

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 7812:17-18.¹ 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

¹ 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 McCulloch advocated for in his dissenting opinion in *Maxwell*. See *Maxwell v. Commonwealth*, 287 Va. 258, 273–74, 754 S.E.2d 516, 524 (2014) (McCulloch, 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.² 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?”

² 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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*Counsel for Plaintiff and
Counterclaim Defendant John C. Depp, II*

Dated: May 31, 2022

EXHIBIT A

Conducted on May 27, 2022

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

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. 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. 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. 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?" 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. 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. 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. 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. 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. 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. 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? 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. 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. 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. 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

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

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 \$_____.

DATE

SIGNATURE OF FOREPERSON

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 \$_____.

DATE

SIGNATURE OF FOREPERSON

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 \$_____.

DATE

SIGNATURE OF FOREPERSON

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 \$_____.

DATE

SIGNATURE OF FOREPERSON

PRINTED NAME OF FOREPERSON