16 considering that this is a nursing note for 17 Mr. Depp. 18 Q Did Mr. Depp tell you that his 19 character had been damaged as of June 2016? 20 A I don't recall. I have to go by what 21 my note says here. So it alludes to that's 22 something that he had discussed.	3722	1 Q And you wrote that? 2 A Yes. 3 Q And where it quotes, "I don't want 4 anyone like Amber's therapist. He has only made 5 things worse," that's something Mr. Depp told you? 6 A Again, as I have it in quotations, I 7 assume he made that statement. 8 Q A little farther down, you wrote 9 "Throughout RN's visit, client maintained 10 attention and is actively participating in 11 conversation. Client consumed three vodka drinks 12 during RN's seven-hour visit. Client did not eat 13 during visit and drank water only with several 14 prompts from RN. RN educated client on possible 15 interactions between prescribed medication and 16 alcohol. Client verbalized understanding but 17 stated 'Right now I need a little alcohol for all 18 the bad things I'm going through'. " 19 You wrote those lines? 20 A Yes. 21 Q You'd say the document speaks best as 22 to how many drinks Mr. Depp had?
3721	1 Q And you see where you wrote "Client 2 states he felt helpless previously but is now 3 angry at AH and wants to clear his name." 4 Mr. Depp told you that? 5 A Again, I don't recall for sure, but I 6 would go back to my nursing notes because those 7 were written more at the time, so I would assume 8 that he and I discussed that. 9 Q Okay. Farther down, you wrote "RN 10 assisted client in processing feelings and 11 encouraged client to continue utilizing individual 12 therapy as he responds well to RN's use of 13 therapeutic communications." 14 Do you see that? 15 A Yes. 16 Q And you wrote that, correct? 17 A Yes. 18 Q Then you wrote "Client is resistant 19 stating 'I don't want anyone like Amber's (wife) 20 therapist. He has only made things worse'. " 21 Do you see that? 22 A Yes.	3723	1 A Yes. 2 Q And that Mr. Depp drank three vodka 3 drinks during your visit? 4 A That's what my note says. 5 Q Then you said "RN provided one-on-one 6 emotional support and encouraged client to limit 7 and/or abstain from alcohol and illicit drugs." 8 You wrote that? 9 A Yes. 10 Q Do you recall why you told Mr. Depp to 11 abstain from illicit drugs? 12 A No, but I did, and not just with 13 Mr. Depp, but in my line of nursing, provide 14 education, always, with any medication clients are 15 on and contraindications. 16 Q Do you know if Mr. Depp ever took any 17 illicit drugs during the 2014 to 2016 time frame? 18 A I don't know. I didn't witness him 19 using any illicit drug, so I can't speak to that. 20 MS. LECAROZ: Your Honor, at this 21 point, the questioning switches over to questions 22 by counsel for Mr. Depp.

Transcript of Jury Trial - Day 13
Conducted on May 2, 2022

75 (3724 to
3727)

<p style="text-align: right;">3724</p> <p>1 THE COURT: Do we want to break here? 2 Would that be a good breaking point? 3 MS. LECAROZ: That's all right with us, 4 Your Honor. 5 THE COURT: Well, we will take it 6 ten minutes early today, just because that seems 7 like a good breaking point for this deposition. 8 We still have a little ways on it. 9 So, let's go ahead and break for the 10 evening. We will see you in the morning. Just do 11 not discuss the case and do not do any outside 12 research, all right? And we'll have the rest of 13 this tomorrow morning, okay? 14 Thank you. 15 (Whereupon, the jury exited the 16 courtroom and the following proceedings took 17 place.) 18 THE COURT: All right. So we'll see 19 everybody at 10:00 tomorrow. 20 Thank you. 21 MR. CHEW: Thank you, Your Honor. 22 THE BAILIFF: All rise.</p>	<p style="text-align: right;">3726</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 3rd day 14 of May, 2022. 15 My Commission Expires: September 30, 2024 16 17 18 <i>Judith E. Bellinger</i> 19 _____ 20 NOTARY PUBLIC IN AND FOR 21 THE COMMONWEALTH OF VIRGINIA 22</p>
<p style="text-align: right;">3725</p> <p>1 (Whereupon, the trial was recessed at 2 4:51 p.m. to reconvene at 10:00 a.m., Tuesday, May 3 3, 2022.) 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>	