

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

B E T W E E N

JOHN CHRISTOPHER DEPP II

Claimant

and

(1) NEWS GROUP NEWSPAPERS LTD
(2) DAN WOOTTON

Defendants

CLAIMANT'S OPENING STATEMENT
FOR TRIAL: 7 JULY 2020

Introduction

1. This is a libel claim brought by the well-known actor Johnny Depp over allegations that he seriously physically assaulted his former wife, the actress, Amber Heard. Not just once but on at least 14 different occasions it is now said, causing her such serious injuries and being so violent that it led Ms Heard to fear for her very life. Those are the allegations that form the subject-matter of this libel claim.
2. The claim, however, is not brought against Ms Heard. Rather, it is brought against the publishers of *The Sun* newspaper and its Executive Editor, Dan Wootton.
3. True, it was Ms Heard who initiated these allegations back in 2016 when at the time of their divorce, she used them, very publicly, to obtain an *ex parte* temporary restraining order¹ against Mr Depp, alleging in support of this two specific acts of domestic violence which she claimed caused her to fear for her own life. Ms Heard appeared at the Los Angeles Courthouse on 27th May 2016, trailed by photographers and sporting what appeared to be obvious bruises to her face which were no doubt designed to be a visual

¹ [TRO:4/112/F677-682]

demonstration of her primary incident of alleged violence, which she claimed had occurred six days earlier, on 21st May.

4. I will come back later to this last incident, and to how neither of the police officers (one of them a trained and experienced domestic abuse officer) who attended the premises where it supposedly happened, nor the building attendants who saw and interacted with Ms Heard in the ensuing days, saw any injuries on the night they were allegedly sustained, or on the next few days. There is a substantial body of evidence (including from these and other witnesses) which clearly demonstrates that this was a lie manufactured by Ms Heard and her friends. In any event, that notorious incident of 21st May is how the allegation of domestic abuse was first aired to the world at large, through Ms Heard very publicly seeking a restraining Order, although the alleged incidents have expanded and become embellished, and even changed character, quite dramatically over the years since then, as I will explain in due course.

The Article complained of

5. However, despite them having been initiated in a blaze of publicity in 2016 and repeated by Ms Heard in various guises since then, it was the Defendants who chose to publish these allegations in an article in *The Sun* newspaper, both in hard copy form and online, in April 2018 under the headline: “*GONE POTTY: How can JK Rowling be genuinely happy casting wife-beater Johnny Depp in the new Fantastic Beasts film?*”²
6. The article was written by Dan Wootton. In it, he branded Mr Depp a “*wife-beater*”. He repeated Ms Heard’s allegations, referring to what he described as “*overwhelming evidence*” in her favour, in an obvious attempt to confirm categorically in the readers’ minds, several million readers’ minds, that these appalling and serious allegations of criminality were true. He did not stop there though. Mr Wootton, and *The Sun* newspaper which is liable for his actions, also chose to make deliberate and highly topical references to the #MeToo and Time’s Up movements, and even the disgraced film mogul and serial abuser of women Harvey Weinstein, suggesting that Mr Depp was in

² [1/A/1/A1-20]

the same category, and quoting one of Mr Weinstein's victims in support of this comparison, actress Kathleen Kendall. Ms Kendall will give evidence to explain how annoyed she was that the article was presented as if she was endorsing this comparison, and how she even contacted the newspaper to complain³. Her complaint was as follows:

"I never meant to be in an article that called Johnny Depp a "wife beater". I told you that I didn't know that to be true at all! I have heard SEVERAL times that she was in fact abusive to him.... He's never been a convicted "wife beater". It seems that the whole article was about defaming him. I said over and over that I didn't KNOW that he had caused her harm. Even a picture only makes it "seem" so.... I'm telling you that you misquoted me and intentionally took things I said out of context in what I now realize was your purpose in defaming Johnny Depp. I told you I have heard Amber had hit him, which is why as you know I don't condone "any" violence. You have improperly tried to use the #metoo movement for your purposes by using me in this way".

7. The article was written by Mr Wootton with a deliberate purpose in mind. It was framed as a plea to author JK Rowling that she should re-cast her latest Harry Potter movie and not use Mr Depp, notwithstanding that this "*would cost millions*", and, more importantly, despite the fact that Mr Depp had never been charged with any such allegations, let alone found 'guilty' as the article clearly presumed.
8. This is the article which is the subject of this action for libel, and that is why Mr Depp is here in Court bringing his claim against both *The Sun* newspaper and Mr Wootton, its publisher and its author. This is why Mr Depp has come here to give evidence, as have a number of people on his behalf, some of whom have worked for him (or still do) but a number of whom have never met him or are plainly independent. They support his denial that he carried out a series of physical assaults on his former wife, in other words that he is guilty of being a "*wife beater*".
9. By contrast, Mr Wootton is not coming to give evidence to defend his article, nor is anyone else coming from *The Sun*, despite the unequivocal way in which they chose to endorse the allegations and the (somewhat ironic) demand that Ms Rowling should actively investigate for herself the allegations before continuing to defend her decision to support Mr Depp. Mr Wootton poses five questions for Ms Rowling in the article that she "*MUST answer*" in

³ [5/G/209/G2.5-G2.10]

relation to these allegations but he has chosen not to come to Court and not to answer a single question himself about what actual investigations he made prior to publishing such a damning and unambiguous indictment of Mr Depp, or why he chose to make no mention even of Mr Depp's persistent denials of the allegations, let alone answer Ms Kendall's complaints that he had sought to misuse the very real concerns of the #MeToo movement. These are issues raised squarely on the Claimant's case⁴, as to which Mr Wotton is conspicuously silent.

10. Instead, Ms Heard is coming to give evidence, as well as a small group of her close friends. Not all of the ones that it was initially suggested would do so, but some still. However, it is important to note that other than in relation to one of the 14 alleged incidents, for which her sister (Whitney) claims she was present, none of these friends of hers witnessed any of the physical assaults which Ms Heard said characterised their relationship throughout, both from the early stages in 2013, to getting engaged to Mr Depp and then moving in together properly, and still continuing after she married him in 2015.

Ms Heard's Allegations

11. As allegations go, it is hard to think of ones in terms of physical abuse between two people in a relationship that could be any more extreme or violent than those Ms Heard will make against Mr Depp in this Court. Recently, Ms Heard raised one new allegation that she has even asked to be heard in private because of its supposedly horrific nature, an allegation which has never been raised before, nor made anywhere in the last four years since this story has been blasted across publication after publication, including in any of the many Court depositions and other documents produced in the litigation which has been conducted since the break-down of their relationship in 2016, or, for that matter, in any of the contemporaneous communications at all which passed between the couple or their friends. Nowhere.

12. Nevertheless, even the ones which Ms Heard is content to be heard in open court are extreme enough in themselves. They include prolonged acts of violence, such as repeated punching and slapping, being grabbed by the

⁴ [1/C/13/C12-C14: Particulars of Claim §11-13.5].

throat, being dragged across the floor by her hair, having her lip punched so hard it splattered blood on the wall, a broken or busted nose and so on; violence which caused her to fear that her life would end, she says. In Australia in 2015, she even claims that she was subjected to a “*three-day hostage situation*” involving a catalogue of brutality, one which ended, critically, with Mr Depp having part of his finger chopped off and requiring hospitalisation, but no medical attention being sought by Ms Heard (despite their doctor being on the scene or close by). I will have more to say about this later.

13. On Ms Heard’s account, she suffered a litany of persistent and continual violence at Mr Depp’s hands, and yet:

- a. despite it starting from early on in their relationship she says (with being slapped so hard in early 2013 that she was knocked from the couch to the floor - Incident One - and being hit so hard by him in the course of a fight in her apartment over a painting on 8th March 2013 that her lip was split splashing blood onto the wall - Incident Two), despite this, she continued still to date Mr Depp;
- b. similarly, despite a further horrific alleged incident when staying in a camp in Hicksville, which is one of the more recent allegations that has surfaced and is said to have taken place in June 2013 (Incident Three), she was still keen to move in with Mr Depp on a permanent basis and later get engaged to him in September of that year;
- c. and finally despite on her account further serious incidents of violence in 2014 (such as a nasty fight on a plane in May; kicking, slapping and grabbing her by the hair in the Bahamas in August; and similar violence in a hotel room in Tokyo at the beginning of 2015 - Incidents Four, Five and Seven), she was still eager to get married to him in February 2015;
- d. even in relation to the remaining incidents in 2015, and 2016, such as the Australian “*three day hostage situation*” (Incident Eight) in March, the allegation that he hit her, pushed her against a wall and grasped her by the throat, causing her to “fear for her life” on a train journey

during their honeymoon in South East Asia in July 2015 (Incident Ten), or the argument in the bedroom during a Thanksgiving dinner for family and friends in their apartment in Los Angeles in November 2015 when Mr Depp is supposed to have thrown her around the room, ripped her clothing, thrown a wineglass and decanter at her shattering glass and wine onto the bed and causing serious injuries to her (Incident Eleven), despite all of this, Ms Heard chose not to leave Mr Depp, or even to call the police or seek some official assistance until finally it was clear he was going to end their marriage for good.

14. Whilst Mr Depp denies these allegations of violence, Ms Heard cannot deny these acts of her own free will. It is not just that she chose not to end things with Mr Depp; despite his alleged violence right from the outset, she happily chose to move in with him, to get engaged to him and then to get married to him (something which he had not done in any previous relationship) in the full knowledge, on her account, of what he was supposedly like and what the nature of their relationship was and was continuing to be.

15. Indeed, it was Mr Depp who in the end was forced to finally call time on this relationship, largely after behaviour by her and her friends following her birthday party in their flat in April 2016 (including he says, one of them defecating on his bed, something which Ms Heard blames on their tiny dog, but which she had confessed to Mr Depp's estate manager was 'just a 'harmless prank' by her and her friends). It was on the night of 21st May, when Mr Depp returned to the penthouse (where Ms Heard was still living, and her friends living in and using his penthouses next door), having notified Ms Heard earlier that day that the marriage was over, that the final alleged incident is said to have taken place. I will say more about Ms Heard's account of that final allegation in due course, especially as six days later she appeared at the Los Angeles Courthouse, sporting what appeared to be prominent bruises on her face, requesting a restraining order against Mr Depp, surrounded by press.

Ms Heard was the abuser, not Mr Depp

16. Mr Depp's account as you will hear is completely different; he says he did not attack Ms Heard on these occasions or at all. Ms Heard has invented these

stories of serious violence. He is not and never has been a wife-beater. Indeed, he says that it was Ms Heard who was the one who started physical fights, who punched or hit him (and there was little he could really do to stop this); she was the abuser, not him. And the contemporaneous evidence fully supports that, as the Court will hear.

17. For example, we have an early-recorded conversation between them from September 2015⁵. Recording conversations was a tool they sometimes employed: on Mr Depp's case as a method of resolving and analysing their arguments; on Ms Heard's case, she claimed she recorded Mr Depp to demonstrate the next day what she said was his violent behaviour because he would 'forget' what he had apparently done. In this one from September 2015, the Court can very clearly hear what Ms Heard is angry and shouts at Mr Depp about, namely the fact that and that is consistently her anger at the fact that when they have an argument he runs away, he "*splits*". Clearly, this is the exact opposite of his alleged acts of violence and utterly contradictory to Ms Heard's case.

18. In a series of compelling insights, as are even clearer on the actual recording (as the Court will have noted), one can hear how:

- a. Ms Heard bitterly complains over and over that Mr Depp doesn't fight for her or 'fight when there's a problem' (hardly consistent with her claims that he repeatedly subjected her to physical violence)⁶.
- b. Although she admits that she 'throws pots', when Mr Depp explains that he leaves because she gets physical with him, Ms Heard says "*That's different*"⁷ (i.e. it's not a reason for him to 'split', which means 'leave'). This demonstrates that she is the violent one; she considers that throwing objects at Mr Depp is acceptable.
- c. Most of all, rather than complaining that he is violent with her, Ms Heard begs Mr Depp not to retreat from a 'fight' (a word which is

⁵ Transcript of recording at [4/F/154/F913-F963]

⁶ Transcript of recording at [4/F/154/F922]

⁷ Transcript of recording at [4/F/154/F922]

consistently used by her to mean an argument). She seems to thrive off these arguments and takes a no-holds barred approach to pursuing them. She is annoyed when Mr Depp responds to her physicality by “*running away*” or escaping to another room (and often a bathroom where he can lock himself away)⁸.

19. Crucially, on this tape, you can hear Ms Heard explicitly admits to hitting Mr Depp and ‘starting a physical fight’ with him. The Court will have firmly in mind that if this was a man admitting openly to hitting or punching a woman not once but serially, which Ms Heard does here (and elsewhere), that would be the subject of the strongest possible condemnation. This is especially the case when one hears how the victim (Mr Depp) is:

(a) first, told that he is lying when he says that she attacked him⁹;

(b) next, argued with for his use of language “*you didn’t get punch[ed], you got hit... But I did not punch you. I did not fucking deck you. I fucking was hitting you*”¹⁰;

(c) and then finally belittled for complaining about the physical abuse he has suffered, “*You’re a fucking baby... You are such a baby. Grow the fuck up*”¹¹;

(d) Interestingly, while she says repeatedly that she does not feel ‘safe’ in their relationship, it is abundantly clear that Ms Heard’s definition of ‘safe’ has absolutely nothing to do with any fear she might be beaten up by Mr Depp or any ‘fear for her life’. Quite the opposite. As she makes clear to him time and time again, she feels ‘unsafe’ because she fears he may ‘split’ or leave her¹². For Ms Heard, life without being able to “*get mad*” is “*living in a mother fucking fairy tale*”¹³.

⁸Transcript of recording at [4/F/154/F917 & F928 & F934]

⁹ Transcript of recording at [4/F/154/F925-F926]

¹⁰Transcript of recording at [4/F/154/F927]

¹¹ Transcript of recording at [4/F/154/F927]

¹² Transcript of recording at [4/F/154/F929]

¹³ Transcript of recording at [4/F/154/F933]

(e) As further confirmation that she is the one with the violent tendencies, she goes on to admit, in an exchange where they are trying to agree to have 'time-outs' during any future arguments, that she cannot promise Mr Depp that she will not get physical again. The words "*God, I fucking sometimes get so mad I lose it*"¹⁴ are not those of someone repeatedly beaten by her husband to the point of fearing for her life. Mr Depp's position to his then wife was "*there can be no physical violence to one another*"¹⁵.

20. Ms Heard's recorded confessions, that she was the perpetrator of violence, are crucial because they undermine the very foundation of the case against Mr Depp. They are completely inconsistent with the picture she paints of herself being the vulnerable victim. They also undermine the credibility of her account of each of the 14 alleged incidents.

21. Given the importance of such a contemporaneous, and impartial, record of their relationship, before a public and acrimonious divorce is on the horizon, the Court will obviously want to listen to the entire recording of this conversation. The transcript alone is simply no substitute for the tone, emphasis and true meaning of what both Mr Depp and Ms Heard say to each other and is critical to a proper and informed understanding of the real dynamic of their relationship. It is this dynamic which lies at the heart of the question of whether the Defendants can prove their case that Mr Depp "*beat his wife...causing her to suffer significant injury and on occasion leading to her fearing for her life.*"¹⁶

22. Furthermore, the true dynamic of their relationship that is revealed in these recordings, and the way they speak and interact, is the clearest possible contradiction of the suggestion that Mr Depp has been repeatedly violent towards Ms Heard, and that she was in fear of her life from him, as she (and the Defendants) maintain. Quite the reverse, we say.

23. This is not the only recording though where Ms Heard admits to violence against Mr Depp. For example, in a further recording, disclosed in the course

¹⁴ Transcript of recording at [4/F/154/F950]

¹⁵ Transcript of recording at [[4/F/154/F946]

¹⁶ [1/C/14/pC17: Re-Amended Defence §8a]

of the US divorce proceedings, Ms Heard admits to having kicked a door into the crouching Claimant's head, and then punched him in the aftermath of an incident which started with her coming at him in a bathroom to which he had removed himself from her, and him then accidentally opening a door onto her toes (as she accepts). She admits that she punched him in the face on purpose, but denies, somewhat strangely, that she kicked the door into his head on purpose. There is no mention that he responded in any physical way to these acts of violence against him¹⁷. Her instant resort to violence, and his non-violent reaction, is in direct contradiction to the evidence which she seeks to give in her witness statements.

24. Similarly in a recently disclosed recording made by Ms Heard of the one-on-one meeting she sought with Mr Depp in July 2016, Mr Depp refers back to the incident alleged to have taken place around her birthday in April 2015 (Incident Thirteen). He says to her "*I didn't want you to fuckin' go to Coachella without fuckin' talking to me because I left you because you were fuckin'... you fuckin' hang-maked me, man. You came around the bed to start fuckin' start punching on me*", a statement which Ms Heard does not deny¹⁸, even though she knows she is secretly recording him as he speaks, and at a time when she has already been preparing her case against him for future use.

25. What is also telling is that in this meeting between them, alone in a hotel room in a San Francisco hotel, which was asked for by Ms Heard, again of her own free will, despite her recently seeking and obtaining the domestic violence restraining order against Mr Depp (in which she says that she feared for her life because he was so violent). In a part of this conversation, secretly recorded by Ms Heard, she repeatedly begs Mr Depp to "*hug*" her, something which he steadfastly refuses to do. You can hear Mr Depp ask her with obvious incredulity (as appears from the audio of the recording) "*after all the shit you fuckin' accused me of, now you want to touch me?*"¹⁹, a clear reference to the allegation of domestic violence she had made in order to get the restraining order, and the fact that it was untrue. Ms Heard still persists in wanting physical contact, despite him calling her "*fuckin' nuts*" as a result²⁰.

¹⁷ [9/L/138/L71] (Multimedia USB: File L38: Exhibit P/Q to AH's Deposition in Divorce Proceedings)]

¹⁸ Transcript of recording at [4/F/161m/no page number yet]

¹⁹ Transcript of recording at [4/F/161m/no page number yet]

²⁰ Transcript of recording at [4/F/161m/not page number yet]

Plainly this behaviour is utterly inconsistent with any suggestion Ms heard was afraid of Mr Depp, let alone that she feared for her life, as she had told the Los Angeles Court in her request for a restraining order. It is also noteworthy that this recording was made without Mr Depp's knowledge or consent, which meant she was committing a criminal offence in the United States.

Controlling behaviour as part of the Defence

26. In this context, it is also important to note that the allegations which the Defendants have advanced are deliberately not confined to those of physical violence. Their stated case is that "*Throughout their relationship the Claimant was controlling*" as well as "*verbally and physically abusive towards Ms Heard*"²¹. This is presumably a fundamental part of Ms Heard's case in an attempt to explain away why she did not leave Mr Depp, despite this stream of brutal physical attacks. As you will hear (and as is rehearsed at some length in her witness statements), she alleges that Mr Depp controlled her in a number of different but extreme ways, from limiting her career, to preventing her from driving her own car, even to making false and paranoid allegations that she was having affairs with co-stars and other individuals.

27. The Court will note that this is her positive case, and advanced by the Defendants through her as part of their section 2 Defence of Truth. It is not some response to Mr Depp's evidence. As such, the Court will need to determine it, since she says that it was these false allegations of infidelity, and the fact that Mr Depp would refuse to accept that they were 'untrue' (says Ms Heard) which drove him to violence against her. That and on occasion the influence of alcohol or drugs. Mr Depp will demonstrate, as he has and is entitled to, that this is untrue.

28. In particular, Mr Depp's case is that this is just another false narrative created by Ms Heard in order to make her abuse allegations plausible. If, as he says, it is untrue that he limited her career, it is nonsense that she was unable to drive her own car, and that she *did* in fact have a number of affairs, then this supports his case in a number of important respects. Firstly, it shows that this

²¹ [1/C/14/pC17: Re-Amended Defence §8a]

is another manufactured lie by Ms Heard. Secondly, it completely undermines *her* stated basis for the allegations of violence (she says he became physically violent because he *wrongly* convinced himself she was cheating on him – that is her evidence. Thirdly, it flatly contradicts the suggestion that she only endured such a catalogue of repeated violence because she was so hopelessly in love with Mr Depp, something that is utterly inconsistent with her persistent unfaithfulness.

29. The Court will need to decide this issue. It has to decide it because this is what the opposing parties' cases are, as each will explain in their evidence, as will their supporting witnesses. Of course, this is the inevitable consequence of the very wide way in which the Defendants have deliberately sought to prove their allegations and, in particular, how Ms Heard has chosen to explain the reason why Mr Depp was supposedly violent. If there was no such reason, then her allegation of violence falls away.
30. As to the influence of drink and drugs, Mr Depp has been frank about his use of both at various times throughout their relationship, as well as his life more generally, as the Court has already heard. He has also had well-documented problems with prescription drugs. Ms Heard, we say, has been less frank about the nature and extent of her use, but she does admit to it. On any view, however, this is a couple for whom the consumption of drink and drugs was normal and commonplace. The same is true of their way of speaking to each other (and their friends); the profuse swearing, the use of extreme or dark metaphors and the general 'bad-mouthing', which can be heard on the recordings or seen in text or other communications is just a part of the everyday lexicon of their relationship, even if it looks surprising to those outside of it or unfamiliar with Mr Depp and Ms Heard.
31. Despite the furore which has been created around the issue of disclosure of documents referring to drugs, the *only* relevance this really has is the extent to which (if at all) the Defendants can prove that the consumption of drugs or alcohol on a particular occasion made Mr Depp commit acts of violence against Ms Heard (as opposed to being simply 'wasted' or similar, especially given what must be their tolerance of such substances). Of course, unless the Court finds that there were actual acts of violence committed by Mr Depp, his use of drugs, or drink, is irrelevant.

32. It is in this context that Ms Heard has sought to rely on what is called “*the monster*”. For Ms Heard, it appears she is now saying that this is the person Mr Depp (allegedly) becomes when he is carrying out the physical assaults which she claims she suffered. For Mr Depp, it was meant and intended by both of them in a far more nuanced or metaphorical way, referring mostly to the negative turn which their arguments would often take. It was a term first applied by Ms Heard, which he was later to adopt as part of the vocabulary of their constant verbal arguments. However, it was certainly never intended or understood as a reference to some alter-ego which assaulted her, nor some sort of shorthand for physical violence, nor do the contemporaneous references support any such suggestion. This seems to be a later construction by Ms Heard.

33. For example, on 26 September 2015, Mr Depp and Ms Heard had a long exchange of text messages²². As well as demonstrating the use of the term, these messages also give a further insight into the true nature of their relationship. Mr Depp messaged his security because he wanted to “*split*” (ie. ‘leave’) and “*avoid confrontation with Amber*”. In the ensuing texts between him and Ms Heard, her complaint is – once again - that he leaves her at the first sign of trouble²³. She repeatedly pleads with him to call her while at the same time using the term “*monster*”; tellingly, there is no connection or association in these texts between the ‘monster’ label and any alleged violence on the part of Mr Depp.

34. Quite the opposite, when Mr Depp replies²⁴, he refers to what prompted him to ‘split’. In this long text he says “*You’re mood swings and temper are going to fuck us over, if you don’t calm down and think about what you’re doing!!!! ... Wouldn’t even admit to clocking me in the jaw to Travis... Who, by the way, I asked to be ready to come up, because I knew that you’d get fuckin’ violent AGAIN!!!!...*” Ms Heard’s ensuing messages do not dispute or take issue with what this clear record of her violent behaviour towards him, or his fear about what she was capable of doing.

²² [Text msg schedule #6077 - #7492, pages 76-85] [6/119/F697.76ff].

²³ [Text msg schedule #7415, page 76] [6/F/119/F697.76].

²⁴ [Text msg schedule #7446, page 79] [6/F/119/F697.79].

35. The exchange continues and the pair refer to Mr Depp leaving the marriage. Ms Heard says “*I don’t think I can make you happy...*”²⁵ to which Mr Depp replies²⁶, “*I have also summarized [sic] that from the last 5 or 6 sucker punches to my face and head, that you aren’t all that happy...*”. Again, tellingly, Ms Heard does not dispute the characterisation of their relationship as her being the violent one, instead she simply apologizes for “*having issues*”²⁷.

36. As to Ms Heard, the documentary evidence shows that she is a highly complex and aggressive individual who suffered extreme mood swings, would provoke endless circular arguments, and fly into violent rages. During her relationship with Mr Depp, as we say (and as partly admitted), she was taking a wide range of prescribed medication and other drugs, and her behaviour was extremely unpredictable. Most importantly, the description of her being ‘controlled’ by Mr Depp is fatally undermined by the true position, as well as the recordings of their conversations. As listening to these conversations demonstrates (much more so even than reading the transcripts) she is largely in control of the situation (even if not her feelings), capable of standing up to and even physically attacking Mr Depp, and generally being in no way scared of him, let alone ‘in fear of her life’ when they argue.

37. Indeed, far from the character that Ms Heard will seek to portray herself as, *she* was the one in control in their relationship, and both wanted to and got her own way. She got to live in the amazing penthouse which Mr Depp owned at the iconic, historic Eastern Columbia building, she moved her friends into the adjoining penthouses which Mr Depp owned. She persuaded Mr Depp to support her career (such as attending the Toronto Film Festival with her for her role in *The Danish Girl* in September 2015, which got him into trouble with the film company). And far more importantly, when asked to sign a pre-nuptial agreement, she created a huge argument and point-blank refused, which Mr Depp accepted as he loved her and wanted to marry her. He also accepted

²⁵ [Text msg schedule #7479, page 84] [6/F/119/F697.84]

²⁶ [Text msg schedule #7483, page 84] [6/F/119/F697.84]

²⁷ [Text msg schedule #7484, page 84] [6/F/119/F697.84]

that she did the same thing when he asked her to sign a post-nuptial agreement instead.

38. As to the suggestion that Mr Depp controlled her through his false and paranoid accusations of infidelity, this, we will say, is also untrue, as is the (false) narrative that Ms Heard has constructed around it, in order to 'prove' the acts of violence she says she suffered as a result. Ms Heard consistently lied about her infidelity or relationships with third parties. This even started with the argument the day that they both attended the set where the documentary with Keith Richards was being filmed, along with her sister Whitney, in March 2013.
39. Mr Depp will say that this argument was caused by him discovering that Ms Heard had been lying about the nature of her relationship with a Spanish 'friend' of hers. Whilst there was no physical fight at all about this, it was an upsetting argument about her habit of lying. Ms Heard has ascribed the argument on the day they went to the set to Mr Depp being so angry about a painting of her former wife hanging in her flat that he tried to set fire to it, and hit her so hard during the ensuing argument that it caused blood from her busted lip to hit the wall. Ms Heard claims that this argument, caused by Mr Depp's violent reaction over the painting, led to the whole filming being held up, much to the annoyance of everyone on set (Incident Two). Mr Depp says this is untrue.
40. The Court will hear the two conflicting accounts and decide which is correct, as it will with other incidents. This is just one example. If Mr Depp is correct, and it was him confronting her correctly with her lies about a male 'friend', then the argument involved no violence. By contrast, Ms Heard's account, if believed, involves a huge argument about a painting in March 2013 with her being left with a burst lip caused by Mr Depp and a thoroughly annoyed film set. This is just one example. But it does show that the truth about her infidelity is plainly relevant. Ms Heard has made it an integral part of her 'lie'.
41. The affairs which we say Ms Heard was having with other third parties during the course of their relationship clearly undermine the suggestion that Ms Heard was so "controlled" by Mr Depp. Take James Franco for example, who

is specifically mentioned by her in a list of co-stars whom she will say Mr Depp wrongly accused her of having an affair with. There is CCTV footage²⁸, taken only hours after the alleged incident on 21st May, that shows him being escorted up to the matrimonial home by Ms Heard, who comes down in a lift to meet him in the parking garage below ground, and then takes him up to the penthouse suite she shared with Mr Depp. As the footage shows, despite the pains they clearly take to avoid the CCTV camera filming their faces, she and Mr Franco are already intimate by this date.

42. Another example is the well-known billionaire, Elon Musk, the Space and vehicle entrepreneur. We know that Ms Heard was publicly admitting to being in a relationship with Mr Musk shortly after her split from Mr Depp. However, Mr Depp will call evidence to show that this relationship started long before then. One of the concierges for their apartment building will testify that in March 2015, whilst Mr Depp was away, Ms Heard would be visited late at night by Mr Musk, and so frequently that he was eventually given his own key to their penthouse. Mr Musk, we will say is plainly “Rocketman”, the man with whom Ms Heard exchanges texts²⁹ only hours after the 21st May incident. In these messages, “Rocketman” expresses how much he likes her and how sorry he is for something he had previously done which meant she had stopped speaking to him. He is quick to offer to pay for round-the-clock security when he is told of her allegations against Mr Depp, and explains “*the offer would stand, even if you never wanted to see me again... anyway, sorry for being an idiot. The radio silence hurts a lot. It only matters because I really like you*”. It is obvious that these Mr Musk and Ms Heard has been involved in a relationship prior to 22nd May.

43. As already explained, as well as proving that her account of being ‘controlled’ by Mr Depp is simply an invention, a false narrative created for his alleged abuse, the affairs carried on by Ms Heard also show that the suggestion she stayed in the relationship despite his violence, because she was so in love with Mr Depp, is wholly unsustainable.

²⁸ [5/F/194/F1203/clip 55]

²⁹ [7/H/37/H162]

44. Moreover, as the documents demonstrate, and Mr Depp's witnesses will say, Ms Heard clearly got her own way, and was prepared to lie (or attempt to get others to lie for her) even if she got into trouble in the process. For example, as Mr Kevin Murphy, Mr Depp's estate manager, will say, Ms Heard was told and knew full well that she would be acting illegally if she took her dogs into Australia in April 2015 without the necessary paperwork, vaccinations or quarantine. She ignored the warnings. This was nothing to do with Mr Depp as he never wanted the dogs to travel from Los Angeles in the first place. However, as Mr Murphy will say, Ms Heard was not prepared to take 'no' for an answer. When the Australian authorities found out and wanted to press charges, Ms Heard sought to prevail (via Kevin Murphy) upon her former assistant, Ms Kate James, to provide a false witness statement to the Court in order to exculpate Ms Heard. Even her US lawyer, Marty Singer, warns Ms Heard, when she asks Mr Murphy if she should get Ms James to provide this statement, "*You will have to be careful that she will co-operate and will not go public, if you ask her not to be truthful*"³⁰.

45. In the end, Ms James was not asked to lie, but Mr Murphy was still working for Ms Heard (and Mr Depp) and he did feel he had to lie for her. He in fact provided a false declaration for Ms Heard to use in relation to the criminal charges she faced in front of the Australian Court. As he will say, he was so troubled by this false statement that he later sought independent advice as to how he might withdraw it and what sanctions he might face in Australia as a result.

46. As the evidence will also show, this was not the only time that Ms Heard has been prepared to lie to get out of a difficult situation, again, even in the face of legal sanction. As Ms James will also say, and the documents show, we suggest, Ms Heard lied to the US Department of Homeland Security by falsely stating in a letter that her set assistant, Savannah McMillan, was just a "*personal friend*" and "*has never worked unlawfully or otherwise in the United States. Or for me*". This was a response to a complaint about the fact that Ms McMillan was only on a tourist visa in the United States and therefore working illegally. Once again, no further action was taken it appears, based on Ms Heard's false statement.

³⁰ [4/F/142/F885]

The starkly contrasting nature of the evidence

47. The starkly contrasting nature of the evidence given by Mr Depp and Ms Heard is one of the defining features of this case, and the Court will obviously need to resolve their conflicting testimonies. There is no real room for a middle ground here. One side is plainly lying, and to an extraordinary extent.
48. Either Ms Heard's allegations are true, in all their various forms now, and therefore Mr Depp has chosen to launch and pursue a lengthy libel claim despite knowing that the article which forms the subject matter of the claim is completely true.
49. Or, as we say, Ms Heard has concocted them, embellishing and adding to them over the years (including completely fabricating the ones which were made for the first time shortly before the trial was adjourned and are said to be too private and horrific to be heard in open court), which means that Mr Depp is right in seeking vindication before this Court from a hugely influential newspaper that sought to act as judge (and jury) by endorsing and convicting him in relation to Ms Heard's allegations, not to mention demanding an end to his career as the punishment he supposedly deserved. You might be forgiven for wondering why would Mr Depp put himself through all of this process otherwise, ie. if he were in fact guilty.
50. That is the determination for this Court. Mr Depp is either guilty of being a wife-beater for having assaulted his ex-wife on numerous occasions, causing the most appalling injuries, or he has been very seriously and wrongly accused.
51. Notwithstanding the starkly contrasting accounts of Ms Heard and Mr Depp themselves, there are a number of witnesses who come to give evidence on each side. For Ms Heard, they are her sister and a few friends. Save for one incident when her sister Whitney will claim that she was present (albeit that is mostly an incident even on their account where Ms Heard punched Mr Depp), none of the 14 incidents when Mr Depp is alleged to have attacked her repeatedly in a violent manner were ever witnessed by any of them.

52. Mr Depp intends to call a large number of witnesses to support his case, which is effectively a denial that he did attack her on these occasions. Whilst some of the witnesses who will prove that no such attack did take (or could have taken) place on the dates in question are friends or employees of his, a number of them are not. There are also independent witnesses who directly contradict or completely undermine Ms Heard's evidence. That is, of course, over and above the sheer improbability, we say, as well as the inconsistency, of the version of events she and her friends are now giving. As I will explain in a moment, these independent witness are extremely important as a result, especially to some of the later incidents.

53. It is obvious though that the credibility of Ms Heard (or Mr Depp) is also key to the incidents of alleged violence. If Ms Heard (or her friends) are found to be lying, then that not only disproves the particular allegation of violence on that occasion but, crucially, it seriously undermines the Defendants' case as a whole. In particular, if Ms Heard is found to have invented any allegations of violence, then it is inherently unlikely that her other allegations are true. She would not resort to invention if it were true that Mr Depp was a 'wife-beater' (which he denies). There would be no need for Ms Heard to do so; inventing instances of violence and running the risk of being caught out lying is a risk worth taking only if the central allegation is untrue.

54. The Court will need to consider carefully the nature and development of Ms Heard's account of these incidents. This is particularly so with regards to the new and atrocious allegation which is being heard in private, an allegation which has never been raised before in any of the litigation over the last 4 years. If, as Mr Depp says this is just fiction, and the Court finds the allegation is untrue, then we will say that the only reason for inventing it in the face of this trial was because Ms Heard realised that her other (lesser) allegations of violence would not be believed by the Court. There is no other plausible explanation for such extraordinary behaviour. Of course, if the Court finds that it is proved, then the Defence is likely to succeed. If it is not proved, however, then we say the reverse should follow for obvious reasons. That is how high the stakes have been raised by Ms Heard, and she (and the Defendants) must know that.

The incidents

55. As the Court will hear, the account of some incidents are very short and depend on a relatively straightforward he-said-she-said dispute between Mr Depp and Ms Heard, since no one was present, and there is no evidence at all to support the allegations (other than Ms Heard's word). There, surrounding circumstances and credibility will obviously be important. This is especially so where there are injuries claimed by Ms Heard and contemporaneous accounts or documents demonstrate that there were no such injuries or the incident could not have taken place: for example in relation to what is said to be the painting incident in March 2013 (Incident Two), the South Eastern Asia train incident previously alleged to have been in August 2015, but now July (Incident Ten), or the Thanksgiving dinner episode in November 2015 (Incident Eleven). Again, if the Court finds that Ms Heard has invented these allegations, then her whole case is fatally undermined.

56. Some incidents though are said to be longer and the conflict of evidence involves more detail, for example, in relation to the incident which is alleged to have taken place on 15th December 2015 (Incident Twelve). Ms Heard describes this night as "*one of the worst and most violent nights*" of her relationship with Mr Depp³¹, alleging that he slapped her hard, grabbed her by the hair, pulling large chunks of hair and scalp out of her head in the process, dragged her through the apartment and up the stairs, punched her in the back of the head and threatened her, deliberately and violently head-butted her on the nose, causing bleeding and searing pain, and screamed at her that he was going to kill her. Or so she says. Ms Heard will claim that she screamed and feared for her life, and that she suffered severe headaches and other pain for at least a week afterwards, her injuries presumably being so severe and pronounced.

57. Despite this extraordinarily brutal episode (on Ms Heard's account), there are text exchanges the following day, 16th December, which show Ms Heard sending perfectly cheerful texts to Mr Depp's daughter about them all spending "*Family time!!*" "*Yay*" over Christmas together in the Bahamas³².

³¹ §137 Ms Heard's 1st WS [2/60/E31]

³² [4/F/121/F718]

Furthermore, even though it became clear that she was not going to the island, Ms Heard still suggested meeting up with Mr Depp's daughter that day or the next. If Mr Depp had actually inflicted serious facial injuries on Ms Heard by beating her up, why was she even considering meeting his daughter who, it must be assumed, would have asked about any such prominent and visible injuries (if Ms Heard's account were correct).

58. In fact, we know that it was that evening, 16th December, when Ms Heard appeared for the recording of the *Late Late Show* with James Corden. There is a clip which the Court will no doubt want to watch of Ms Heard being on this show, as well as a number of still images of her³³. Her appearance is clearly inconsistent with the serious and obvious injuries which she has claimed were inflicted just the night before, namely two black eyes, a busted lip, a broken or seriously damaged nose and torn out hair.

59. Further, Mr Depp will call Samantha McMillen, Ms Heard's stylist, who was also responsible for making her ready for the *Late Late Show* that night. This independent and impartial witness will give evidence that she worked with Ms. Heard that day, saw her without make-up on at all, and saw no visible injuries, bruises, cuts or marks on Ms Heard's face.

60. A couple of days later, on 18th December, we have a further insight into the couple's recent argument, courtesy of a text from Mr Depp to his friend, Isaac Baruch: "...I'm staying up at Sweetzer, for the moment...The PH3 marriage has gone sideways...We've been amazing for like 4 months!!! And then her fuckin' temper. Can't live like that, man... She's gonna fuckin' kill me one day!!!...."³⁴.

61. Another example of one of the more colourful or dramatic stories which is told by her with extensive details is what Ms Heard has referred to as the "three-day hostage situation" in Australia in March 2015 (Incident Eight). In early March, the couple were staying in Australia, Mr Depp arriving earlier to film a *Pirates of the Caribbean* movie. Mr Depp's evidence is that his lawyers had been in contact with Ms Heard about a post-nuptial marital agreement (her

³³ [4/F/151/F897]

³⁴ [7/H/59/H67]

having declined to sign a pre-nuptial agreement, and having got her own way on that) and she was angry as a result.

62. There can be no dispute that Ms. Heard berated him continuously in Australia. Ms Heard describes the couple's confrontation as "*like a three-day hostage situation*". Bearing in mind the presence of security personnel at their property, her version of events is inherently implausible. Ms. Heard's account will be that they argued, and that Mr Depp "cut" off or "broke" his own finger. Mr Depp says that during an argument she threw two vodka bottles at him, one of which smashed onto his finger as it rested on a marble bar top, severing part of it entirely (although he was keen to cover for Ms Heard for having caused it in this way). This act of violence required hospitalization and surgery for Mr Depp as the rather graphic photographs demonstrate.
63. By contrast, despite claiming multiple injuries herself during her account of prolonged violence towards her over this three-day ordeal (some of which she has requested only be heard in private given its horrific nature), Ms Heard did not seek or require any medical attention either whilst in Australia or when she returned to Los Angeles without Mr Depp (it was Mr Depp who asked Ms Heard to leave, and not the other way around). Furthermore, there will be evidence called by him from those who were present and saw her at the time, evidence which shows the absence of injuries consistent with her horrific account.
64. It is striking that, despite (so Ms Heard says) having made a conscious decision to 'catalogue' Mr Depp's allegedly violent behaviour, the only photos she took from Australia appear to be of the house. There are no photographs of Ms Heard's apparent injuries despite the days of brutality she claims to have endured. Bearing in mind her stated decision to document matters, her failure to do so is telling.
65. Finally, there is the night of 21st May 2016, the last incident of alleged violence (Incident Fourteen). The day after Mr Depp's mother passed away, he returned to his penthouse flat where Ms Heard was still staying (with her friends installed next door) in order to break the news that he wanted to bring a final end to their marriage. This was Mr Depp (the claimed abuser) bringing the marriage to an end, not Ms Heard (the claimed victim).

66. Ms Heard's account of events is that in the ensuing argument (partly over the human faeces left on his bed by Ms Heard or her friends), Mr Depp apparently 'wound back his arm like a baseball pitcher' and threw her phone at her face as hard as he could from point-blank range, causing her facial bruising to her right eye and to cry out with pain. He then grabbed her hair and started yanking it around, slapping and shaking her. She says that because of her fears, she had already arranged for her friend, Raquel (or "Rocky") to come over and another was then put on speakerphone, iO Tillett Wright, supposedly to hear what was going on. The police were called and arrived, as did Mr Depp's security team.
67. The two Los Angeles Police Department officers who attended the scene, one of them a very experienced officer in domestic abuse cases, have already given a deposition in the US proceedings. Their independent evidence completely refutes the account given by Ms Heard. They saw absolutely no signs of any injuries to Ms Heard's face, no bruising or swelling or anything else, thereby entirely contradicting her account of the violence she says she suffered at Mr Depp's hands only shortly beforehand. They have been asked to attend Court for this trial as well.
68. That's not all. Mr Depp will also call evidence from the concierge team that worked at the apartment block, who also confirm that they saw no visible injuries at all on Ms Heard's face in the days following the incident. Quite the opposite. There are also images of her which have been captured on CCTV footage from the building in the days following this alleged incident, footage which shows Ms Heard without any sign of facial injury, despite her account to the contrary³⁵.
69. In addition, there is a photograph taken at the party she attended for her friend, Amanda de Cadenet, the very next day (22nd May), which shows a smiling and flawless looking Ms Heard, devoid of any such facial injuries³⁶.
70. And yet by 27th May, Ms Heard attends the Los Angeles Courthouse to seek her ex parte temporary restraining order against Mr Depp for alleged

³⁵ [4/F/159/F989] [Multimedia USB: F159].

³⁶ [9/F/148/F894.234]

domestic violence, very publicly sporting what appears to be the facial injuries which she claims she suffered during the incident.

71. On any view, it was a busy week for Ms Heard. Not only did she decide to file her petition for divorce (ahead of Mr Depp) on 25th May, she also prepared and filed a request for temporary restraining order against him for the application on 27th May. In addition, she also had a furtive liaison with Mr Franco (as the CCTV footage shows) on 22nd May, hours after the alleged incident of brutality, and she was simultaneously in communication with Mr Musk, the billionaire businessman with whom she had clearly had liaisons during the course of her relationship with Mr Depp, and who wanted to restore their liaison, as they plainly did shortly afterwards.

72. There will be a lot to say about this final incident on 21st May, not least because it is the one which Ms Heard principally cited in order to obtain the temporary restraining order which first made her allegation of physical violence by Mr Depp (albeit now much embellished, adapted and added to), and the supposed fear for her life, a matter of public knowledge. For the moment, it is sufficient to say that this allegation of violence is yet another lie. Again, if the Court finds that the evidence demonstrates no such injuries were sustained by Ms Heard, and she has manufactured this too, then given the significance which was placed on this alleged incident so publicly by Ms Heard, it is hard to see how it can accept any part of her account of being a victim of physical violence.

Meaning, the Defence of Truth, and the Burden and Standard of Proof

73. That was a relatively brief summary of some of the main incidents that surround the principal question to be decided by the Court in this case, namely whether the article is true or not, in the meaning which we say it bears.

74. Although the Court may understandably feel that it is not one which will occupy it for long, there is still a measure of dispute between the parties, or so it appears on the statements of case, as to the meaning of the article complained of. We say it is beyond doubt that it unequivocally states that Mr Depp is guilty of serious physical abuse (i.e. in terms of levels of gravity, it clearly conveys a meaning of *guilt*). This seems to be agreed by the

Defendants, as does the fact that the article also suggests that (a) Mr Depp ‘caused [Ms Heard] significant injury’ and (b) that he was so violent and dangerous that he put her in fear for her life. Put shortly, there is no dispute between the parties therefore that the article accuses Mr Depp of extreme and repeated violence, nor could there sensibly be any.

75. However, *Mr Wootton* and *The Sun* appear to challenge the suggestion that the hook for the article was a decision by Ms Rowling (whom they accuse of being a “Hollywood Hypocrite”) to stand by her casting of Mr Depp in the then forthcoming film from the Harry Potter series, *Fantastic Beasts*. If it needs to be spelt out, this casting decision is mentioned in the headlines, as well as in the body of the article itself, and a photo caption too. The outrage professed by Mr Wootton (its author) at the decision to give Mr Depp a leading role in this major film, despite it being overwhelmingly clear that he is a wife-beater (or so says Mr Wootton) is an essential and damning element of what the article is trying to achieve. Indeed, it is off the back of this that Mr Depp is said to be unfit to work in the film industry at all, a statement to which false credibility is lent by the misuse of a quote from the highly-respected #MeToo campaigner and Weinstein victim, Ms Kendall.

76. As I say, this measure of dispute about the meaning of the article may not trouble the Court for too long but it has been raised by the Defendants.

77. Once the Court has made its finding as to what the article meant, then really there are only two issues left to decide. The first is whether the allegations published by the Defendants are true. If it finds that they are untrue, as we say they are, then the Court will proceed to make an award of damages. It will come as no surprise to hear that this is not a case about money. It is about vindication. Mr Depp has made that clear at various hearings. That is why he has come here, to clear his reputation, and if the Court finds that it has been wrongly traduced by Mr Wootton and *The Sun*, then it will determine the appropriate figure to reflect the seriousness of the allegations, the way in which they were published and their likely impact. I will address you on that, the relevant factors and the correct approach that should be taken to this issue (although the Court will be familiar with these principles) at the end of the case.

78. In the meantime, there is only one more thing left to say about the Defence, and the position of the Defendants. As I have already explained, whatever may be said of Ms Heard's motives for publicly making such allegations, starting back in May 2016, Mr Wootton and *The Sun* chose deliberately and wholeheartedly to endorse them. There was no reason to do so, let alone to do it with such vehemence.
79. It is important to remember, as the Court no doubt will, that where in an action for libel a defendant seeks to prove that the claimant is guilty of what amounts to a criminal offence, there needs to be cogent or compelling evidence of the charge before the Court can find the matter proved. Lawyers talk about the need for *compelling and cogent evidence* where criminal allegations are made in a civil context; the public would see this as the operation of the presumption of "innocent until proven guilty". This principle squarely applies to this case.
80. It is against that starting point that *Mr Wootton* and *The Sun* need to prove their allegations. They chose to repeat and endorse the allegations that Mr Depp is a wife-beater, guilty of serious physical and unprovoked assaults on Ms Heard; they have chosen to persist in defending them in these proceedings, and now they must prove them to this Court to the requisite level.
81. That is the Claimant's opening, and with that introduction, and with your Lordship's permission, we call our first witness, Mr Depp.

DAVID SHERBORNE
KATE WILSON
5RB

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