

**VIRGINIA:**

**IN THE CIRCUIT COURT OF FAIRFAX COUNTY**

JOHN C. DEPP, II,

Plaintiff,

v.

AMBER LAURA HEARD,

Defendant.

Civil Action No.: CL-2019-0002911

**PLAINTIFF JOHN C. DEPP, II'S MEMORANDUM IN SUPPORT OF OBJECTION TO  
IMPROPER ARGUMENT AND MOTION FOR A CURATIVE INSTRUCTION AND  
REVISED SPECIAL VERDICT FORM**

Plaintiff John C. Depp, II, by and through his undersigned counsel, hereby moves this Honorable Court to (i) strike defendant's inappropriate argument made during closing argument on May 27, 2022 and instruct the jury to disregard the inappropriate argument and (ii) revise the Special Verdict Form with respect to Mr. Depp's affirmative claims against Ms. Heard to conform to the language adopted by the Court in the Jury Instructions.

**ARGUMENT**

**1. The Court Should Provide A Curative Jury Instruction**

During closing arguments on May 27, 2022, counsel for Ms. Heard told the jury that their decision in this case would send a message to “every victim of domestic abuse everywhere.” Tr. of Jury Trial Day 25 (May 27, 2022) at 7812:17-18.<sup>1</sup> Counsel for Ms. Heard also stated that “[a] ruling against Amber here sends a message that no matter what you do as an abuse victim, you

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<sup>1</sup> Relevant excerpts of the closing argument given by Ms. Heard’s counsel on May 27, 2022 are attached hereto as Exhibit A.

always have to do more. No matter what you document, you always have to document more. No matter whom you tell, you always have to tell more people. No matter how honest you are about your own imperfections and your own shortcomings in a relationship, you have to be perfect in order for people to believe you. Don't send that message. That's what [Mr. Depp] wants you to send." *Id.* at 7879:19-7880:7.

The remarks made by Ms. Heard's counsel to the jury "improperly invite the jury to focus on a larger social objective beyond the [case]." *Plymail v. Mirandy*, 8 F.4th 308, 317 (4th Cir. 2021) ("Prosecutors violate this edict when they stray beyond the defendant's crimes and ask the jury to convict in order to 'send a message to the community.'") (quoting *United States v. Runyon*, 707 F.3d 475, 514 (4th Cir. 2013)); *Cnty. Sch. Bd. of Orange Cnty. v. Thomas*, 201 Va. 608, 608, 112 S.E.2d 877 (1960) (finding no error where trial court instructed the jury to disregard parts of counsel for plaintiff's closing argument in which he made an improper appeal for sympathy). Indeed, "[a]n attorney must not ask a jury to 'send a message' to anyone . . . Juries are not in the message-sending business. Their sole duty is to return a verdict based on the facts before them. Urging a jury to 'send a message' is impermissible because it implies that there is a reason to find the defendant guilty other than what the evidence has show." *Bowman v. United States*, 652 A.2d 64, 71 (D.C. 1994).

Such argument by Ms. Heard's counsel improperly invites the jury to decide the case "based on passion and prejudice" and a specific jury instruction is necessary to cure this impropriety. *United States v. Sanchez*, 659 F.3d 1252, 1259-60 (9th Cir. 2011) (finding that "Bracy does not compel the conclusion that a generalized jury instruction that the statements of counsel are not evidence is sufficient to dispel the level and type of prejudice generated by the

prosecutor in this case” and, accordingly, “that the general instructions the district court gave to the jury were insufficient to mitigate the prejudice of the ‘send a memo’ statement”).

Mr. Depp hereby requests that the Court instruct the jury to disregard this argument and read the instructions as reflected in the proposed Order submitted herewith. The Court has discretion to give this curative instruction. *Johnson v. Raviotta*, 264 Va. 27, 33, 563 S.E.2d 727, 731 (2002) (“an objection must be made contemporaneously with the introduction of the objectionable evidence or at a point in the proceeding when the trial court is in a position, not only to consider the asserted error, but also to rectify the effect of the asserted error”). Mr. Depp’s request for this curative instruction during deliberations is substantively similar to the curative instruction Justice McCullough advocated for in his dissenting opinion in Maxwell. *See Maxwell v. Commonwealth*, 287 Va. 258, 273–74, 754 S.E.2d 516, 524 (2014) (McCullough, J., dissenting).

## **2. The Court Should Correct The Verdict Form To Conform To The Jury Instructions**

Mr. Depp also requests that minor corrections be made to the Special Verdict Form with respect to Mr. Depp’s affirmative claims against Ms. Heard, to conform to the language adopted by the Court in the Jury Instructions.<sup>2</sup> Mr. Depp’s proposed changes to the Verdict Form are necessary to correct an inconsistency between the Jury Instructions and Verdict Form that could confuse or mislead the jury, and merely track the substance of the Court’s prior rulings. Specifically, the question in the Verdict Form that reads “The statement was false” should be modified consistent with the language adopted by the Court in the finding instructions, to read as follows: “The statement about Mr. Depp was false?”

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<sup>2</sup> Attached as Exhibit B is a version of the Special Verdict Form with Mr. Depp’s proposed changes. Attached as Exhibit C is a redlined version of the Special Verdict Form reflecting the edits.

In addition, the order of questions in the Verdict Form should be adjusted slightly to conform to the order of the Jury Instructions. The current order of questions in the Verdict Form is as follows:

1. The statement was made or published by Ms. Heard?
2. The statement was about Mr. Depp?
3. The statement was false?
4. The statement has a defamatory implication about Mr. Depp?
5. The defamatory implication was designed and intended by Ms. Heard?
6. Due to circumstances surrounding the publication of the statement, it conveyed a defamatory implication to someone who saw it other than Mr. Depp?

Mr. Depp's proposed revised order is below, with the proposed additional language included in bold, underlined font:

1. The statement was made or published by Ms. Heard?
2. The statement was about Mr. Depp?
3. The statement has a defamatory implication about Mr. Depp?
4. The defamatory implication was designed and intended by Ms. Heard?
5. Due to circumstances surrounding the publication of the statement, it conveyed a defamatory implication to someone who saw it other than Mr. Depp?
6. The statement **about Mr. Depp** was false?

## **CONCLUSION**

Based on the foregoing, the Court should grant Plaintiff's motion, instruct the jury with the language reflected in the proposed Order, and revise the Special Verdict Form.

Respectfully submitted,

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Counterclaim Defendant John C. Depp, II*

Dated: May 31, 2022

## **EXHIBIT A**

Conducted on May 27, 2022

	7810		7812
1	requires them to find all three.	1	THE COURT: Okay.
2	THE COURT: Okay. So you want us to	2	(Whereupon, the jury entered the
3	change the last page, if you answered yes to all	3	courtroom and the following proceedings took
4	the questions.	4	place.)
5	MS. BREDEHOFT: To be any --	5	THE COURT: All right. Thank you. You
6	THE COURT: No, all the questions --	6	may be seated. All right. Closing arguments,
7	well, all the questions in 1, all the questions in	7	Mr. Rottenborn.
8	2, and all the questions in 3.	8	MR. ROTTENBORN: Thank you, Your Honor.
9	MS. BREDEHOFT: Or.	9	THE COURT: Okay. Thank you.
10	MR. ROTTENBORN: 1, 2, 4, 3.	10	MR. ROTTENBORN: Good morning,
11	THE COURT: You see what I'm saying? I	11	everyone.
12	can explain that to them, if you want.	12	They're trying to convince you that
13	MS. BREDEHOFT: I think that would be	13	Mr. Depp has carried his burden of proof in
14	helpful.	14	proving that he was never abusive to Amber on even
15	THE COURT: At the end, I'll explain	15	one occasion. Think about the message that
16	that to them. That means you have to answer all	16	Mr. Depp and his attorneys are sending to Amber,
17	the questions.	17	and by extension, to every victim of domestic
18	MS. BREDEHOFT: Because I think it	18	abuse everywhere. If you didn't take pictures, it
19	works --	19	didn't happen. If you did take pictures, they're
20	THE COURT: You created the form,	20	fake. If you didn't tell your friends, you're
21	right?	21	lying. And if you did tell your friends, they're
22	MR. ROTTENBORN: Yes.	22	part of the hoax. If you didn't seek medical
	7811		7813
1	THE COURT: So, I'm correct, right?	1	treatment, you weren't injured. If you did seek
2	MR. ROTTENBORN: Yes, that's right.	2	medical treatment, you're crazy.
3	The or.	3	If you do everything that you can to
4	THE COURT: I'll explain that to them,	4	help your spouse, the person that you love, rid
5	make sure we have it right.	5	himself of the crushing drug and alcohol abuse
6	MS. BREDEHOFT: Thank you, Your Honor.	6	that spins him into an abusive, rage-filled
7	THE COURT: Did you break that too?	7	monster, you're a nag. And if you finally decide
8	MS. VASQUEZ: I don't think so. It's	8	that enough is enough, you've had enough of the
9	still on, so that's a good thing.	9	fear, enough of the pain and you have to leave to
10	MR. CHEW: Keep laughing. It's my	10	save yourself, you're a gold digger.
11	fault.	11	This is the message that Mr. Depp is
12	THE COURT: Let's make it 11:10 now.	12	asking you to send. But he doesn't stop there,
13	MS. VASQUEZ: Thank you, Your Honor.	13	because in Mr. Depp's world, you don't leave
14	THE COURT: We'll come back at 11:10,	14	Mr. Depp. And if you do, he will start a campaign
15	okay. 11:10. Thank you.	15	of global humiliation against you. A smear
16	THE BAILIFF: All rise.	16	campaign that lasts to this very day. He will do
17	(Recess taken from 10:47 a.m. to	17	everything he can to destroy your life, to destroy
18	11:10 a.m.)	18	your career. That is what they're saying, ladies
19	THE BAILIFF: All rise. Please be	19	and gentlemen.
20	seated.	20	And that's what they're trying to get
21	THE COURT: Are we ready for the jury?	21	you, the jury, to be an accomplice to. But it's
22	MS. BREDEHOFT: Yes, Your Honor.	22	not surprising because Mr. Depp cannot and will

Conducted on May 27, 2022

<p>7814</p> <p>1 not take responsibility for his own actions. It's 2 always someone else's fault.</p> <p>3 Just as Ms. Vasquez did and Mr. Chew 4 did, I would like to extend my thanks to you on 5 behalf of Amber and our whole legal team for the 6 care and the diligence at which you have served as 7 jurors in this matter.</p> <p>8 You've paid attention to every witness, 9 every piece of evidence, and I can't even imagine 10 the sacrifice that you've made in terms of time 11 away from your friends, your family, your job, to 12 be here on this jury. It's a very important role 13 you're serving, and we thank you very much.</p> <p>14 Let's pick up where we started 15 six weeks ago in opening statements. You may 16 remember that I asked you to keep a simple 17 question in mind, which is "why are you here?"</p> <p>18 And much of what you've heard during 19 the course of this trial, you don't need to make a 20 decision on in order to return a verdict for 21 Ms. Heard on Mr. Depp's claim of defamation.</p> <p>22 Now, we'll talk about Ms. Heard's claim</p>	<p>7816</p> <p>1 know, here and there over the course of the trial, 2 but the vast majority of this trial has not 3 focused on these words, on this piece. This is 4 obviously the paper edition. There's the online 5 edition as well. Now we get a chance to discuss 6 with you exactly what you have to find about this 7 article. Let's try this again.</p> <p>8 This is one of the jury instructions 9 that you'll get, and I've been so looking forward 10 to being able to actually explain to you -- as the 11 judge read all the instructions to you this 12 morning, and I know it was a lot -- but we've been 13 looking forward to being able to explain to you 14 what you're here to decide. Because I imagine for 15 some of the case, it's been kind of unclear what 16 are you being asked to decide.</p> <p>17 These are the things that you have to 18 find, and you have to answer yes. As Mr. Chew 19 said, you have to answer yes to all of them in 20 order to find in favor of Mr. Depp.</p> <p>21 So you have to find that the statement 22 was about Mr. Depp. And you can decide that in</p>
<p>7815</p> <p>1 of defamation against Mr. Depp, and Elaine will 2 address most of that in a few minutes.</p> <p>3 But your key question to answer is, 4 does the First Amendment give Ms. Heard the right 5 to write the words that she wrote in this article 6 on December 18th, 2018? That's the question.</p> <p>7 And you cannot simultaneously protect 8 and uphold the First Amendment and find in favor 9 of Johnny Depp on his claim. You simply cannot. 10 You have to decide, should someone be able to 11 write an article like that in the United States of 12 America without being sued successfully, without 13 having to go through the hell that Ms. Heard has 14 gone through?</p> <p>15 So let's talk about that. And to do 16 that, we get to explain a bit more about the law 17 that you have to follow.</p> <p>18 This is the op-ed piece. I'm not going 19 to read it to you again. You heard me read it to 20 you in opening statements. And I would urge you, 21 when you're in the deliberation room, read it. 22 Read it again. And I know we focused on it, you</p>	<p>7817</p> <p>1 the context of the article. And I'll get to the 2 arguments that Mr. Depp raises on that in a 3 minute.</p> <p>4 You also have to find that the 5 statement is false. And we're going to look at 6 the statements here. And we're going to look at 7 each of the three statements, and in order to win 8 his claim, Mr. Depp has to prove every single 9 element. And there's a concept in the jury 10 instructions that you really didn't hear from 11 Mr. Depp's side this morning, but you've all heard 12 it, I'm sure, outside the courtroom, which is 13 "burden of proof." It is Mr. Depp's burden to 14 prove each and every one of these elements. If he 15 cannot, Ms. Heard wins. If he cannot prove each 16 and every one of these elements, under the burden 17 of proof that's applicable, Ms. Heard wins.</p> <p>18 And there's two different burdens of 19 proof that we'll get to. For all of them except 20 Number 7, the burden of proof is greater weight of 21 the evidence. So you weigh the evidence, and you 22 decide has Mr. Depp proven to you the first six</p>

Conducted on May 27, 2022

	7878		7880
1	up directly with a phone, there's been no	1	more. No matter whom you tell, you always have to
2	testimony that those are faked.	2	tell more people. No matter how honest you are
3	Mr. Depp went through the house. He	3	about your own imperfections and your own
4	destroyed pictures of her friends. That's abuse.	4	shortcomings in a relationship, you have to be
5	Property destruction like that, in and of itself,	5	perfect in order for people to believe you.
6	it's abuse. He destroyed her office. He	6	Don't send that message. That's what
7	destroyed her friend Rocky Pennington's	7	he wants you to send.
8	preparation for the bead show that she was having.	8	So I'm going to quickly get to another
9	He spilled wine in the hallway that you'll notice	9	point that you have to find in order to prove --
10	the police denied. "Oh, there was no spilled wine	10	10 or to rule for Mr. Depp. You would have to find
11	11 in the hallway."	11	11 that Ms. Heard made the statements with actual
12	Well, even Isaac Baruch testified that	12	12 malice. Now, what Mr. Chew didn't tell you is
13	13 he saw this in the hallway. And they said she	13	13 that you have to find this by clear and convincing
14	14 never said anything to her medical providers.	14	14 evidence. So this is much higher than the greater
15	15 These are the texts that she sent to her nurse,	15	15 weight of the evidence standard that applies to
16	16 Erin Falati, the night that it happened. These	16	16 the other claims, the other elements of the claim.
17	17 are pictures of her in the courtroom.	17	17 Clear and convincing evidence is evidence that
18	We're not going to play this right now,	18	18 creates in your minds a firm belief or conviction
19	19 but you can listen to this. This is that terribly	19	19 that Mr. Depp has proved this issue.
20	20 disturbing text of him in July 2016 threatening to	20	So if you believe that Ms. Heard did
21	21 cut himself and telling her, "You cut me or I	21	not act maliciously in writing her op-ed, then you
22	22 will." You all remember playing that. It was	22	must return a verdict for Ms. Heard, even if you
	7879		7881
1	awful. It was awful, and I'm not going to play it	1	think that he never abused her.
2	again, but it was horrible. That, in and of	2	But we can -- I'll quickly go over the
3	3 itself, is abusive.	3	evidence of this. The op-ed, you look at the
4	This is the document that Mr. Depp	4	4 words; it clearly wasn't a hit piece. She visited
5	signed, the divorce agreement, where he says --	5	5 her attorney, Eric George, who testified by video
6	6 signed -- in agreement with his signature,	6	6 that his objective was to make sure that there
7	7 "Neither party has made false accusations for	7	7 could be no meritorious claim that could be
8	8 financial gain." He said that then. He could	8	8 brought about this article relating to defamation.
9	9 have fought this then, but he didn't because he	9	9 He gave Ms. Heard advice. She affirmatively
10	10 knew that her allegations were true.	10	10 followed all of it. So you cannot find that
11	But then he continued his campaign of	11	11 Ms. Heard met the clear and convincing evidence
12	12 humiliation. He says, "I want her replaced on	12	12 standard, given the testimony of Eric George,
13	13 that WB film." Ladies and gentlemen, the facts	13	13 given the testimony of Terrence Dougherty from the
14	14 are absolutely overwhelming of abuse. One time,	14	14 ACLU, when Amber went out of her way to ask her
15	15 that's all you have to remember. Mr. Depp simply	15	15 lawyer if it was okay.
16	16 cannot prove to you that he never once abused	16	They will say doesn't matter if she's
17	17 Amber, and if you don't know, you have to return a	17	17 lying, but even if that isn't -- they will say
18	18 verdict for Ms. Heard.	18	18 that that doesn't matter, if she's lying, but even
19	A ruling against Amber here sends a	19	19 that isn't true. Because, again, keep in mind
20	20 message that no matter what you do as an abuse	20	20 that if Ms. Heard wanted to be malicious toward
21	21 victim, you always have to do more. No matter	21	21 Mr. Depp, the article would be very different.
22	22 what you document, you always have to document	22	22 And I think it's interesting here -- and we'll

## **EXHIBIT B**

## **SPECIAL VERDICT FORM**

### **Mr. Depp's Claim Against Ms. Heard**

This special verdict form includes each of the statements on which **John C. Depp, II** bases his claim of defamation against **Amber Heard**. Answer the questions in accordance with the Court's instructions.

1. As to this statement appearing in the online op-ed, entitled "Amber Heard: I spoke up against sexual violence—and faced our culture's wrath. That has to change" in the *Washington Post*'s online edition:

"I spoke up against sexual violence—and faced our culture's wrath. That has to change."

1(a). Do you find that Mr. Depp has proven all the elements of defamation?

**ANSWER YES OR NO:** \_\_\_\_\_

**If you answer question 1(a) "NO," please proceed to question 2.**

If you answered "YES," please answer YES or NO to the following questions: Has Mr. Depp proven by a greater weight of the evidence that:

The statement was made or published by Ms. Heard? \_\_\_\_\_

The statement was about Mr. Depp? \_\_\_\_\_

The statement has a defamatory implication about Mr. Depp? \_\_\_\_\_

The defamatory implication was designed and intended by Ms. Heard?

Due to circumstances surrounding the publication of the statement, it conveyed a defamatory implication to someone who saw it other than Mr. Depp? \_\_\_\_\_

The statement about Mr. Depp was false? \_\_\_\_\_

1(b). If you answered "YES" to each subpart of question 1(a), answer the following question: do you find that Mr. Depp has proven by **clear and convincing evidence** that Ms. Heard acted with **actual malice**?

**ANSWER YES OR NO:** \_\_\_\_\_

2. As to this statement appearing in the op-ed entitled “*A Transformative Moment For Women*” in the *Washington Post*’s print edition and the online op-ed “Amber Heard: I spoke up against sexual violence—and faced our culture’s wrath. That has to change” in the *Washington Post*’s online edition:

“Then two years ago, I became a public figure representing domestic abuse, and I felt the full force of our culture’s wrath for women who speak out.”

2(a). Do you find that Mr. Depp has proven all the elements of defamation?

**ANSWER YES OR NO: \_\_\_\_\_**  
**If you answer question 2(a) “NO,” please proceed to question 3.**

If you answered “YES,” please answer YES or NO to the following questions: Has Mr. Depp proven by a greater weight of the evidence that:

The statement was made or published by Ms. Heard? \_\_\_\_\_

The statement was about Mr. Depp? \_\_\_\_\_

The statement has a defamatory implication about Mr. Depp? \_\_\_\_\_

The defamatory implication was designed and intended by Ms. Heard? \_\_\_\_\_

Due to circumstances surrounding the publication of the statement, it conveyed a defamatory implication to someone who saw it other than Mr. Depp? \_\_\_\_\_

The statement about Mr. Depp was false? \_\_\_\_\_

2(b). If you answered “YES” to each subpart of question 2(a), answer the following question: do you find that Mr. Depp has proven by **clear and convincing evidence** that Ms. Heard acted with **actual malice**?

**ANSWER YES OR NO: \_\_\_\_\_**

3. As to this statement appearing in the op-ed entitled “*A Transformative Moment For Women*” in the *Washington Post*’s print edition and the online op-ed “Amber Heard: I spoke up against sexual violence—and faced our culture’s wrath. That has to change” in the *Washington Post*’s online edition:

“I had the rare vantage point of seeing, in real time, how institutions protect men accused of abuse.”

3(a). Do you find that Mr. Depp has proven all the elements of defamation?

**ANSWER YES OR NO: \_\_\_\_\_**  
**If you answer question 3(a) “NO,” please proceed to question 4.**

If you answered “YES,” please answer YES or NO to the following questions: Has Mr. Depp proven by a greater weight of the evidence that:

The statement was made or published by Ms. Heard? \_\_\_\_\_

The statement was about Mr. Depp? \_\_\_\_\_

The statement has a defamatory implication about Mr. Depp? \_\_\_\_\_

The defamatory implication was designed and intended by Ms. Heard? \_\_\_\_\_

Due to circumstances surrounding the publication of the statement, it conveyed a defamatory implication to someone who saw it other than Mr. Depp? \_\_\_\_\_

The statement about Mr. Depp was false? \_\_\_\_\_

3(b). If you answered “YES” to each subpart of question 3(a), answer the following question: do you find that Mr. Depp has proven by **clear and convincing evidence** that Ms. Heard acted with **actual malice**?

**ANSWER YES OR NO: \_\_\_\_\_**

**Complete Questions 4-5 ONLY if you answered YES to all of questions 1, 2, or 3.**

4. As against **Amber Heard**, state the amount of **compensatory damages**, if any, you believe **John C. Depp, II** has proven, by a greater weight of the evidence, that he is entitled to recover:

We, the Jury, award **compensatory damages** in the amount of \$\_\_\_\_\_.

5. As against **Amber Heard** state the amount of **punitive damages**, if any, to which you find **John C. Depp, II** is entitled to recover:

We, the Jury, award **punitive damages** in the amount of \$\_\_\_\_\_.

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DATE

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SIGNATURE OF FOREPERSON

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PRINTED NAME OF FOREPERSON

## **SPECIAL VERDICT FORM**

### **Ms. Heard's Claim Against Mr. Depp**

This special verdict form includes each of the statements on which **Amber Heard** bases her claim of defamation against **John C. Depp, II**. Answer the questions in accordance with the Court's instructions.

1. As to this statement appearing in the April 8, 2020 online edition of *The Daily Mail*:

“Amber Heard and her friends in the media use fake sexual violence allegations as both a sword and shield, depending on their needs. They have selected some of her sexual violence hoax ‘facts’ as the sword, inflicting them on the public and Mr. Depp.”

1(a). Do you find that Ms. Heard has proven all the elements of defamation?

**ANSWER YES OR NO: \_\_\_\_\_**

**If you answer question 1(a) “NO,” please proceed to question 2.**

If you answered “YES,” please answer YES or NO to the following questions: Has Ms. Heard proven by a greater weight of the evidence that:

Mr. Waldman, while acting as an agent for Mr. Depp, made or published the statement? \_\_\_\_\_

The statement was about Ms. Heard? \_\_\_\_\_

The statement was seen by someone other than Ms. Heard? \_\_\_\_\_

The statement was false? \_\_\_\_\_

1(b). If you answered “YES” to each subpart of question 1(a), answer the following question: do you find that Ms. Heard has proven by **clear and convincing evidence** that the statement by Mr. Waldman was made with **actual malice**?

**ANSWER YES OR NO: \_\_\_\_\_**

2. As to this statement appearing in the April 27, 2020 online edition of *The Daily Mail*:

“Quite simply this was an ambush, a hoax. They set Mr. Depp up by calling the cops but the first attempt didn’t do the trick. The officers came to the penthouses, thoroughly searched and interviewed, and left after seeing no damage to face or property. So Amber and her friends spilled a little wine and roughed the place up, got their stories straight under the direction of a lawyer and publicist, and then placed a second call to 911.”

2(a). Do you find that Ms. Heard has proven all the elements of defamation?

**ANSWER YES OR NO: \_\_\_\_\_**

**If you answer question 2(a) “NO,” please proceed to question 2.**

If you answered “YES,” please answer YES or NO to the following questions: Has Ms. Heard proven by a greater weight of the evidence that:

Mr. Waldman, while acting as an agent for Mr. Depp, made or published the statement? \_\_\_\_\_

The statement was about Ms. Heard? \_\_\_\_\_

The statement was seen by someone other than Ms. Heard? \_\_\_\_\_

The statement was false? \_\_\_\_\_

2(b). If you answered “YES” to each subpart of question 2(a), answer the following question: do you find that Ms. Heard has proven by **clear and convincing evidence** that the statement by Mr. Waldman was made with **actual malice**?

**ANSWER YES OR NO: \_\_\_\_\_**

3. As to this statement appearing in the April 27, 2020 online edition of *The Daily Mail*:

“[W]e have reached the beginning of the end of Ms. Heard’s abuse hoax against Johnny Depp.”

3(a). Do you find that Ms. Heard has proven all the elements of defamation?

**ANSWER YES OR NO: \_\_\_\_\_**

**If you answer question 3(a) “NO,” please proceed to question 4.**

If you answered “YES,” please answer YES or NO to the following questions: Has Ms. Heard proven by a greater weight of the evidence that:

Mr. Waldman, while acting as an agent for Mr. Depp, made or published the statement? \_\_\_\_\_

The statement was about Ms. Heard? \_\_\_\_\_

The statement was seen by someone other than Ms. Heard? \_\_\_\_\_

The statement was false? \_\_\_\_\_

3(b). If you answered “YES” to each subpart of question 3(a), answer the following question: do you find that Ms. Heard has proven by **clear and convincing evidence** that the statement by Mr. Waldman was made with **actual malice**?

**ANSWER YES OR NO: \_\_\_\_\_**

**Complete Questions 4-5 ONLY if you answered YES to all of questions 1, 2, or 3.**

4. As against **John C. Depp, II**, state the amount of **compensatory damages**, if any, you believe **Amber Heard** has proven, by a greater weight of the evidence, that she is entitled to recover:

We, the Jury, award **compensatory damages** in the amount of \$\_\_\_\_\_.

5. As against **John C. Depp, II**, state the amount of **punitive damages**, if any, you to which you find **Amber Heard** is entitled to recover:

We, the Jury, award **punitive damages** in the amount of \$\_\_\_\_\_.

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DATE

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SIGNATURE OF FOREPERSON

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PRINTED NAME OF FOREPERSON

## **EXHIBIT C**

## **SPECIAL VERDICT FORM**

### **Mr. Depp's Claim Against Ms. Heard**

This special verdict form includes each of the statements on which **John C. Depp, II** bases his claim of defamation against **Amber Heard**. Answer the questions in accordance with the Court's instructions.

1. As to this statement appearing in the online op-ed, entitled "Amber Heard: I spoke up against sexual violence—and faced our culture's wrath. That has to change" in the *Washington Post*'s online edition:

"I spoke up against sexual violence—and faced our culture's wrath. That has to change."

1(a). Do you find that Mr. Depp has proven all the elements of defamation?

**ANSWER YES OR NO: \_\_\_\_\_**  
**If you answer question 1(a) "NO," please proceed to question 2.**

If you answered "YES," please answer YES or NO to the following questions: Has Mr. Depp proven by a greater weight of the evidence that:

The statement was made or published by Ms. Heard? \_\_\_\_\_

The statement was about Mr. Depp? \_\_\_\_\_

The statement was false? \_\_\_\_\_

The statement has a defamatory implication about Mr. Depp? \_\_\_\_\_

The defamatory implication was designed and intended by Ms. Heard? \_\_\_\_\_

Due to circumstances surrounding the publication of the statement, it conveyed a defamatory implication to someone who saw it other than Mr. Depp? \_\_\_\_\_

The statement about Mr. Depp was false? \_\_\_\_\_

1(b). If you answered "YES" to each subpart of question 1(a), answer the following question: do you find that Mr. Depp has proven by **clear and convincing evidence** that Ms. Heard acted with **actual malice**?

**ANSWER YES OR NO: \_\_\_\_\_**

2. As to this statement appearing in the op-ed entitled “*A Transformative Moment For Women*” in the *Washington Post*’s print edition and the online op-ed “Amber Heard: I spoke up against sexual violence—and faced our culture’s wrath. That has to change” in the *Washington Post*’s online edition:

“Then two years ago, I became a public figure representing domestic abuse, and I felt the full force of our culture’s wrath for women who speak out.”

2(a). Do you find that Mr. Depp has proven all the elements of defamation?

**ANSWER YES OR NO:** \_\_\_\_\_

**If you answer question 2(a) “NO,” please proceed to question 3.**

If you answered “YES,” please answer YES or NO to the following questions: Has Mr. Depp proven by a greater weight of the evidence that:

The statement was made or published by Ms. Heard? \_\_\_\_\_

The statement was about Mr. Depp? \_\_\_\_\_

\_\_\_\_\_ The statement was false? \_\_\_\_\_

The statement has a defamatory implication about Mr. Depp? \_\_\_\_\_

The defamatory implication was designed and intended by Ms. Heard? \_\_\_\_\_

\_\_\_\_\_ Due to circumstances surrounding the publication of the statement, it conveyed a defamatory implication to someone who saw it other than Mr. Depp? \_\_\_\_\_

\_\_\_\_\_ The statement about Mr. Depp was false? \_\_\_\_\_

2(b). If you answered “YES” to each subpart of question 2(a), answer the following question: do you find that Mr. Depp has proven by **clear and convincing evidence** that Ms. Heard acted with **actual malice**?

**ANSWER YES OR NO:** \_\_\_\_\_

3. As to this statement appearing in the op-ed entitled “*A Transformative Moment For Women*” in the *Washington Post*’s print edition and the online op-ed “Amber Heard: I spoke up against sexual violence—and faced our culture’s wrath. That has to change” in the *Washington Post*’s online edition:

“I had the rare vantage point of seeing, in real time, how institutions protect men accused of abuse.”

3(a). Do you find that Mr. Depp has proven all the elements of defamation?

**ANSWER YES OR NO:** \_\_\_\_\_

**If you answer question 3(a) “NO,” please proceed to question 4.**

If you answered “YES,” please answer YES or NO to the following questions: Has Mr. Depp proven by a greater weight of the evidence that:

The statement was made or published by Ms. Heard? \_\_\_\_\_

The statement was about Mr. Depp? \_\_\_\_\_

The statement was false? \_\_\_\_\_

The statement has a defamatory implication about Mr. Depp? \_\_\_\_\_

The defamatory implication was designed and intended by Ms. Heard? \_\_\_\_\_

Due to circumstances surrounding the publication of the statement, it conveyed a defamatory implication to someone who saw it other than Mr. Depp? \_\_\_\_\_

The statement about Mr. Depp was false? \_\_\_\_\_

3(b). If you answered “YES” to each subpart of question 3(a), answer the following question: do you find that Mr. Depp has proven by **clear and convincing evidence** that Ms. Heard acted with **actual malice**?

**ANSWER YES OR NO:** \_\_\_\_\_



**Complete Questions 4-5 ONLY if you answered YES to all of questions 1, 2, or 3.**

4. As against **Amber Heard**, state the amount of **compensatory damages**, if any, you believe **John C. Depp, II** has proven, by a greater weight of the evidence, that he is entitled to recover:

We, the Jury, award **compensatory damages** in the amount of \$\_\_\_\_\_.

5. As against **Amber Heard** state the amount of **punitive damages**, if any, to which you find **John C. Depp, II** is entitled to recover:

We, the Jury, award **punitive damages** in the amount of \$\_\_\_\_\_.

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SIGNATURE OF FOREPERSON

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## **SPECIAL VERDICT FORM**

### **Ms. Heard's Claim Against Mr. Depp**

This special verdict form includes each of the statements on which **Amber Heard** bases her claim of defamation against **John C. Depp, II**. Answer the questions in accordance with the Court's instructions.

1. As to this statement appearing in the April 8, 2020 online edition of *The Daily Mail*:

“Amber Heard and her friends in the media use fake sexual violence allegations as both a sword and shield, depending on their needs. They have selected some of her sexual violence hoax ‘facts’ as the sword, inflicting them on the public and Mr. Depp.”

1(a). Do you find that Ms. Heard has proven all the elements of defamation?

**ANSWER YES OR NO: \_\_\_\_\_**

**If you answer question 1(a) “NO,” please proceed to question 2.**

If you answered “YES,” please answer YES or NO to the following questions: Has Ms. Heard proven by a greater weight of the evidence that:

Mr. Waldman, while acting as an agent for Mr. Depp, made or published the statement? \_\_\_\_\_

The statement was about Ms. Heard? \_\_\_\_\_

The statement was seen by someone other than Ms. Heard? \_\_\_\_\_

The statement was false? \_\_\_\_\_

1(b). If you answered “YES” to each subpart of question 1(a), answer the following question: do you find that Ms. Heard has proven by **clear and convincing evidence** that the statement by Mr. Waldman was made with **actual malice**?

**ANSWER YES OR NO: \_\_\_\_\_**

2. As to this statement appearing in the April 27, 2020 online edition of *The Daily Mail*:

“Quite simply this was an ambush, a hoax. They set Mr. Depp up by calling the cops but the first attempt didn’t do the trick. The officers came to the penthouses, thoroughly searched and interviewed, and left after seeing no damage to face or property. So Amber and her friends spilled a little wine and roughed the place up, got their stories straight under the direction of a lawyer and publicist, and then placed a second call to 911.”

2(a). Do you find that Ms. Heard has proven all the elements of defamation?

**ANSWER YES OR NO: \_\_\_\_\_**

**If you answer question 2(a) “NO,” please proceed to question 2.**

If you answered “YES,” please answer YES or NO to the following questions: Has Ms. Heard proven by a greater weight of the evidence that:

Mr. Waldman, while acting as an agent for Mr. Depp, made or published the statement? \_\_\_\_\_

The statement was about Ms. Heard? \_\_\_\_\_

The statement was seen by someone other than Ms. Heard? \_\_\_\_\_

The statement was false? \_\_\_\_\_

2(b). If you answered “YES” to each subpart of question 2(a), answer the following question: do you find that Ms. Heard has proven by **clear and convincing evidence** that the statement by Mr. Waldman was made with **actual malice**?

**ANSWER YES OR NO: \_\_\_\_\_**

3. As to this statement appearing in the April 27, 2020 online edition of *The Daily Mail*:

“[W]e have reached the beginning of the end of Ms. Heard’s abuse hoax against Johnny Depp.”

3(a). Do you find that Ms. Heard has proven all the elements of defamation?

**ANSWER YES OR NO: \_\_\_\_\_**

**If you answer question 3(a) “NO,” please proceed to question 4.**

If you answered “YES,” please answer YES or NO to the following questions: Has Ms. Heard proven by a greater weight of the evidence that:

Mr. Waldman, while acting as an agent for Mr. Depp, made or published the statement? \_\_\_\_\_

The statement was about Ms. Heard? \_\_\_\_\_

The statement was seen by someone other than Ms. Heard? \_\_\_\_\_

The statement was false? \_\_\_\_\_

3(b). If you answered “YES” to each subpart of question 3(a), answer the following question: do you find that Ms. Heard has proven by **clear and convincing evidence** that the statement by Mr. Waldman was made with **actual malice**?

**ANSWER YES OR NO: \_\_\_\_\_**

**Complete Questions 4-5 ONLY if you answered YES to all of questions 1, 2, or 3.**

4. As against **John C. Depp, II**, state the amount of **compensatory damages**, if any, you believe **Amber Heard** has proven, by a greater weight of the evidence, that she is entitled to recover:

We, the Jury, award **compensatory damages** in the amount of \$\_\_\_\_\_.

5. As against **John C. Depp, II**, state the amount of **punitive damages**, if any, you to which you find **Amber Heard** is entitled to recover:

We, the Jury, award **punitive damages** in the amount of \$\_\_\_\_\_.

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