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JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

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 OPPOSITION TO MOTION TO COMPEL EIGHT
REQUEST FOR PRODUCTION AND TAX INFORMATION**

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Ms. Heard's latest motion is wildly inappropriate and represents yet another example of Ms. Heard's abusive discovery tactics. The motion primarily relates to a series of five RFPs that demand depositions, pleadings, discovery responses, and all documents produced in four different litigations, collectively defined as the "Other Litigation." Ms. Heard was not a party to the "Other Litigation," and the abuse claims at issue in this defamation action were not adjudicated in the "Other Litigation." As such, the materials sought are clearly overbroad and irrelevant. The mere fact that Mr. Depp has litigated with other persons has nothing to do with this case, and litigation documents are not relevant, merely by virtue of being litigation documents. Moreover, two of these litigations involved actions between Mr. Depp and his former attorneys and business managers, raising substantial privilege and privacy implications.

Ms. Heard claims that she has narrowed the RFPs to seek documents that relate to topics that are "relevant to this case." These topics are almost comically overbroad. For instance, Ms. Heard's demands the production of all litigation documents that relate to bizarrely vague and open-ended topics such as "witness interactions"; "Mr. Depp's explanations for his conduct"; "claims for damages"; "perception of other person's fault"; "photographs"; and "medical issues." Obviously, these purported limitations do not limit the scope of the RFPs at all, and the RFPs amount to a blanket demand for unrelated documents from unrelated litigation. Ms. Heard's suggestion to the contrary does not pass the straight face test.¹

The Court should deny Ms. Heard's motion *in its entirety*. Her purported foray into unrelated litigations is inappropriate on its face, and Ms. Heard and her counsel should be sanctioned for filing this frivolous and harassing motion.

¹ Ms. Heard's Motion incorrectly represents that counsel for Mr. Depp accepted these limitations as reasonable. Counsel for Mr. Depp agreed to consider proposed modifications to the requests, but never accepted the laundry list of open-ended topics in the Motion as an acceptable narrowing of these RFPs.

I. The “Other Litigation” Is Irrelevant, And Implicates Privilege And Privacy

RFP Nos. 1-5 in Ms. Heard’s Eighth RFPs all relate to “Other Litigation” and are patently inappropriate. The term “Other Litigation” is defined by Ms. Heard to include:

- A case brought by Mr. Depp against his former business managers and attorneys of seventeen years, for, *inter alia*, breach of fiduciary duty and negligence, such as failing to timely pay taxes and mismanaging assets over nearly two decades (“TMG Action”);
- A case brought by Mr. Depp against his former entertainment attorneys, for extensive malpractice and illegal billing over two decades of legal work (the “Bloom Hergott Action”);
- An action between Mr. Depp and two former employees related to alleged violations of California regulatory statutes governing employment; and
- An action between Mr. Depp and an individual named Gregg Brooks, who has alleged that he was struck on the set of a film.

Ms. Heard’s RFP Nos. 1-5 are egregiously overbroad. Unrelated pleadings and discovery materials from *different litigations*, involving *different parties*, and *different issues*, are simply not an appropriate avenue of discovery in this defamation action, which relates to what did or did not transpire between Mr. Depp and Ms. Heard during their brief marriage. The scope of discovery is limited to non-privileged matters that are relevant to the subject matter. Va. S. Ct. Rule 4:1(b) (“Parties may obtain discovery regarding any matter, *not privileged*, which is *relevant to the subject matter* involved in the pending action”) (emphasis added). The Other Litigation is not discoverable under that standard.

Ms. Heard’s attempted foray into the TMG Action and the Bloom Hergott Action are of particular concern, because those litigations were exceptionally complicated and wide-ranging, *involving virtually all aspects of Mr. Depp’s business and financial dealings and legal*

representation over a period of nearly two decades. Vast quantities of documents totaling *millions of pages* were produced and exchanged in discovery in both litigations, by Mr. Depp and *scores of third parties* unrelated to this litigation. The vast majority of such materials were designated “Confidential” in connection with Protective Orders entered by the Superior Court for the County of Los Angeles, California, and the documents, depositions, and discovery responses in those cases relate to *sensitive aspects of Mr. Depp’s business, personal, and privileged legal affairs over a seventeen-year period.* Moreover, numerous documents were exchanged between Mr. Depp and his former managers and attorneys *that would be privileged as to Ms. Heard.*

As noted above, Ms. Heard’s purported limitation of the scope of these RFPs to particular topics is, in reality, no limitation at all, because the topics are ludicrously overbroad and amorphous. Ms. Heard cannot credibly argue that any litigation document that has something to do with “witness interactions”; “Mr. Depp’s explanations for his conduct”; “claims for damages”; “perception of other person’s fault”; “photographs”; and “medical issues” is per se relevant to this action. To the contrary, absent an explanation for how the “Other Litigation” directly relates to the Depp/Heard relationship—which is not the case—*none* of those topics are relevant or appropriate.

In short, Ms. Heard’s attempt to engage in an open-ended fishing expedition into these matters is nothing short of outrageous, and should be rejected out of hand.

II. The Parties Did Not Reach Impasse On RFP Nos. 6-9

True to form, Ms. Heard and her counsel moved to compel RFP Nos. 6-9 before the parties reached impasse.

Ms. Heard’s RFP Nos. 6 and 7 are somewhat odd, in that they seek “documents sufficient to reflect the impact” of various litigation on Mr. Depp’s reputation and career. There is no file

of documents conveniently labelled as reflecting the impact litigation on Mr. Depp's career, rendering these RFPs highly ambiguous and subject to interpretation. It is not entirely clear what documents would even be considered responsive. Nonetheless—as Ms. Heard concedes in her Motion—*Mr. Depp has never refused to produce documents in response to these RFPs*, and agrees in principle that responsive documents, if any are determined to exist, will be produced. (See Motion at pp. 4) (“Plaintiff agreed in its responses and in the meet and confer to produce non-privileged documents that analyze the impact of these litigations on Plaintiff’s career”). The Motion is unnecessary and inappropriate to the extent it demands production of documents that are already agreed to be produced.

As for Ms. Heard’s RFP No. 8, Mr. Depp agrees in principle with producing documents and communications between himself and Walt Disney related to lost career opportunities in response (and, indeed, Mr. Depp believes that there are no such documents in his possession that would be responsive to a request for such documents that have not already been produced). However, a close reading of Ms. Heard’s proposed RFP No. 8 reveals that, like the rest of her requests, it is overbroad. For instance, Ms. Heard demands communications that relate to any “complaints” of any nature; “decisions and timing” (whatever that means); “career decisions” (same—it is unclear what that actually means); “financial compensation” (this would only be appropriate to the extent it relates to damages, i.e., *lost* compensation); and “anything related to Mr. Depp’s Other Litigation” (clearly overbroad, as the “Other Litigation” is not at issue). Mr. Depp is willing to work with Ms. Heard to develop more reasonable parameters for these requests, and there is certainly a subset of documents sought that could be legitimately discoverable. But as posed, this is overbroad and inappropriate.

As for Ms. Heard's open-ended demand in RFP No. 9 for any and all insurance information related to Mr. Depp's role in "any film, movie, television or other project," that request is likewise inappropriate. Mr. Depp would be willing to agree in principle to a narrower request limited to any *claims made* against insurance policies *based on conduct by Mr. Depp* (although Mr. Depp is unaware of any responsive documents in his possession), but Ms. Heard's open-ended demand for any and all insurance information since 2012 is simply not defensible. Insurance information is not automatically relevant.


III. Tax Information

In accordance with this Court's instruction, Mr. Depp produced tax returns reflecting his gross income, as reflected on the tax returns by the loan out companies from which Mr. Depp receives compensation. The tax returns for these entities show his gross income, and the Court was clear that that was all that was required.

IV. Conclusion

Based on the foregoing, the Court should deny Defendant's motion.

Respectfully submitted,


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Dated: November 13, 2020

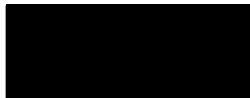
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of October, 2020, I caused true and correct copies of the foregoing Opposition to be served via email (per written agreement between the Parties) on the following:

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