

Claim No QB-2018-006323
 IN THE HIGH COURT OF JUSTICE
 QUEEN'S BENCH DIVISION
 MEDIA AND COMMUNICATIONS LIST
 Royal Courts of Justice,
 Strand,
 London, WC2A 2LL.
 Tuesday, 28th July, 2020
 Before:
 MR. JUSTICE NICOL

BETWEEN:

JOHN CHRISTOPHER DEPP II
 Claimant

-and-

(1) NEWS GROUP NEWSPAPERS LIMITED
 (2) DAN WOOTTON
 Defendants

(Transcript of the Stenograph Notes of
 Marten Walsh Cherer Limited, 2nd Floor, Quality House,
 6-9 Quality Court, Chancery Lane, London, WC2A 1HP.
 Telephone No: 020 7067 2900. Fax No: 020 7831 6864.
 Email: info@martenwalshcherer.com. www.martenwalshcherer.com)

MR. DAVID SHERBORNE, MS. ELEANOR LAWS QC and MS. KATE WILSON
 (instructed by Schillings) appeared for the Claimant.

MS. SASHA WASS QC, MR. ADAM WOLANSKI QC and MS. CLARA HAMER
 (instructed by Simons Muirhead & Burton) appeared for
 the Defendants.

PROCEEDINGS

(DAY 16)

(TRANSCRIPT PREPARED WITHOUT ACCESS TO COURT BUNDLES)

1 CLOSING - SHERBORNE
 2 your Lordship will understand.
 3 There is a series of annexes. The first annex is, as we
 4 say, the defendants' case not put to the claimant.
 5 Your Lordship will recall that I foreshadowed this at one
 6 point earlier in the trial. Then you will find an annex B,
 7 what we call the evolution of incident 2, the so-called
 8 painting incident, which we say changed radically on a number
 9 of occasions during the course of the evidence. As I say,
 10 that is something which I may draw your Lordship's attention
 11 to in due course.
 12 Then there is an annex relating to the Australian
 13 criminal proceedings and what Ms. Heard has said about them,
 14 and I hope that is helpful. Again, I may briefly touch on
 15 this, but that is a more detailed note for your Lordship to
 16 consider. The next annex is a summary of the eye witness
 17 evidence for the period between 21st and 27th May. It
 18 includes, as your Lordship will see, not just the claimant's
 19 witnesses, but also the defendants' witnesses and those from
 20 whom we have not heard.
 21 Then there is the next annex, which is the issue of
 22 Ms. Heard attending the courthouse on 27th May, which we say
 23 was an obvious publicity stunt, and I will touch on that.
 24 Your Lordship will then find two further annexes, first of
 25 all, what we describe as Ms. Heard shifting the blame. There

1 CLOSING - SHERBORNE
 2 MR. JUSTICE NICOL: Yes, Mr. Sherborne.
 3 MR. SHERBORNE: My Lord, before I begin, I do not know whether
 4 your Lordship has received a bundle from us, a hard copy
 5 bundle?
 6 MR. JUSTICE NICOL: Yes.
 7 MR. SHERBORNE: You have. Can I explain to you what it is?
 8 MR. JUSTICE NICOL: Yes.
 9 MR. SHERBORNE: Ms. Wass has asked me and we will provide the
 10 defendants with a copy. As I understand it, we are providing
 11 them very, very shortly with a soft copy. Unfortunately, the
 12 photocopying department at my instructing solicitors is not
 13 working at the moment, and we are having difficulty, but we
 14 have provided in soft copy form. I hope that means that
 15 Ms. Wass and her team can follow, although, to be fair -- and
 16 I will take you through this bundle if I may in a moment -- I
 17 am not going to place much reliance on it at this stage.
 18 Rather like the defendants' bundle, it is intended as
 19 something to assist your Lordship in the task you face of
 20 considering the evidence.
 21 Just to very briefly take you through it, your Lordship
 22 should see, at the front, our closing skeleton. There is a
 23 confidential annex, just so that your Lordship and everyone
 24 else is aware. It is a very short annex, but it is important
 25 that it is recognised that it is confidential, for reasons

1 CLOSING - SHERBORNE
 2 are a number of incidents where Ms. Heard, in order to meet
 3 the evidence which she was faced with, decided that she would
 4 blame others, and in particular Mr. Depp. Finally, there is a
 5 selection of extracts.
 6 MR. JUSTICE NICOL: Annex X.
 7 MR. SHERBORNE: Annex X, a convenient letter, your Lordship may
 8 feel, which deals with the evidence incident by incident. So
 9 in addition, after I have finished my closing speech, tomorrow
 10 at some point, I will provide your Lordship with a copy of it,
 11 together with the bundle references, which I hope means I can
 12 take this relatively quickly, and I hope that is helpful as
 13 well. For now, your Lordship can put this file away.
 14 MR. JUSTICE NICOL: A couple of authorities have also appeared.
 15 MR. SHERBORNE: That is right. They support the points we have
 16 put in our closing skeleton. I think they are
 17 self-explanatory, if your Lordship works through the skeleton
 18 we have provided.
 19 MR. JUSTICE NICOL: Shall I add those just ---
 20 MR. SHERBORNE: The convenient place for them, I am sure, is
 21 behind the closing skeleton. They are referred to, as
 22 your Lordship will see. For now, as I say, your Lordship can
 23 put that file away and I will begin.
 24 MR. JUSTICE NICOL: Yes.
 25 MR. SHERBORNE: Having sat and listened to almost three weeks of

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1 CLOSING - SHERBORNE
 2 evidence and the defendants' closing submissions yesterday,
 3 and to the accounts given (hugely varying accounts as they
 4 were) of what went on in the relationship between Mr. Depp and
 5 Ms. Heard, it would be easy to lose focus on precisely why we
 6 are all here and, in particular, why the claimant has
 7 subjected himself to days of cross-examination, why so many
 8 individuals have come to give evidence in support of his case,
 9 many of whom no longer work for him even if they did at some
 10 time during the relationship, or have little or no connection
 11 with him at all. There are the two police officers, the
 12 concierges in the Eastern Columbia Building and so on.
 13 So, why are we all here in this courtroom? There is a
 14 short answer to that and a longer one as well. Let us start
 15 with the short one. On 27th April 2018, the The Sun published
 16 an article under the headline "How can JK Rowling be genuinely
 17 happy casting wife beater Johnny Depp in the new Fantastic
 18 Beasts film?" "In his brand new column", it continues, "Dan
 19 Wootton reveals that the Harry Potter author is facing a
 20 significant backlash from the #MeToo movement over her
 21 decision to stand by the casting of Depp despite claims he
 22 beat his ex-wife Amber Heard."
 23 As your Lordship will see from the article, the
 24 newspaper and its executive editor and author, Dan Wootton,
 25 whose name has for some reason been as absent from these

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1 CLOSING - SHERBORNE
 2 proceedings as Mr. Wootton himself, brands Mr. Depp as a wife
 3 beater. Mr. Wootton and the newspaper refer to what it states
 4 in the article as "overwhelming evidence that Mr. Depp engaged
 5 in domestic violence against his wife, Amber Heard"; not just
 6 once, but it states there is a detailed history of domestic
 7 abuse incidents, some of which led to her fearing for her
 8 life.
 9 So serious is the charge that is made against Mr. Depp
 10 that Mr. Wootton calls on the Harry Potter author to make
 11 Warner Brothers Films recast someone else in the role which
 12 Mr. Depp has already shot and was due to be released. It is
 13 so serious that, as Mr. Wootton readily acknowledges in the
 14 article, it would justify a cost of millions for such a
 15 last-minute reshooting of the film. I use the word "charge",
 16 but that is one of the great ironies in this case; there was
 17 no charge ever filed against Mr. Depp, a matter to which
 18 I will return later.
 19 The other point is this. This is not a mere accusation.
 20 The article leaves no room for doubt whatsoever for its
 21 readership of millions, both online and in hard copy form --
 22 no room for doubt at all. Acting as both judge and jury, the
 23 defendants plainly and squarely state that Mr. Depp is guilty,
 24 guilty of what, after all, is a series of serious and violent
 25 criminal offences. As if to lend an air of credibility to the

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1 CLOSING - SHERBORNE
 2 fact that Mr. Depp was definitely guilty of a stream of
 3 physical violence against his former wife, the article states
 4 that he has paid Ms. Heard £5 million to keep these
 5 allegations under wraps. Why else, it says, would you pay
 6 someone that sum of money if it was not true? This is as well
 7 as the fact that the #MeToo movement was up in arms because
 8 they knew Mr. Depp was guilty.
 9 Of course, we know that this air of credibility was a
 10 false one. The £5 million settlement was actually a reference
 11 to the divorce payment. We now have a second witness
 12 statement from Mr. White that explains that it was a much
 13 better deal for Ms. Heard, not least because she was absolved
 14 of the liabilities, which counted far, far higher than the sum
 15 of money she received. Secondly, as Miss Kendall stated in
 16 the text which your Lordship has not seen, but which I will
 17 give you the reference to, which is file 4, tab 122, F730-735
 18 ----
 19 MR. JUSTICE NICOL: Give me those references again.
 20 MR. SHERBORNE: It is file 4, tab 122, pages 730-735.
 21 MR. JUSTICE NICOL: And that is a text about ----
 22 MR. SHERBORNE: That is a text from Miss Kendall to the
 23 defendants, in which she says this, and I am just going to
 24 read you an extract: "I felt like I was misquoted" -- this is
 25 her text to the newspaper -- "or that my words were taken out

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1 CLOSING - SHERBORNE
 2 of context. I never meant to be in an article that called
 3 Johnny Depp a wife beater. I told you that I did not know
 4 that to be true at all. I have heard several times that she
 5 in fact was abusive to him. That is why I only wanted to make
 6 a comment in general about not being supportive of people
 7 being violent with each other, whichever direction it goes.
 8 He has never been a convicted wife beater. It seems that the
 9 whole article was about defaming him. I said over and over
 10 that I did not know that he had caused her harm."
 11 Then she ends, "It is also strange the article was
 12 written by Dan Wootton. I have no idea who that is" and
 13 having listened to three weeks of evidence, perhaps we are in
 14 no better position either. It is not a promising start for
 15 the newspaper, you might think, and I wish I could tell you
 16 what the explanation is for this journalistic excellence. We
 17 will never know. This court has not heard from a single
 18 journalist, not even Mr. Wootton, to explain, and before it is
 19 said that there is nothing for them to answer, your Lordship
 20 will know that that is not correct. There are a number of
 21 allegations contained in the Particulars of Claim that the
 22 defendants have chosen not to meet or to challenge. There are
 23 allegations to do with the way in which the article was
 24 researched, or rather not researched at all, and the
 25 deliberately and wholly one-sided manner in which it was

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1 CLOSING - SHERBORNE
 2 presented.
 3 The first issue which your Lordship will need to decide,
 4 and one we say will not take you much time to do so, is the
 5 meaning of the article. The claimant's meaning is that
 6 Mr. Depp was guilty on overwhelming evidence of serious
 7 domestic violence ----
 8 MR. JUSTICE NICOL: Let me just look at the pleadings.
 9 MR. SHERBORNE: Your Lordship will find them in file 1, tab 13.
 10 Does your Lordship have tab 13?
 11 MR. JUSTICE NICOL: I do.
 12 MR. SHERBORNE: If you turn to internal page -- perhaps it is
 13 easier if I tell your Lordship.
 14 MR. JUSTICE NICOL: Paragraph 10.
 15 MR. SHERBORNE: Paragraph 10. Just to make good what I said to
 16 your Lordship moments ago, there it says that "the claimant
 17 was guilty on overwhelming evidence of serious domestic
 18 violence against his then wife", and then these important
 19 words, "causing significant injury and leading to her fearing
 20 for her life, for which the claimant was constrained to pay no
 21 less than £5 million to compensate her, and which resulted in
 22 him being subjected to a continuing court restraining order,
 23 and for that reason he is not fit to work in the film
 24 industry."
 25 Just to make good what I said to your Lordship before

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1 CLOSING - SHERBORNE
 2 about allegations which required some evidence to meet them,
 3 your Lordship will find them if you turn over the page to
 4 page 10. You will find a series of allegations relating to
 5 the way in which, as I say, the article was not properly
 6 researched and was presented in a wholly one-sided manner.
 7 There is no evidence at all from the defendants' journalists
 8 to meet that.
 9 As if that is not enough, your Lordship will see, and
 10 I ask you to read, paragraph 13.5 of the Particulars dealing
 11 with Ms. Kendall and the way in which she was misquoted
 12 because I will have things to say about that in due course.
 13 For the moment, that is the meaning which we ask your Lordship
 14 to find.
 15 Mr. Depp, as we say, was tried, convicted, and
 16 sentenced. That is what the article suggests. So the short
 17 answer is that we are all here because the newspaper, and
 18 Mr. Wootton, chose to publish this extremely serious
 19 allegation, an allegation which Mr. Depp says, and has always
 20 said, is completely untrue. Not only that, they have
 21 persisted in saying that it is true, and I will have more to
 22 say about that in due course. That is why Mr. Depp is
 23 bringing this claim for libel, subjecting himself to this
 24 painful public process, because he knows it is untrue, as do
 25 all the people from various walks of his life -- friends, some

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1 CLOSING - SHERBORNE
 2 of them, some nothing to do with him -- who have come along to
 3 give their evidence and themselves be accused of lying for
 4 Mr. Depp. It was in one sweep by Ms. Wass, as she gave
 5 yesterday in her closing submissions, regardless of the fact
 6 that a number of them do not even work for Mr. Depp or do not
 7 have to rely on him for their livelihood, as they made plain
 8 in their evidence.
 9 Yes, we say, why else would Mr. Depp, this very private
 10 man as he explained, expose all the most intimate details of
 11 his personal life, even the very little privacy that he has
 12 managed to maintain despite his successful career as an actor?
 13 The point will not be lost on your Lordship any more than it
 14 is lost on those outside of this courtroom.
 15 As for the defendants, they could have just ignored
 16 Ms. Heard's claims, but they chose not to. They could have
 17 just reported them alongside Mr. Depp's position, but they
 18 deliberately decided not to do so. They chose instead, as I
 19 say, to convict Mr. Depp and that is what they seek to do in
 20 this court, to prove that this reputation-destroying
 21 career-ending allegation is true. That is what your Lordship
 22 is concerned about, true or not.
 23 So, as I say, that is the short answer as to why we are
 24 here, but there is also a longer answer, and it goes back
 25 beyond the article being published in 2018. It goes to May

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1 CLOSING - SHERBORNE
 2 27th, 2016, to a scene we have watched on the screen before
 3 you, to Ms. Heard outside a courtroom in Los Angeles,
 4 surrounded by paparazzi photographers and the media, and
 5 sporting rather visible bruises. That is when her story
 6 started, as far-fetched as we say it has proved to be, when
 7 she first decided to tell the world that Mr. Depp was a
 8 wife-beater. It is hard to think of a more public way to do
 9 this, however much she protested to the contrary. She has set
 10 herself up ever since as an advocate of the #MeToo movement,
 11 and in the process, we say, she has picked up her theme and
 12 run with it. New allegations of domestic violence have
 13 tumbled out over the years, new twists to those allegations
 14 and even more in the last few days before trial and in this
 15 courtroom as she gave her evidence, particularly in
 16 re-examination. It is hard to keep up with them. Even the
 17 defendants have not pursued many of the most recent ones,
 18 quite what your Lordship is meant to do about that I cannot
 19 say. You can imagine though how Mr. Depp feels about it,
 20 given that some of them were not even put to him.
 21 So, the longer answer as to why we are here is because
 22 Ms. Heard has chosen to tell the whole world about her
 23 allegations of domestic violence. This is nothing to do with
 24 Mr. Depp's supposed PR machine or his supposed influence in
 25 Hollywood. This is because Ms. Heard has wanted to tell her

[3] (Pages 2501 to 2504)

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1 CLOSING - SHERBORNE
 2 story. On any view, we say, Ms. Heard is a complex
 3 individual, with a complex history, medical, emotional, as she
 4 described to the professionals who looked after her. Why has
 5 she chosen to publicise her claims is really not something
 6 that this court needs to answer, because this claim is not
 7 brought against Ms. Heard; it is brought against The Sun
 8 newspaper and Mr. Wootton.
 9 Turning to what your Lordship needs to decide, as you
 10 have said on more than one occasion, and with respect rightly,
 11 this court needs to decide whether the allegation that
 12 Mr. Depp is guilty of serious physical assaults on Ms. Heard,
 13 causing her significant injuries, is true or not.
 14 MR. JUSTICE NICOL: Just a minute. (Pause) Yes.
 15 MR. SHERBORNE: There is a little more to it than that, let me
 16 explain. First of all, the burden of proof is obviously on
 17 the defendants. They need to convince your Lordship that the
 18 allegation is true. Now, given that this is to all intents
 19 and purposes an allegation of criminality, serious
 20 criminality, the court has always required a higher degree of
 21 proof.
 22 MR. JUSTICE NICOL: Just a minute. (Pause)
 23 MR. SHERBORNE: I understand your Lordship wants to take a note
 24 and I am not trying to dissuade your Lordship, but just for
 25 your Lordship's reassurance, this is dealt with in our closing

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1 CLOSING - SHERBORNE
 2 skeleton as you will see.
 3 The way in which the court has required a higher degree
 4 of proof has been expressed in different ways in different
 5 cases. It comes down to this: this court requires compelling
 6 and cogent evidence before it will find that an allegation
 7 that someone is guilty of a serious criminal offence is true;
 8 evidence which is clear, consistent and forceful. Why is this
 9 so important? Well, as the authorities recognise, it is
 10 effectively the operation of the cornerstone principle of the
 11 presumption of innocence. The Sun may have forgotten that;
 12 Mr. Wootton, the author of the article, may have forgotten
 13 that it appears; but your Lordship will not. It is of
 14 particular importance in a case such as this.
 15 MR. JUSTICE NICOL: The presumption of innocence is important
 16 because someone ought not to be convicted of a criminal
 17 offence unless they are proved to be guilty to the requisite
 18 standard.
 19 MR. SHERBORNE: My Lord, yes.
 20 MR. JUSTICE NICOL: I am not deciding, I am not charged with
 21 convicting anybody.
 22 MR. SHERBORNE: My Lord, if you look, for example, I think it is
 23 Eady J in the Lillie & Reed case, it is in our closing
 24 skeleton, there are a number of authorities. I will not take
 25 time, if you do not mind, just because there is a lot to deal

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1 CLOSING - SHERBORNE
 2 with, but if your Lordship wants me to address it later,
 3 I will do. As I say, the authorities are very clear on this.
 4 The reason why cogent and compelling evidence is used is
 5 because it is effectively a way of ensuring that the
 6 presumption of innocence is not trampled over; even in civil
 7 cases where, of course, as you are here, dealing with a
 8 serious criminal allegation. As I say, it is of particular
 9 importance in a case such as this, where there are two
 10 diametrically opposed accounts, one side is obviously lying
 11 and one side is telling the truth.
 12 Critically, for all but one of the alleged incidents,
 13 the acts of physical violence which the defendants are
 14 required to prove rely entirely on the account given by
 15 Ms. Amber Heard. Other than the alleged incident in March
 16 2015, at the top of the stairs, in penthouse 3 of the Eastern
 17 Columbia Building, which her sister Whitney is meant to have
 18 witnessed. I will have more to say about Ms. Whitney Heard's
 19 evidence and its reliability in due course. Suffice to say
 20 for the moment that she has proven herself, as we say, willing
 21 to lie to this court on oath in order to protect her big
 22 sister; not once, but on a number of occasions. She plainly
 23 tailored her evidence to meet the changes which Ms. Heard had
 24 been forced to make to her story, with one eye, at all times,
 25 on her big sister throughout her testimony, both

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1 CLOSING - SHERBORNE
 2 metaphorically and as we observed quite literally. Put
 3 bluntly, this one individual said to be a witness for Mr. Depp
 4 supposedly attacking Ms. Heard is a witness that this court
 5 simply cannot trust.
 6 As to the evidence given by Ms. Heard's small and
 7 supportive group of friends, the ones that is who have stuck
 8 by her, or her story, it is almost entirely based on what
 9 Ms. Heard has herself told them and is little more than
 10 hearsay. Certainly, up until the staged events of 21st May
 11 2016.
 12 MR. JUSTICE NICOL: Just a minute. (Pause).
 13 MR. SHERBORNE: We say that they have been drawn into supporting
 14 her account, even at the cost of lying to this court, whether
 15 because they want to please her or because of the exercise of
 16 control which she seems to have; as other witnesses have
 17 testified to, with whom she came into contact. After all, as
 18 she said in a text message sent by her to her friends from
 19 Mr. Depp's phone in August 2014, to which I will take this
 20 court in due course, "This is Amber", she says, "and I get
 21 what I want." A message which we say represents a powerful
 22 reminder of what so much of this case is about.
 23 For these reasons, your Lordship will need to scrutinise
 24 the evidence of Ms. Heard with considerable care and assess
 25 her credibility since so much depends on it. The defendants

CLOSING - SHERBORNE

CLOSING - SHERBORNE

plainly agree with this. We have referred in our skeleton to the approach which the court should take. We say that when you consider the evidence that was given by Ms. Heard to this court, no reliance at all can be placed on her testimony; but more of that anon.

Mr. Depp wound his arm back like a baseball pitcher, it was said, and threw a phone at her from many feet away. MR. JUSTICE NICOL: Just a minute. (Pause) Yes. MR. SHERBORNE: After which he went on a rampage throughout the penthouses, causing extensive damage everywhere. Now, only Ms. Heard and Mr. Depp were present when the alleged physical act is said to have taken place. But the so-called injuries which followed, the catalogue of broken glass, the fruit and vegetables everywhere, the pools of wine and so on, as well as the injuries, were supposedly seen by Ms. Pennington and Mr. Drew. Strikingly, however, the two police officers who attended the scene in answer to Ms. Heard's 911 call, saw no injuries at all, and none of the extensive damage that Ms. Pennington and Mr. Drew say they expressly showed the officers. Someone is plainly lying. Either Ms. Heard's friends and Ms. Heard, or two experienced police officers with no vested interest in supporting anyone. The idea that was raised yesterday by Ms. Wass in her closing speech that they were somehow covering up for their negligence, is unsustainable as well as unworthy, we say; particularly since it was not even put to Officer Saenz, who was subpoenaed to give evidence. Nothing was even put to Officer Hadden, whose evidence was not even challenged. Another cheap shot, we say, at two individuals who were doing their job but happened to

Balanced against that, on the other side, is Mr. Depp and the very large number of witnesses who came to give evidence in support of his case. As your Lordship will have noted, on the one hand there are independent witnesses, such as the police officers, only one of whom was called to be challenged; independent witnesses such as the concierge staff at the Eastern Columbia Building. There are witnesses with formal or professional expertise, such as the former Los Angeles sheriff's department security guard, Sean Bett; or another of the security team, the former prison officer, Malcolm Connolly. On the other hand, there are those who have at some point worked for Mr. Depp or Mr. Depp and Ms. Heard, but no longer do so. Witnesses like Ben King, contracted to be a housekeeper in London and Australia. MR. JUSTICE NICOL: Just a minute. (Pause) Yes. MR. SHERBORNE: Kevin Murphy, who was the American house manager; or Kate James, Ms. Heard's former assistant. All of whom came into contact with Ms. Heard and Mr. Depp during the course of their relationship; and all of them have been impugned in one

CLOSING - SHERBORNE

CLOSING - SHERBORNE

fell swoop by Ms. Wass. That also includes those witnesses who came to give evidence in relation to the alleged incidents who still work for Mr. Depp and have done so for many years as you have heard, loyalty and friendship a testament to the man they say is generous and open. The court may have felt listening to their evidence that the suggestion they would come to court to lie because their lively hoods depended on it was fairly implausible. For many, like Tara Roberts in the Bahamas, Samantha McMillen, Starling Jenkins and others, long-serving employees who were able to and did say that they were easily capable of supporting themselves in the event, or so it was suggested, that Mr. Depp would take against them for supposedly refusing to come to give perjured evidence on his behalf. Hardly likely, you might feel.

get in the way of Ms. Heard's account. It does not stop there. There are a whole list of other people, friends of Mr. Depp and Ms. Heard, like Mr. Baruch, their stylist Samantha McMillen, the housekeeper Hilda Vargas, the security staff, several members of the concierge team and so on, all of whom saw absolutely no injuries at all to Ms. Heard over the six-day period between 21st May and her appearance at the LA courthouse; and that does not include the CCTV footage on which you can see no injuries at all. Now, that exercise of comparing those two diametrically opposed accounts is one that your Lordship will have to perform. Just one example, albeit we say an extremely important one, about which I will have something to say later. For the moment, as I have just said, the defendants simply cannot live with this abundance of evidence which refutes any suggestion of physical violence. In addition to the testimony of those present, there are some other types of evidence that have been referred to, and we will come back to that at the end. As your Lordship said at an earlier stage, there are an extraordinary number of documents in this case, including a vast amount of text messages, 70,000 odd were mistakenly provided to the defendants' solicitors for reasons which your Lordship knows. The defendants have picked out some of those and have tried to

In any event, we say it was a suggestion which simply did not fly, but of course it had to be made. It had to be made because the defendants cannot possibly live with their evidence. It is entirely contradictory to the account which they need to prove in a number of ways and for a number of incidents.

Let me highlight one example, although I will deal with each of them in due course. Take 21st May 2016 incident, for example. Ms. Heard's evidence, Ms. Pennington and Mr. Drew's evidence is that Ms. Heard was left with bruises after

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1 CLOSING - SHERBORNE
 2 piece them together, despite the fact that strikingly none of
 3 them contain any actual evidence of physical assaults, however
 4 dark, however extravagant the language sometimes used, and
 5 with great respect, no one could accuse Mr. Depp of writing
 6 simple factual texts.
 7 There are also some astonishingly self-serving and
 8 fictionalised accounts of what Ms. Heard had in her head at
 9 various times apparently, what are said to be e-mails sent to
 10 herself or a secret feelings book which reads more like a
 11 novella than anything which matches reality. Documents
 12 produced by Ms. Heard as well from her one-way disclosure
 13 exercise, we say they have no evidential value at all.
 14 Then there are photographs, at least the ones which
 15 Ms. Heard on 21st May, Mr. Drew or Ms. Pennington took, and
 16 I will have much more to say about those later on. I ask the
 17 court to have firmly in mind what weight can be given to such
 18 photographs in circumstances where, first of all, some of
 19 them, when you compare them even with those taken on exactly
 20 the same occasion, show little or nothing; secondly, some have
 21 very strange colouration and lighting.
 22 MR. JUSTICE NICOL: Just a minute. (Pause)
 23 MR. SHERBORNE: Some, when you compare with ones taken almost
 24 exactly at the same time, show something very different and
 25 often nothing at all; secondly, there is strange colouration

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1 CLOSING - SHERBORNE
 2 and lighting; thirdly, there is every possibility they have
 3 been altered using any number of easy to use photo
 4 applications.
 5 MR. JUSTICE NICOL: Just a minute. (Pause) Mr. Sherborne, when
 6 I made my decision about expert evidence, one of the things
 7 I referred to was the passage in your skeleton argument in
 8 which you set out what was and was not the claimant's case.
 9 MR. SHERBORNE: My Lord, yes.
 10 MR. JUSTICE NICOL: All right.
 11 MR. SHERBORNE: We have never disavowed the fact, nor did the
 12 expert evidence say that it could be disavowed, we have never
 13 disavowed the fact that it would be quite easy to use a number
 14 of applications to alter the images which have nothing to do
 15 with the metadata. Your Lordship cannot determine that,
 16 because it will never be capable of being determined; but you
 17 will have it in mind when you consider the weight to be given.
 18 But there are other much easier ways to alter images, and one
 19 has to bear in mind the next point, which is that they are
 20 taken of an actress, someone who is familiar with the use of
 21 makeup ----
 22 MR. JUSTICE NICOL: Just a minute. (Pause)
 23 MR. SHERBORNE: Makeup to change your character, makeup to present
 24 a fictional scene, makeup to ensure that the audience believes
 25 what they see before them. But most importantly this: none of

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1 CLOSING - SHERBORNE
 2 the so-called injuries which they are meant to prove have been
 3 examined or investigated by anyone, even remotely independent
 4 or professional; save for Ms. Burin, the registered nurse, and
 5 we know what is said about her evidence in terms of what is
 6 recorded in her notes. I will come back to that. That is a
 7 striking feature of this case, you might think, and one, as
 8 I say, I will return to.
 9 Now, your Lordship, as we say, needs to bear in mind
 10 that these allegations require cogent and compelling evidence
 11 and therefore you will need to consider, and we have set out
 12 the authorities in our skeleton argument, very carefully the
 13 credibility of the witnesses who give their testimony. It
 14 will also not be lost on your Lordship that it is especially
 15 important, where, as here, Mr. Depp is having to prove a
 16 negative; something which becomes increasingly difficult
 17 obviously ----
 18 MR. JUSTICE NICOL: As you have said, it is not Mr. Depp who has
 19 to prove the negative; it is the defendants who have to prove
 20 the positive.
 21 MR. SHERBORNE: My Lord is right, but of course a lot of criticism
 22 has been made of Mr. Depp despite what your Lordship heard of
 23 four days of cross-examination and how he dealt with it.
 24 Your Lordship can imagine, and I will say only this about it,
 25 as he heard his ex-wife chop and change her evidence to meet

[Page 2516]

1 CLOSING - SHERBORNE
 2 every point, with new allegations, you can imagine how that
 3 must have felt, after, that is, he had left the witness box.
 4 The next topic I am going to turn to, having talked
 5 about the article and what the defendants need to prove, is
 6 the nature of the allegation which your Lordship needs to
 7 consider. On any view, the allegation made against Mr. Depp
 8 is an exceptionally serious one. Ms. Heard's account, as we
 9 say, is of four years or so of repeated violence, involving
 10 serious physical injury and causing her to fear for her life
 11 on several occasions. With the greatest respect to Ms. Wass,
 12 the fact that Mr. Depp has a history of consuming alcohol and
 13 taking drugs is neither newsworthy nor, quite frankly,
 14 probative of anything.
 15 MR. JUSTICE NICOL: Just a minute. (Pause) Yes.
 16 MR. SHERBORNE: To spend an entire day, as it turned out to be,
 17 seeking to prove Mr. Depp used various controlled drugs as
 18 well as prescribed medications and occasionally fell off the
 19 wagon in terms of his drinking was a wasteful exercise; not
 20 least because, despite how she characterised it yesterday,
 21 Mr. Depp was prepared to make admissions if he was shown
 22 documents which seemed inconsistent with his recollection.
 23 MR. JUSTICE NICOL: Just a minute. (Pause) Yes.
 24 MR. SHERBORNE: This, we say, could not have been in clearer
 25 contrast to the evidence given by Ms. Heard. Indeed, the way

[6] (Pages 2513 to 2516)

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1 CLOSING - SHERBORNE
 2 in which these two principal witnesses, whose credibility will
 3 be critical to your Lordship's determination, the way in which
 4 they gave their evidence could not have been more different.
 5 Your Lordship has heard them and I do not need to labour the
 6 point. Mr. Depp, as I say, spent four days being
 7 cross-examined, accused of the most awful things, and he
 8 answered each question, we say, with the utmost care and
 9 thought and without trying to anticipate what was coming next.
 10 Sadly, the same could not possibly be said of Ms. Heard's
 11 performance.

12 Returning to the question of alcohol and controlled
 13 substances, as I say, Mr. Depp has never denied consuming
 14 alcohol or taking drugs. He has always admitted it. If
 15 occasionally he was mistaken or forget exactly what he stopped
 16 taking ----

17 MR. JUSTICE NICOL: Just a minute. (Pause) Never denied ----

18 MR. SHERBORNE: He never denied, as I say, taking controlled drugs
 19 or consuming alcohol. He admitted it. If occasionally he was
 20 mistaken or forgot exactly when he stopped taking something or
 21 when he started again, during the course of four days of
 22 questioning, it is quite hard to see why that would make any
 23 material difference, given how candid he has been about his
 24 use of certain substances.

25 The defendants' case has to be more than that he took

1 CLOSING - SHERBORNE
 2 equation of drink or drink and drugs equals physical violence
 3 to another person cannot depend on picking through texts and
 4 treating them as testimony; something which is sadly lacking
 5 for the defendants. No one, as I say, other than Ms. Heard,
 6 links the two, and I will come back to that in a moment.

7 By contrast, and I will take little time with this, but
 8 by contrast Ms. Heard has deliberately sought to hide or play
 9 down her misuse of drink and illegal drugs. For example,
 10 suggesting not for the first time that the medical notes made
 11 of her reported history were wrong. I have never come across
 12 in any case such deeply unreliable medical notes as this.
 13 But they were not just unreliable, they were bizarre,
 14 according to Ms. Heard, because they were right when it suited
 15 her and they were always wrong when it did not. Sometimes
 16 notes, even in the course of her giving evidence, could be
 17 both right and wrong at the same time. How convenient.

18 Doctors were lying, nurses were lying, police officers
 19 are lying. Only Ms. Heard, who was at pains to repeat the
 20 well-rehearsed mantra that she was not here to call anyone a
 21 liar, was correct at all times, no matter what, and if it
 22 looked like there was something to blame her for, she would
 23 immediately blame someone else. Your Lordship has an annex to
 24 our closing skeleton where we have set out the examples --
 25 only some of the examples -- where Ms. Heard has sought to

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1 CLOSING - SHERBORNE
 2 controlled drugs or that he consumed alcohol. The problem
 3 that the defendants face, though, is that Mr. Depp is very
 4 clear on what effect these controlled drugs have on him, as he
 5 himself has testified to, and a number of witnesses have
 6 corroborated. He mostly took marijuana, that made him calm
 7 and relaxed. He did take MDMA, he said, on occasions and
 8 mushrooms, but on more than one occasion he explained that
 9 that also did little for him. He admitted to using cocaine.

10 MR. JUSTICE NICOL: Just a minute. (Pause)

11 MR. SHERBORNE: But he explained that rather than turning him into
 12 some crazy monster, it neutralised the effect which his
 13 addiction to the roxies, the pills that he was taking because
 14 of an accident he had performing a stunt on the Pirates of the
 15 Caribbean film, had left him without the ability, for example,
 16 to make serotonin naturally. So, the cocaine, as he
 17 explained, and as I think Mr. Deuters explained as well, took
 18 him in effect to a neutral state.

19 As to drink, he was teetotal for periods of time he
 20 explained. Even when he was not, the evidence of everyone
 21 other than Ms. Heard was that he had a high tolerance, even if
 22 he drank a lot.

23 The exaggerated texts which he was taken to in
 24 characteristically high blown and self-deprecating style
 25 should not be taken literally. To put it crudely, the

1 CLOSING - SHERBORNE
 2 shift the blame when she has met evidence which she cannot
 3 explain.

4 MR. JUSTICE NICOL: Which is this ----

5 MR. SHERBORNE: That, your Lordship will find, is annex F. It is
 6 a 79-page table setting out the evidence, but your Lordship
 7 will find that there is a column on the right-hand side which
 8 summarises the ways in which Ms. Heard sought to blame others,
 9 whether it was primarily Mr. Depp, sometimes it was Nurse
 10 Burin, her friend, sometimes it was Ms. James, sometimes it
 11 was others.

12 More importantly, your Lordship may feel, the evidence
 13 of Ms. Heard being violent herself, especially starting
 14 physical fights, is highly relevant. At its very core, we say
 15 ----

16 MR. JUSTICE NICOL: Just a minute. (Pause) Yes.

17 MR. SHERBORNE: At its very core, we say, it demonstrates that she
 18 is the abuser, not Mr. Depp. He is no wife beater. It is
 19 also capable of providing your Lordship with the context for
 20 the alleged incidents if your Lordship finds it is possible to
 21 accept the account given by Ms. Heard, notwithstanding her
 22 lack of credibility, which we say, in itself, is proven by the
 23 very evidence she gave in relation to physical violence.

24 Ms. Heard repeatedly refused to admit that she had been
 25 physically violent other than on one occasion, in March 2015,

[7] (Pages 2517 to 2520)

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1 CLOSING - SHERBORNE
 2 when she says she was acting in self-defence of her sister.
 3 MR. JUSTICE NICOL: Just a minute. (Pause) Yes.
 4 MR. SHERBORNE: Your Lordship, I will take you to this.
 5 Your Lordship will find it in file 4, tab 108.
 6 MR. JUSTICE NICOL: Just a moment. (Pause) Deposition of Lisa
 7 Bean in the US libel proceedings?
 8 MR. SHERBORNE: My Lord, yes. If you turn to F622, you will find
 9 a note which will look familiar. It is a note that is made
 10 ---
 11 MR. JUSTICE NICOL: Sorry, just a moment.
 12 MR. SHERBORNE: I am sorry, F622.
 13 MR. JUSTICE NICOL: We have seen this elsewhere, have we not?
 14 MR. SHERBORNE: My Lord, you have. It is a note that is made by
 15 Nurse Burin who of course, as your Lordship has heard, was not
 16 just the registered nurse for Ms. Heard, but she became a
 17 friend, so much of a friend that she was, for example, at her
 18 birthday dinner, the famous incident 13, which we will come to
 19 later on.
 20 MR. JUSTICE NICOL: Yes.
 21 MR. SHERBORNE: Here, you will find, and your Lordship will see,
 22 for example, above it, the reference to Ms. Heard, if you just
 23 look between the two punch holes. This was a note, just so
 24 your Lordship has the context, that was made on 27th August,
 25 2014, shortly after, I think, the Bahamas detox treatment.

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1 CLOSING - SHERBORNE
 2 MR. JUSTICE NICOL: Just a minute. This was made on 27th August
 3 2013?
 4 MR. SHERBORNE: 2014, my Lord. This is a note to which Ms. Heard
 5 took occasional issue and then, at certain points, agreed with
 6 it. Your Lordship can pick up the history in the middle of
 7 the punch holes: "AH reports history of substance abuse."
 8 MR. JUSTICE NICOL: Just a moment. Yes.
 9 MR. SHERBORNE: "... including an addiction to cocaine and
 10 liquor." Does your Lordship see that?
 11 MR. JUSTICE NICOL: Yes.
 12 MR. SHERBORNE: "History of substance abuse. Client reports
 13 abstaining from cocaine for a couple of years, but was unable
 14 to report exact dates." Your Lordship will recall that
 15 Mr. Depp was pulled up by Ms. Wass, who, despite his evidence
 16 that Ms. Heard did occasionally take cocaine, was told that
 17 she had never had it since she was 18 years old. This is the
 18 note which shows that she was not telling the truth.
 19 MR. JUSTICE NICOL: Now, in 2014, Ms. Heard was how old?
 20 MR. SHERBORNE: 28. If your Lordship wants confirmation of it, it
 21 is just under the words "Client history".
 22 MR. JUSTICE NICOL: Yes.
 23 MR. SHERBORNE: So, she has a history of substance abuse, but had
 24 for a couple of years stopped. She does not smoke cigarettes.
 25 She reports consuming one to three glasses of red wine. That,

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1 CLOSING - SHERBORNE
 2 no doubt, suits her to accept because the evidence is that she
 3 drank far more than that, but that one, I am sure, she will
 4 accept as being correct. It talks about a family history of
 5 substance abuse and talks about Mr. Depp. It then says this:
 6 "The client admits to a history of anxiety, eating disorder,
 7 attention deficit disorder, bipolar disorder, codependence
 8 issues and occasionally insomnia."
 9 Then her report: "Client AH has reportedly been
 10 experiencing increased anxiety and agitation recently, and has
 11 had several outbursts of anger and rage."
 12 MR. JUSTICE NICOL: Sorry, where are we?
 13 MR. SHERBORNE: I am at the second punch hole.
 14 MR. JUSTICE NICOL: Yes.
 15 MR. SHERBORNE: So, this is just after the Bahamas. "She has
 16 reportedly been experiencing increased anxiety and agitation
 17 and has had several outbursts of anger and rage. Her mood has
 18 been labile. Both client and fiancé report an increase in
 19 verbal disagreements resulting from the client's anxiety and
 20 emotional lability."
 21 MR. JUSTICE NICOL: I ought to know what the word "labile" means,
 22 but can you help me?
 23 MR. SHERBORNE: Yes, it means swinging moods. It is not a word
 24 that Ms. Heard would have used, I suspect, and that shows you
 25 that it is a word that a medical professional will have

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1 CLOSING - SHERBORNE
 2 applied to what she described. "Client expressed concern to
 3 husband and Dr. Kipper that she is nervous about being alone
 4 while husband is working on movie set in London and expressed
 5 she has difficulty dealing with feelings of insecurity and
 6 jealousy when not in the presence of her husband."
 7 Your Lordship may recall that at one point, Ms. Heard
 8 tried to suggest that what she was saying there was that it
 9 was Mr. Depp's feelings of insecurity and jealousy that she
 10 had difficulty dealing with. That cannot possibly sit with
 11 the grammar of the sentence and as a tortuous explanation
 12 goes, it was fairly implausible.
 13 MR. JUSTICE NICOL: Just a minute. (Pause)
 14 MR. SHERBORNE: That is all I wanted to show you from that note.
 15 Ms. Burin's notes we will return to in due course, but for the
 16 moment, your Lordship can put file 4 away.
 17 Thankfully, recordings made between Mr. Depp and
 18 Ms. Heard have also come to light which demonstrate
 19 Ms. Heard's propensity to violence on tape. The first one,
 20 what we now call argument number 2, was made on 26th
 21 September, 2015, and I am going to ask your Lordship to listen
 22 to that. Before it is played, can I just take your Lordship
 23 to the transcript so you can follow. That should be found at
 24 file 4, tab 154.
 25 MR. JUSTICE NICOL: Just a minute. (Pause)

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1 CLOSING - SHERBORNE
 2 MR. SHERBORNE: As I say, 26th September 2015, tab 154. (Pause)
 3 MR. JUSTICE NICOL: Yes.
 4 MR. SHERBORNE: Bear in mind that Ms. Heard knows this is being
 5 recorded. We pick up the argument at F923, and can I play
 6 that? Does your Lordship have it?
 7 MR. JUSTICE NICOL: I have 923.
 8 MR. SHERBORNE: If you look just underneath the top hole punch,
 9 you should be able to follow what we are now about to play.
 10 (Recording played to the court)
 11 MR. SHERBORNE: Just pause for a moment, my Lord, and think. If
 12 it was a man who had said what Ms. Heard had said and who had
 13 admitted to what she admitted to, if this was Mr. Depp, for
 14 example, and it was the other way round, can you imagine what
 15 consternation there would be -- a straightforward,
 16 unambiguous, unequivocal admission of hitting him.
 17 We also have another secret recording in San Francisco.
 18 I am not going to play that, but I am going to take
 19 your Lordship to it. You should find it at file 9, tab 138B.
 20 I think it starts at L71.2.
 21 MR. JUSTICE NICOL: Just a minute. (Pause) I have file 9, 138B.
 22 MR. SHERBORNE: No, that is the wrong reference. I am sorry,
 23 my Lord, that is not San Francisco. I have it as F1009.14,
 24 but that will probably not help your Lordship. If you forgive
 25 me for a moment and you put file 9 away, I think it is in

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1 CLOSING - SHERBORNE
 2 file 2.
 3 MR. JUSTICE NICOL: Did you think 4?
 4 MR. SHERBORNE: It is tab 161. I think that means it is in
 5 file 5. I am grateful. I think it is behind 161N.
 6 MR. JUSTICE NICOL: Just a minute. (Pause) I think N and O have
 7 got round the wrong way.
 8 MR. SHERBORNE: N should be the claimant's version.
 9 MR. JUSTICE NICOL: Just a minute. (Pause)
 10 MR. SHERBORNE: Do you have two copies that look the same, or
 11 pretty much the same? They are not many differences.
 12 MR. JUSTICE NICOL: The problem I have is that 161O comes before
 13 161N.
 14 MR. SHERBORNE: That is an interest problem to have, my Lord.
 15 MR. JUSTICE NICOL: I am just going to move it.
 16 MR. SHERBORNE: I am grateful.
 17 MR. JUSTICE NICOL: Just a moment. (Pause) So you wanted me to
 18 look at 161N.
 19 MR. SHERBORNE: N for November, and it should be F1009.23. As
 20 your Lordship finds that, can I just ----
 21 MR. JUSTICE NICOL: Just a moment. (Pause) Right, I have 1009.23.
 22 Yes.
 23 MR. SHERBORNE: If your Lordship will remember, this is the
 24 recording that Ms. Heard secretly made herself of the meeting
 25 on 22nd July 2016 whilst the restraining order was still in

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1 CLOSING - SHERBORNE
 2 place against Mr. Depp. On two occasions yesterday, Ms. Wass
 3 lapsed into saying that Mr. Christian Carino was present. He
 4 was not. Mr. Depp gave evidence, he was not challenged ----
 5 MR. JUSTICE NICOL: Just a moment. (Pause)
 6 MR. SHERBORNE: I will come back to this.
 7 MR. JUSTICE NICOL: Claimant gave evidence ----
 8 MR. SHERBORNE: In evidence-in-chief, right at the beginning of
 9 this trial, he gave evidence that he was in a hotel room, on
 10 his own with Ms. Heard, because she had requested a meeting in
 11 San Francisco where he was on tour, notwithstanding the fact
 12 that there was a restraining order which required him to stay
 13 100 yards away from her at all times, a restraining order she
 14 sought ----
 15 MR. JUSTICE NICOL: Just a minute. (Pause) Yes.
 16 MR. SHERBORNE: She sought on the basis of her evidence that she
 17 was so terrified of him that she was in fear of her life.
 18 I will come back to the significance of this recording in a
 19 moment, but what is important to recognise is the fact that
 20 this is Ms. Heard recording Mr. Depp without him knowing.
 21 What does he say on page 1009.23?
 22 MR. JUSTICE NICOL: Is this the haymaker?
 23 MR. SHERBORNE: It is, my Lord, it is just at the first punch
 24 hole. Your Lordship will see: "Okay, I want a divorce", says
 25 Mr. Depp, "You don't...(reads to the words)... I'm so sad. I

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1 CLOSING - SHERBORNE
 2 love you so much", says Ms. Heard, as she knows that the tape
 3 recording is whirring away, not even a hint, not even an
 4 attempt at denying it, because she knew if she did, Mr. Depp
 5 would go further.
 6 Your Lordship will remember that the haymaker punch was
 7 her present to him at the end of her birthday because he made
 8 the fatal mistake of getting into bed and reading a book in
 9 order to avoid yet another argument when Ms. Heard was on the
 10 warpath, an act which Ms. Wass characterised as provoking her.
 11 MR. JUSTICE NICOL: Just a minute. (Pause) Yes.
 12 MR. SHERBORNE: There are further recordings, your Lordship knows,
 13 which refer to her violent acts. There is a bathroom one
 14 where she tries to get into a bathroom and she barges open a
 15 door to get in, and she pushes. Her explanation, which we
 16 have not actually rehearsed in this case but it was rehearsed
 17 in the deposition, is that she was somehow trying get away
 18 from Mr. Depp by going into a bathroom which was enclosed on
 19 all sides, but leaving that aside for a moment ----
 20 MR. JUSTICE NICOL: When do you say this took place?
 21 MR. SHERBORNE: This bathroom one, where it goes over her toes,
 22 I think is in 2015. It is referred to, as you heard, in
 23 argument number 2. We have the transcript and I can take you
 24 to it and just give you the reference in a moment. It is
 25 there that she claims she hits him, she punches him, albeit

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1 CLOSING - SHERBORNE
 2 she says it was a reflex -- a deliberate punch but a reflex.
 3 Just to give your Lordship ----
 4 MR. JUSTICE NICOL: I was familiar with the haymaker, but I am not
 5 familiar with this one so when you are able, just give me the
 6 reference.
 7 MR. SHERBORNE: I will do, my Lord. Even Mr. Heard, Ms. Heard's
 8 father, David Heard, explained in a text, which I perhaps do
 9 not need to turn up for your Lordship, that his daughter needs
 10 help with her temper, a text that we have read because it was
 11 exchanged with Mr. Depp after the incident on 15th December.
 12 I will give you a reference for the text. It is file 6, tab
 13 119, the text schedule, page 126, right at the top. I will
 14 come back to that when I deal with the 15th December alleged
 15 incident.
 16 There were other witnesses who gave evidence about
 17 watching Ms. Heard be physical. For example, Tara Roberts
 18 gives a graphic account in her witness statement, confirmed in
 19 her evidence to this court through video link, that Ms. Heard
 20 perpetrated acts of violence on Mr. Depp. And why, we say,
 21 has Ms. Heard been violent? Why is it relevant? It is
 22 because it does not sit, it cannot sit, with her narrative of
 23 Mr. Depp being a wife beater. It is Mr. Depp, you see, who
 24 has to be the violent one.
 25 MR. JUSTICE NICOL: Just a moment. (Pause)

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1 CLOSING - SHERBORNE
 2 MR. SHERBORNE: Her physical violence towards him, her starting
 3 physical violence as she admits, makes her the domestic
 4 abuser, not him, and I will come back to that. The reference,
 5 for your Lordship's note, for the bathroom incident is file 9,
 6 tab 138B.
 7 So, what about, then, the allegation which the
 8 defendants have had to make that Mr. Depp is a violent man, a
 9 man, they say, with a history of physical violence? Let us
 10 examine what we were told. Your Lordship may recall how we
 11 were treated, right at the outset, to a series of press
 12 cuttings and other material said to prove this, but which, in
 13 my submission, really showed nothing of the sort.
 14 It was put to Mr. Depp that he was a violent man. It
 15 was said, "During the course of your adult life, have you
 16 regularly engaged in violent destructive behaviour?" "I do
 17 not agree", said Mr. Depp.
 18 MR. JUSTICE NICOL: Just a minute. (Pause)
 19 MR. SHERBORNE: What evidence was Mr. Depp shown to challenge that
 20 unequivocal assertion? First of all, there was an article
 21 from 1989 -- yes, 1989 -- when Mr. Depp was 25, when he was
 22 arrested, albeit not charged, on suspicion of assault. The
 23 case was thrown out, as he explained. It was an article by
 24 William Trott. I can give your Lordship the references if
 25 your Lordship wants as we go through, but I am not going to

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1 CLOSING - SHERBORNE
 2 ask to you turn up the article unless you wish me to do so.
 3 The second supposed incident was a hotel room incident
 4 when Mr. Depp was 31 years old in 1994, when he caused £2,000
 5 worth of damage to this hotel room by smashing a vase and
 6 moving a couch across the floor, no doubt it will be said
 7 violently. He was with Kate Moss at the time. He admitted,
 8 as he always did, when it was correct, as your Lordship will
 9 remember from his evidence, that he had had a bad couple of
 10 days. He was angry because he had, to use his phrase, been
 11 "screwed over" by a friend. He did not want to say more about
 12 it and one can understand why he felt it inappropriate, in
 13 this courtroom, to start mentioning things like that.
 14 It was put to him that, as a result, he had an anger
 15 problem. As he said, just because he expressed himself on
 16 that occasion by smashing a vase and pushing an a couch across
 17 the floor did not mean he had an anger problem. As he said,
 18 "I also express myself by laughing, but that does not mean
 19 that I have a humour problem."
 20 The suggestion came that somehow his girlfriend would
 21 have been terrified by all of this, and his answer was that
 22 Ms. Moss was asleep at the time and did not even wake up.
 23 Ms. Wass was not content with that answer. She then put to
 24 him an interview, which your Lordship will recall, given to
 25 Elizabeth Vargas I think her name was, at ABC, in which she

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1 CLOSING - SHERBORNE
 2 tried to suggest that the voice-over was the question that he
 3 failed to answer. Your Lordship will recall the playing of
 4 that broadcast demonstrated that Mr. Depp was entirely correct
 5 in his evidence, that what he was answering on camera was an
 6 entirely different question.
 7 The third supposed example of this history of violence
 8 was the "pap" incident, the article which referred to ----
 9 MR. JUSTICE NICOL: The what incident?
 10 MR. SHERBORNE: The "pap" incident.
 11 MR. JUSTICE NICOL: The paparazzi?
 12 MR. SHERBORNE: Yes. He was having dinner in London with his
 13 partner at the time, Ms. Paradis, who was pregnant with their
 14 older child. He was having dinner with friends who were the
 15 godparents, if I remember, of their as yet unborn daughter.
 16 Not content with being told that they were not going to have
 17 the much prized photograph of Ms. Paradis pregnant, these
 18 paparazzi photographers screamed obscenities and tried to
 19 force their way in to a door to the restaurant. I think he
 20 described there were 14 of them. In order to avoid this
 21 happening and to protect Ms. Paradis, who left the restaurant
 22 whilst this was happening, with the friends, he explained that
 23 he smacked the hand of one of the paparazzi who was trying to
 24 prise the door open and he was acting, as he said, in
 25 self-defence as he tried to hold back the 14 of them pulling

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CLOSING - SHERBORNE

CLOSING - SHERBORNE

at the door and getting very aggressive; but he admitted to the fact that he had done it and he explained. That is a pattern which your Lordship will understand is an important one, where he has done something, Mr. Depp will admit to it.

starts a fight with you, then you can protect yourself or protect someone else who is being picked on. Old-fashioned, perhaps, your Lordship may feel, but that is what Mr. Depp believes. But that is not what he is accused of. Nor, with the greatest of respect, is the fact that he shared a stupid crude joke with the mother of his children, something which was challenged, your Lordship will recall, on at least four occasions by Ms. Wass. Who this text to Marino was, even though it appears they have now had to accept this was Ms. Paradis. Ms. Wass shakes her head.

We then were fast-forwarded to Mr. Rocky Brooks, the grinning selfie requesting security manager I think he was, on the set of the film who turned around and sued Mr. Depp, even though Mr. Depp had no physical interaction with him whatsoever. As I say, the photograph of Mr. Brooks grinning after the supposed incident of Mr. Depp hitting him, apparently, demonstrates all your Lordship needs to know about the reliability of a claim which is being brought because Mr. Depp, as he explained more than once to Ms. Wass, decided that he should tell Mr. Brooks that it was inappropriate to make racial slurs at an elderly African American woman who was on set and I think was homeless.

MR. JUSTICE NICOL: Sorry, Marino is?
MR. SHERBORNE: Ms. Paradis. Ms. Wass shakes her head, even now as I said, despite the fact we have shown this court in re-examination that Mr. Depp confirmed the fact that the telephone number of Marino was the telephone number of his former partner, as the texts which we showed you that came from that number to Mr. Deuters amply demonstrated. It is yet again another feature of the defendants' case, as reflected by Ms. Heard, that even when the evidence is shown that demonstrates their allegations are untrue, they still refuse to accept it.

Finally, in this history of violence, we had Ms. Barkin. Her deposition given in support of Ms. Heard's claim in the proceedings in America. What was she brought in for? It is still not clear. Even she suggested only that Mr. Depp had once thrown a bottle of wine across a room. It was not even suggested by her that it was at her, and it certainly was confirmed by her that she was never ever subject of anything violent by him.

What Mr. Depp says in private texts, whether he is having a joke or is upset, is nothing to the point your Lordship needs to decide. Although his aspiration to be

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CLOSING - SHERBORNE

CLOSING - SHERBORNE

So, what did this all amount to? Cleared of assault in 1987 at the age of 25. Breaking a vase and pushing a sofa in 1994. Smacking a paparazzi photographer with a piece of wood to stop him getting into the restaurant in 1999. A frivolous shakedown from a man who, as I say, racially abused an elderly African woman on set. Over 57 years, that is not what you would characterise as regularly engaging in violent behaviour, which was the proposition put to him by Ms. Wass. So, that is why Mr. Depp did not admit to that characterisation. It was yet another sweeping generalisation by the defendants, which we say your Lordship needs to consider with considerable caution. Indeed, what this so-called history demonstrated is that when, as I say, Mr. Depp did do something, he admitted to it, he paid for repairs and so on; and it was not suggested otherwise. Again, that characterises the careful and honest way he approached his evidence; the contrast once again with Ms. Heard could not be clearer.

a Southern gentleman, it is an aspiration as he freely conceded, it is one which, for the majority of time, he puts into practice. That is particularly true when it comes to women. He has never hit a woman in his entire life, period, full stop, nada. It is not just a Southern gentleman thing. It is also because he was subjected to domestic abuse by his mother, something he has been very candid about. Crucially, he has never ----

Now, it goes further than that. Set against that is Mr. Depp's belief that in terms of how he conducts himself, his admire of the principles he grew up with as what is called a Southern gentleman. I do not need to take your Lordship to the references in the transcript, they should be in our bundle. In particular, and most relevant to your Lordship's consideration, is that you do not hit a woman. If a man

MR. JUSTICE NICOL: Just a minute. (Pause)
MR. SHERBORNE: Crucially, not only has he never hit a woman in his life, he has never been accused of it -- something which was not challenged by Ms. Wass. That is why, despite Mr. Depp wanting to call Ms. Paradis and Ms. Ryder, there was no need to do so. However much the defendants may or may not have wanted to ask them some questions, despite initially opposing the introduction of their evidence, the truth is that since there was no challenge put to Mr. Depp that he had never hit another woman in all of his 57 years, let alone perpetrated a catalogue of physical violence, as the defendants seek to prove in this court, there was no need for them to give any evidence at all.
MR. JUSTICE NICOL: When you said that he has never been accused of hitting a woman in his life, I mean, the qualification is he has been accused.

[11] (Pages 2533 to 2536)

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1 CLOSING - SHERBORNE
 2 MR. SHERBORNE: By Ms. Heard, yes.
 3 MR. JUSTICE NICOL: By Ms. Heard -- well, that is ----
 4 MR. SHERBORNE: That is self-evident, my Lord, yes. But the fact
 5 that he has not only never hit another woman, but he has never
 6 been accused of hitting someone else, we say ----
 7 MR. JUSTICE NICOL: Never accused of hitting someone else.
 8 MR. SHERBORNE: In 57 years, is something I will come back to in a
 9 moment.
 10 The reason why the defendants changed their position in
 11 this way, to apparently wanting to ask Ms. Paradis and
 12 Ms. Ryder some questions, was no doubt because they wanted to
 13 use these two individuals as vehicles for some comment they
 14 wanted to make. In the same way as Katherine Kendall, the
 15 genuine #MeToo victim, was made to give evidence, despite no
 16 challenge at all being made to her evidence of how The Sun had
 17 misused her statements about being a victim of Mr. Weinstein
 18 to suit their attack on Mr. Depp, something she was very upset
 19 about.
 20 There is one further person I should mention in this
 21 context and that is Kate Moss, another long-term relationship
 22 which Mr. Depp had. Even Ms. Wass, on behalf of the
 23 defendants, stopped short of suggesting that Mr. Depp had been
 24 physical towards her in any way whatsoever. The defendants
 25 thought better of such a baseless suggestion, but Ms. Heard

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1 CLOSING - SHERBORNE
 2 did not. Your Lordship will recall how, in yet another moment
 3 of unscripted malevolence, she tossed in a detail to the March
 4 2015 incident on the stairs in penthouse 3 of the Eastern
 5 Columbia Building.
 6 MR. JUSTICE NICOL: Just a minute much (Pause) Yes.
 7 MR. SHERBORNE: She tossed in the detail, namely that she was
 8 scared for her sister and therefore punched Mr. Depp because
 9 in that moment she remembered a rumour about Kate Moss. I am
 10 going to read your Lordship from the transcript of that. For
 11 your Lordship's note, it is day 11, pages 1777-1778. If
 12 your Lordship just gives me a moment. (Pause) Ms. Laws put to
 13 her: "And you punched him in the face ----"
 14 MR. JUSTICE NICOL: Sorry, Ms. Laws or Ms. Wass?
 15 MR. SHERBORNE: Ms. Laws, it was cross-examination.
 16 MR. JUSTICE NICOL: Yes, okay. Right.
 17 MR. SHERBORNE: "(MS. LAWS): And punched him [Mr. Depp] in the
 18 face with a closed fist? (THE WITNESS): I did strike Johnny
 19 that day in defence of my sister. He was about to push her
 20 down the stairs. And the moment before that happened,
 21 I remembered information I had heard very recently, which is
 22 that he pushed a former girlfriend, I believe it was Kate
 23 Moss, down the stairs. I had heard this rumour from two
 24 people and it was fresh in my mind. When he moved to hit
 25 Whitney to push her out of the way when she tried to

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1 CLOSING - SHERBORNE
 2 intervene, I thought of that moment and in a flash I reacted
 3 in defence of her. I had been for years, for years, Johnny's
 4 punching bag and for years I had never ever hit him. I had
 5 never so much as landed a blow, and I will never forget this
 6 incident. I will never forget it, because it was the first
 7 time after all these years that I actually struck him back."
 8 Then Ms. Laws pulled Ms. Heard back to the answer. "(Q): You
 9 just added that bit in about Ms. ---- (A): I have never
 10 changed my story. (Q): You have changed your story
 11 because ---- (A): That is not true." Your Lordship had to
 12 intervene: "Just let Ms. Laws ask her question." Then
 13 Ms. Laws said: "You have changed your story, because you have
 14 added in the detail about Kate Moss, have you not?
 15 (THE WITNESS): That is always what it has been. (MR. JUSTICE
 16 NICOL): Just a minute, please. (Pause) (MS. LAWS): It is
 17 not contained in any documents, and you were asked about this
 18 in deposition and you gave a very long answer and did not
 19 mention a thing about Kate Moss being in your mind. You are
 20 just making this up as you go along, are you not? (MR.
 21 JUSTICE NICOL): Just a minute. (THE WITNESS): Sorry,
 22 I thought you were asking me a question. (MS. LAWS): Let us
 23 go through it, I have asked it, I will ask it again. In none
 24 of the documents, neither in your deposition, do you mention
 25 that the person in your mind or that Kate Moss had anything to

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1 CLOSING - SHERBORNE
 2 do with this. This is the first time you have mentioned it,
 3 in these proceedings, is it not? Do you agree? (A): In these
 4 proceedings? (Q): Do you agree? (A): In these proceedings
 5 I asked. (Q): It is the first time we have heard about it; do
 6 you agree? (A): I do not know. (Q): You do not know. When
 7 you were asked about it and you had made a sworn deposition
 8 and you were given all the time you needed to talk about it,
 9 and you did, you gave a very long answer, did you not?
 10 (A): I disagree. (MR. JUSTICE NICOL): Can we go to the
 11 passage in the deposition that you have in mind? (MS. LAWS):
 12 Yes, my Lord, we can play it in fact. (MR. JUSTICE NICOL):
 13 If we can look at it. (MS. LAWS): We have the transcript as
 14 well. (MR. JUSTICE NICOL): Do we need to play the recording?
 15 (MS. LAWS): We need to play it now." Then he did that.
 16 Then I think she came back to it: "Thank you" says
 17 Ms. Laws, after it is played, "so you are giving a free
 18 narrative there, in a very impassioned way, of what happened
 19 on the stairs, and at no point in that do you say what was in
 20 your mind was that you thought Johnny had done this before
 21 with, in fact, Ms. Moss? (A): I disagree with your
 22 characterisation of how free that was. (Q): Do you mention it
 23 in the deposition? (A): No, I did not have a chance.
 24 (Q): Have you ever mentioned it in any of your statements?
 25 (A): I do not know. I do not think so."

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1 CLOSING - SHERBORNE
 2 Your Lordship will remember there are seven witness
 3 statements that have been provided by Ms. Heard for this case.
 4 Then Ms. Laws said: "No, you have not. You have not made
 5 that point in any of your statements or in any document in
 6 these proceedings, have you; yes or no? (A): No. To be
 7 clear, I have not had the liberty of time or space, or energy
 8 even, to list every thought that crossed through my mind in
 9 one of the many, many instances that are referenced
 10 specifically in this proceeding. During that deposition
 11 I was, as you could hear, for the moments, minutes leading up
 12 to being given a short chance to answer, I was interrupted by
 13 14 different lawyers that were present. I had anything but
 14 the freedom to speak freely about my experience that day.
 15 (Q): The question was, have you mentioned it in any of your
 16 statements, and you said no. You have had every opportunity,
 17 if you wanted to, to mention that, have you not? (A): I have
 18 not had every opportunity to list every thought that went
 19 through my mind before any or all of the many instances in
 20 which Johnny beat me up. (Q): You have had, if you listen to
 21 the question ---- (MR. JUSTICE NICOL): Well, Ms. Laws,
 22 I think you have made the point."
 23 MR. JUSTICE NICOL: Right. Is that a convenient point,
 24 Mr. Sherborne?
 25 MR. SHERBORNE: My Lord, yes.

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1 CLOSING - SHERBORNE
 2 MR. JUSTICE NICOL: Ten minutes.
 3 (A short break)
 4
 5 MR. SHERBORNE: My Lord, we had just broken off at the point that
 6 Ms. Heard decided to introduce the gratuitous and totally
 7 invented reference to Ms. Moss. If you want to see the nature
 8 of the witness whose credibility the defendants' case is so
 9 heavily dependent on, that tells you a lot, we say. Even the
 10 defendants realised they could not put that to Mr. Depp, it
 11 was so blatantly made up by Ms. Heard during the course of her
 12 evidence. This invention, in the context of one of the
 13 pleaded incidents, we say, shows that Ms. Heard's evidence
 14 just cannot be relied upon.
 15 For now, there is nothing more I need to say about the
 16 subject of Ms. Ryder or Ms. Paradis or Ms. Moss or Mr. Depp's
 17 relationship history, save for this: the unchallenged fact,
 18 whatever may be Ms. Heard's claims and your Lordship knows
 19 what we say about them, Mr. Depp has never ever hit another
 20 woman -- I will put it the way your Lordship phrased it -- in
 21 his life. The fact that he has not done so stands, we say, as
 22 a very powerful factor indeed in favour of his innocence and
 23 against the charge that the defendants need to prove.
 24 The truth is that Mr. Depp is not a violent man, by
 25 nature, at all, despite how the defendants have persistently

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1 CLOSING - SHERBORNE
 2 sought to present him. Those of the witnesses who have come
 3 into contact with him, have testified to this, as they had to
 4 the fact that he is a generous, warm, and gentle individual.
 5 Obviously, some of the witnesses, as we have said, who have
 6 given evidence, have never met him, but the ones that have,
 7 especially those that work for him, have all spoken in those
 8 terms, and rightly so. Even Ms. Heard's clique, before they
 9 were forced to demonstrate their loyalty to the court or those
 10 of them that have done so, even they would agree with that.
 11 It is not surprising, because he was exceptionally generous to
 12 them, providing, amongst other things, accommodation and a lot
 13 else, without any charge at all. Mr. Depp's personality and
 14 behaviour is why those who work for him or with him, as he was
 15 at pains to describe it, have been working with him for many
 16 years. To adopt Mr. Baruch's word, he is an "uber mensch".
 17 These people know that he is not the man who Ms. Heard and the
 18 defendants have persistently sought to portray.
 19 The defendants have tried to turn this on its head, as
 20 they have so much of the evidence in this case. The fact that
 21 these people, some of whom work for him still and some who do
 22 not, have been prepared to come to court to help refute the
 23 allegation that he is a wife beater, has been turned into a
 24 suggestion that they are only doing so because their
 25 livelihood depends on it, that they have come to lie to this

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1 CLOSING - SHERBORNE
 2 court because they are afraid of losing it. But the trouble
 3 is that most, if not all of them, were able to point out that
 4 they were not dependent on him for their livelihood.
 5 I could take your Lordship through each and every
 6 witness, but your Lordship will take it from me that just on a
 7 head count alone, the majority of the witnesses we heard from
 8 are not actually employees of Mr. Depp. When you take off
 9 those who explained, as they did, that they did not depend on
 10 him at all for their livelihoods, like Tara Roberts, for
 11 example, then it leaves a much smaller fraction. Worse still,
 12 we say, was the suggestion which raised itself at times that
 13 everyone who worked for Mr. Depp was a "yes" person, something
 14 which you will recall Mr. Depp was quite upset by. You can
 15 hear it on one of the secretly recorded tapes, when he says to
 16 Ms. Heard that is the last insult he will hear and that she
 17 should go.
 18 MR. JUSTICE NICOL: Just a minute. (Pause) Yes.
 19 MR. SHERBORNE: The suggestion that Mr. Depp surrounds himself
 20 with people who just agree with him and will never say
 21 anything to the contrary, essential and it is for the
 22 defendants' case, is sadly unsustainable on the evidence that
 23 your Lordship heard. Just because it is said by Ms. Heard,
 24 just because it is repeated by Ms. Wass, does not mean there
 25 is actually any evidence to support it.

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1 CLOSING - SHERBORNE
 2 MR. JUSTICE NICOL: I think you said a moment ago that in one of
 3 the recordings the claimant said this was the last insult.
 4 MR. SHERBORNE: Yes, my Lord. It is the one we played.
 5 MR. JUSTICE NICOL: If we have a transcript, can you just give me
 6 the reference.
 7 MR. SHERBORNE: Yes, it is argument number 2. It was in the part
 8 that I played. It is at page F923, so it is tab 154 of
 9 file 4, and I will just read you the sentence. This is
 10 Ms. Heard: "I am not going to sit here and promise you I'll
 11 never get mad at you or never fuck up. I know you want to
 12 live in a world where everyone just says yes to you and
 13 doesn't question you or criticise you ever." Mr. Depp said,
 14 "Don't insult me like that, please. That's not the case".
 15 Then it carries on and he says it again.
 16 MR. JUSTICE NICOL: Just give me the page reference again.
 17 MR. SHERBORNE: F923. There is also another reference to it later
 18 on, but it is the same point.
 19 MR. JUSTICE NICOL: Yes.
 20 MR. SHERBORNE: As I say, it is essential to the defendants' case,
 21 but it is not sustained by any evidence. Quite the contrary.
 22 Of the witnesses to whom it was actually put, and to not many
 23 of them was it actually put, all of them denied it
 24 emphatically. Once again, we say, and not for the first time
 25 in this case, it is a classic projection of Ms. Heard: "I am

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1 CLOSING - SHERBORNE
 2 Amber and I get what I want." Portraying Mr. Depp as
 3 controlling and intimidating towards her is an essential part
 4 of the narrative, but it is an obvious and unsustainable myth
 5 and one which I will return to shortly.
 6 Perhaps the best example of the evidence given was
 7 Mr. Connolly, you remember, the former prison officer, who,
 8 when he was asked about whether he was just a "yes" man acting
 9 for Mr. Depp and whether he would stop anything if he saw any
 10 violence at all, he said, "Of course I would. I don't care
 11 even if he is the Pope".
 12 So, what have the defendants done to try to counter this
 13 weight of evidence against them that Mr. Depp is just not a
 14 violent person? Oh yes, they have treated us to a kitchen
 15 sink video, and they have treated us to it not just once or
 16 twice; they have played it at least half a dozen times. Talk
 17 about persistence! This was until it reached a point where
 18 even the defendants resorted to just putting it to witnesses
 19 that this video, which it was said people could have seen,
 20 showed that Mr. Depp was actually violent, despite what they
 21 had witnessed themselves about his character. This one piece
 22 of footage is the only piece of footage, your Lordship will
 23 have noted, from a four-year relationship, which Ms. Heard
 24 claims was littered with endless incidents of violence, so
 25 many in fact she could not remember them all, as she said, and

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1 CLOSING - SHERBORNE
 2 incidents which she seems keen to catalogue so she can
 3 demonstrate to Mr. Depp the next day what he had done. This
 4 is just the one piece of footage that we have.
 5 There appears to be some debate as to when it was taken.
 6 Mr. Depp believes it was 2013 from what he was wearing and how
 7 he looked. The defendants think it was 2016. It is not a
 8 dispute that your Lordship needs to resolve. But what does
 9 this footage of Mr. Depp slamming or smashing a cabinet out of
 10 frustration or pouring a large glass of wine actually show?
 11 Yet it was played over and over again to witnesses so many
 12 times that you would be forgiven for thinking that this was a
 13 trial of Johnny Depp, the kitchen cupboard beater, rather than
 14 wife beater, which is what the defendants have accused him of.
 15 Mr. Depp was very clear that in a situation of
 16 frustration, he would rather take it out on an inanimate
 17 object than ever, ever contemplate, he said, doing it with a
 18 person he loved, and nothing, I repeat nothing, in that
 19 90-second clip undermines that answer, and that is the big
 20 problem which the defendants face. I am going to play this
 21 tape one more time, but this time -- and this is the only time
 22 it will be done -- I am going to play it right to the end.
 23 I am not going to clip it the way the defendants have. Then
 24 I am going to mention another problem which the defendants
 25 face with this footage once I have shown it.

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1 CLOSING - SHERBORNE
 2 Before I show it to your Lordship, can I ask you this
 3 time to pay less attention to the poor fixtures and fittings
 4 and more to what Ms. Heard is doing because if you do, you
 5 will observe, we say, two things. First of all, she is
 6 clearly moving the camera and hiding it to avoid Mr. Depp
 7 detecting that she is secretly recording him. That is her
 8 pre-occupation, as you will see. Secondly, by the same token,
 9 she is not afraid of Mr. Depp in any way. She does not regard
 10 this as being directed at her. She is only worried that he
 11 will spot her secret recording device.
 12 Look at her at the end of the clip. I am going to give
 13 your Lordship a still from it. Look at how she looks pleased
 14 with herself for having captured this footage, although why
 15 I am not sure, despite having seen this a dozen times. Before
 16 I play it, can I just hand up to your Lordship the two stills
 17 that we have taken from it. (Same handed)
 18 MR. JUSTICE NICOL: Can I put this in a convenient point of the
 19 file?
 20 MR. SHERBORNE: Your Lordship can. I am going to suggest a
 21 convenient place, which is code for saying somebody is going
 22 to suggest it for me. I am going to give mine to Ms. Wass.
 23 At the moment, I only have two.
 24 MR. JUSTICE NICOL: Did you want me to pass mine back?
 25 MS. WASS: I have seen them. I am happy to give them back.

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1 CLOSING - SHERBORNE
 2 MR. JUSTICE NICOL: Thank you.
 3 MR. SHERBORNE: Your Lordship, the transcript should be at 158 of
 4 file 4.
 5 MR. JUSTICE NICOL: Just a minute. (Pause)
 6 MR. SHERBORNE: It depends how you have broken up file 4 at the
 7 end. Some people have put it into 5.
 8 MR. JUSTICE NICOL: The last tab in file 4 is 156.
 9 MR. SHERBORNE: It is file 5, I think, for your Lordship, and it
 10 is 158A. That should be the transcript and you can put it
 11 behind there.
 12 MR. JUSTICE NICOL: Just a moment.
 13 MR. SHERBORNE: If you put it behind there. (Pause)
 14 MR. JUSTICE NICOL: 158 ---
 15 MR. SHERBORNE: A.
 16 MR. JUSTICE NICOL: Just a moment. (Pause) Shall I add it to
 17 158A?
 18 MR. SHERBORNE: My Lord, yes. If your Lordship keeps that open
 19 for a moment ---
 20 MR. JUSTICE NICOL: Just a moment. (Pause) Yes.
 21 MR. SHERBORNE: So, if your Lordship just has that, and if you
 22 can, as I say, this time pay less attention to the cupboards
 23 and more attention to Ms. Heard, you should see those two
 24 things: first of all, her trying to move the camera and avoid
 25 its detection; and secondly, as your Lordship sees from that

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1 CLOSING - SHERBORNE
 2 photograph, and then the others, far from being worried, she
 3 is pleased with her endeavours. With that, can I cue the
 4 video.
 5 (Recording played to the court)
 6 MR. SHERBORNE: There, your Lordship will see, first of all, how
 7 she moves the phone around to make sure she gets the best shot
 8 possible and how expertly she tries to camouflage it when he
 9 comes anywhere close. Secondly, as the still images show, and
 10 as her laugh that can you make outright at the end
 11 demonstrates, she is not remotely concerned about this being
 12 violence or her in any way being in danger. She is just happy
 13 that she has got this footage.
 14 But as I say, this raises a very bigger problem for the
 15 defendants and it is this. If, as is clear, Ms. Heard was
 16 making such secret recordings or taking photographs, as she
 17 admits she did in her witness statements, albeit she says for
 18 the purpose of showing Mr. Depp what he had done after the
 19 event, but bizarrely never shows him in fact and he never sees
 20 it until this court case, if she is making these secret
 21 recordings, then we ask a number of questions. These secret
 22 recordings, like this video, and the rather unedifying sound
 23 your Lordship will recall of someone moaning, as caught on a
 24 recording by Ms. Heard's phone, whether it was on a plane or
 25 whether it was some other occasion, as Mr. Depp says, or her

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1 CLOSING - SHERBORNE
 2 phone being left on in Australia, supposedly by accident,
 3 whatever these are, in all of the years of violence that she
 4 alleges, when she has her phone at the ready, where is the
 5 secret recording of Mr. Depp knocking seven bells out of her,
 6 grabbing her by the throat, pulling her by the hair, screaming
 7 at her, threatening to kill her, or any of the other acts of
 8 brutality which he is said to have perpetrated against her on
 9 a regular basis throughout these years? Nowhere, is the
 10 answer.
 11 Even in Australia, where she is supposedly holed up in a
 12 hostage situation for three days against her will, armed, as
 13 she said, with an iPhone and an iPad, she decides she is not
 14 going to call anyone to come and get her out of this hostage
 15 situation. She has plenty of time, you might think, to
 16 indulge in her hobby of secret recording or cataloguing
 17 Mr. Depp's behaviour and yet there is nothing. In fact, while
 18 we are on it, there is not even a photo of the horrific
 19 injuries she claimed to have suffered, as we will come back
 20 to. We do have some good photos taken at the time by her of a
 21 lampshade and a heavily graffitied mirror, but nothing that
 22 helps the defendants prove their Lucas-Box meaning, rather
 23 like this video that you have just seen.
 24 You see, the problem for Ms. Heard is that she knows
 25 full well that there was nothing to record. Mr. Depp was not

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1 CLOSING - SHERBORNE
 2 a violent man and certainly not someone who would ever attack
 3 a woman. So, what does she need to do to find a way to bridge
 4 the gap, as Ms. Wass described it, to find some supposed
 5 Dr. Jekyll for Mr. Hyde? Enter stage left "the monster".
 6 Essentially, we say that "monster", in the way that Ms. Heard
 7 wants to use the term, is yet another example of
 8 retro-engineering, or at the very least, there was a real
 9 difference between Mr. Depp and Ms. Heard as to how they truly
 10 meant it.
 11 MR. JUSTICE NICOL: How they truly?
 12 MR. SHERBORNE: Meant the word "monster".
 13 MR. JUSTICE NICOL: I see.
 14 MR. SHERBORNE: Whichever it is, we say the term alone cannot plug
 15 the glaring hole in the defendants' case, namely, evidence
 16 that Mr. Depp actually did do the things accused of, just
 17 because of the word "monster". Can I remind your Lordship of
 18 what Mr. Depp said about this when he was asked.
 19 MR. JUSTICE NICOL: Can I just put file 5 away.
 20 MR. SHERBORNE: My Lord, yes. He was asked by Ms. Wass -- this
 21 was day 1, for your Lordship's note, pages 104-106 -- about
 22 the first use of the word "monster" and he said, "The monster,
 23 which is something that Ms. Heard became obsessed, in a way,
 24 with using that term, the term came from me, I believe.
 25 (MS. WASS): It was your name for your alterego, the bad side

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1 CLOSING - SHERBORNE
 2 of your character, the person who used to lose control, who
 3 used to smash up hotel rooms, used to assault camera crewmen
 4 or paparazzi. That bad boy image, as it has been described in
 5 the newspapers, when you lose control and become a violent
 6 thug, that is the monster, is it not? (A) No. (Q) What do
 7 you say the monster is? (A) Monster, in situations with
 8 Ms. Heard, was when the argument would escalate and I would
 9 not placate, I would -- if she was yelling at me, I would yell
 10 back and then it became a screaming match, and that was the
 11 monster. Because if I disagreed with Ms. Heard in any way,
 12 and I voiced it, then I was the monster.
 13 Then, put again to him several times that the monster
 14 was the person who lost control through drugs and drinking, he
 15 repeatedly said "No". He said, "I am afraid you are incorrect
 16 in your assumption that it was my definition of my character
 17 or an alterego. The monster can be many things. It could be
 18 pain. It could be raising your voice. It could be slamming
 19 cabinets...." and he goes on to again deny that he is Jekyll
 20 and Hyde.
 21 Your Lordship will then remember that he was shown the
 22 Elton John e-mail. It is his answer, rather than Ms. Wass's
 23 interpretation, that I would like to remind you of. Again, it
 24 is day 1, page 135.
 25 MR. JUSTICE NICOL: We must have the Elton John e-mail somewhere,

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1 CLOSING - SHERBORNE
 2 do we?
 3 MR. SHERBORNE: We do. I think the e-mail itself is at file 8,
 4 64A.
 5 MR. JUSTICE NICOL: Just a minute. (Pause)
 6 MR. SHERBORNE: I am told there is one at 62C.
 7 MR. JUSTICE NICOL: Just a moment. (Pause)
 8 MR. SHERBORNE: I am told 62D. Does your Lordship have it?
 9 MR. JUSTICE NICOL: I think so. I will just check.
 10 MR. SHERBORNE: It is in the middle, right between the two punch
 11 holes.
 12 MR. JUSTICE NICOL: Yes, "100 days of clarity for an old reprobate
 13 twat".
 14 MR. SHERBORNE: Yes, "keep me afloat" ----
 15 MR. JUSTICE NICOL: Anyway, I have the right page?
 16 MR. SHERBORNE: Sorry, IO7.
 17 MR. JUSTICE NICOL: Just a moment. (Pause) Yes.
 18 MR. SHERBORNE: Your Lordship will see this is another
 19 characteristic communication with Mr. Depp that is not meant
 20 necessarily as factual. It is extravagant in its language,
 21 but your Lordship understands what it means: "Your love,
 22 understanding and complete dedication to the curing of my
 23 poisoned wet brain ...(reads to the words)... whilst keeping
 24 me afloat on a dreadful sea of confusion, hellish personal
 25 life, fucked brain, hurt heart and internal savagery", and

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1 CLOSING - SHERBORNE
 2 before Ms. Wass rises, "internal savagery against myself. I
 3 would have been swallowed up by the monster were it not for
 4 you. That is the simple fact. One day at a time at the
 5 beginning felt far more like one step at a time, a foot
 6 forward" and so on.
 7 When he was asked about this by Ms. Wass, she said this:
 8 "So, I asked you earlier this afternoon, or I suggested to
 9 you, that the monster was your name for your alterego. You
 10 referred to Jekyll and Hyde, but I think we know what we are
 11 talking about, two sides of a person. You referred to the
 12 monster ---- (A) Yes. (Q) ---- as that part of your being
 13 which was destructive and angry, and an addict. That is what
 14 you are saying to Elton John, 'I would have been swallowed up
 15 by the monster.' It is not a coincidence, is it, that you
 16 used that term? That was your pet name for your Mr. Hyde, as
 17 you called it, was it not? (A) No.
 18 "(Q) What does that mean? What are you saying to Elton
 19 John there? (A) I am thanking him for helping me to get
 20 sober. (Q) I understand that. (A) And when I say 'I would
 21 have been swallowed up by the monster were it not for you.
 22 That is a simple fact.' (Q) It is a fact because the monster
 23 is your Mr. Hyde, the part of you that behaves so badly, the
 24 very different part from this softly-spoken, charming man that
 25 we see here in this court? (A) Ms. Wass, I can appreciate

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1 CLOSING - SHERBORNE
 2 your need to continue to apply the word 'monster' to me as an
 3 alterego. The word 'monster' has many uses. We can all find
 4 that in the dictionary. I am not being facetious or I am not
 5 trying to be rude. What I am saying here, 'I would have been
 6 swallowed up by the monster were it not for you. That is the
 7 simple fact', the monster, it is the same thing as saying
 8 I would have been consumed by this poison. The monster here
 9 is death. (Q) You see, a year after this email...." and she
 10 goes on to something else.
 11 MR. JUSTICE NICOL: So, there, Mr. Depp is saying the monster is
 12 death?
 13 MR. SHERBORNE: Yes. He would have drunk himself to death if it
 14 was not for Mr. Elton John. That is why he is so incredibly
 15 grateful. That is why he talks about poisoned wet brain and
 16 liver.
 17 If one wants to look at another explanation as to how
 18 this was dealt with between Mr. Depp and Ms. Heard, you will
 19 find it in a series of text exchanges in September 2015, which
 20 is right around the time of that recording, what we call
 21 argument 2. If your Lordship turns to bundle 6, to the text
 22 schedule, and you put -- I think your Lordship has already put
 23 it away.
 24 MR. JUSTICE NICOL: Yes. 6.
 25 MR. SHERBORNE: File 6.

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1 CLOSING - SHERBORNE
 2 MR. JUSTICE NICOL: 119.
 3 MR. SHERBORNE: We start at 119, F697.76, so page 76, I think it
 4 is. There is a long exchange of texts.
 5 MR. JUSTICE NICOL: Just a moment, please. (Pause) Yes. A long
 6 exchange of texts between ----
 7 MR. SHERBORNE: Between Mr. Depp and Ms. Heard, starting at 7414.
 8 MR. JUSTICE NICOL: Just a minute. (Pause)
 9 MR. SHERBORNE: No, 6077, sorry.
 10 MR. JUSTICE NICOL: You have lost me.
 11 MR. SHERBORNE: It is easier to start at the top. It is because
 12 they are interspersed with other texts. If you start at the
 13 top of 76, "On my way brother." This is Mr. Depp talking to
 14 Bruce (unclear): "On my way, brother. Amber fucking changes
 15 personalities just as I'm walking out the goddamn door." That
 16 is a reference to, yes, "Please send my apologies."
 17 The next one is 26, "Hey brother, could you come and
 18 hang by the door for a bit. I'm going to split here and want
 19 to avoid confrontation with Amber."
 20 MR. JUSTICE NICOL: Sorry, you have gone from ----
 21 MR. SHERBORNE: The first one to the second one. This is around
 22 the same time as the tape we are listening, your Lordship will
 23 recall Ms. Heard's complaint, as we hear time and time again
 24 in that recording, is not that Mr. Depp stays and fights with
 25 her, let alone physically fights with her, but that actually

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1 CLOSING - SHERBORNE
 2 the opposite, that he splits, he runs away from the argument,
 3 that he should be a man and stand up to her. That is what she
 4 says. Curious language you might think for a victim of
 5 domestic abuse. We have in the second text him talking to
 6 Mr. Whitkin: "Hey brother, can you come and hang by the door
 7 for a bit, I'm going to split here and want to avoid
 8 confrontation with Amber." This is him saying to Travis
 9 security: "If you hear yelling, knock", so he is saying to
 10 security, who had to take him away from situations like this
 11 when Ms. Heard got violent, as they always said. Then you
 12 have Ms. Heard: Do you see "Monster is back, this is him", do
 13 you see? Has your Lordship got that one?
 14 MR. JUSTICE NICOL: Yes.
 15 MR. SHERBORNE: Then you follow a series of texts from her: "The
 16 monster is back, this is him. Ran away at the first sight of
 17 trouble." So, the monster is not someone who hits her. The
 18 monster is someone who runs away at the sign of trouble; a
 19 very inconvenient text not shown to your Lordship. "The
 20 monster is back, this is him." That is what Mr. Depp
 21 described as being the way in which the arguments ran as the
 22 monster: "Ran away at the first sign of trouble. This is not
 23 the man you promised you would be, promised, you swore to me
 24 you would be. I feel disappointed. Come down, face the shit
 25 and we can do anything. ...(reads to the words)... apologise

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1 CLOSING - SHERBORNE
 2 to each other."
 3 Then you see on 77, does your Lordship have it there, it
 4 goes over: "Not to go to bed mad ...(reads to the words)... be
 5 the man", again do you see that, three lines down on 77? This
 6 is the monster. The person, the altergo Ms. Wass wants to
 7 create in order to bridge the gap in the lack of any evidence
 8 in this case that Mr. Depp physically assaulted Ms. Heard on
 9 all of these occasions, so they have brought in this term.
 10 Ms. Heard has brought in this term, in a classic piece of
 11 retro engineering to try and suggest that the monster is
 12 Dr. Jekyll and Mr. Hyde. I do not know any version of that
 13 myth that involves the monster running away from the fight,
 14 the man staying. There you will see again: "Please
 15 answer" -- look how she gets -- "don't be that ...(reads to
 16 the words)... please just answer." Is this a victim of abuse
 17 asking an abuser to come back and abuse her more? I do not
 18 think so. Then you will see on 79.
 19 MR. JUSTICE NICOL: Just a minute. (Pause)
 20 MR. SHERBORNE: You will see -- sorry, 78 still, is your Lordship
 21 at the top of 78?
 22 MR. JUSTICE NICOL: Just a moment. Yes.
 23 MR. SHERBORNE: "Please call me, please. I don't want the
 24 monster, I need my man. I need to talk to you, please Johnny,
 25 I'm still your wife ...(reads to the words)... when you're

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1 CLOSING - SHERBORNE
 2 mad."
 3 Then this text from Mr. Depp to Ms. Heard: "We will
 4 speak tomorrow, once you've done whatever you have to. Talk
 5 to Isaac" -- Isaac Baruch -- "he needed me and that shouldn't
 6 have been a big deal". You can see what the argument is, the
 7 argument is because Mr. Depp is spending time with somebody
 8 else. Feelings of jealousy and abandonment?
 9 MR. JUSTICE NICOL: Just a minute. (Pause)
 10 MR. SHERBORNE: You will recall there was the note of Nurse Burin,
 11 where Ms. Heard tried to twist and turn her evidence to
 12 somehow change Nurse Burin's note, that it was Mr. Depp's
 13 feelings of jealousy and abandonment that she had trouble
 14 dealing with, as opposed to her own. This text proves that
 15 that was another lie tossed out by Ms. Heard against evidence
 16 that she knows stands in the way of the account she tries to
 17 give. But this text tells us something very different. "Talk
 18 to Isaac", says Mr. Depp, "he needed me and that shouldn't
 19 have been a big deal. You go all kinds of places for hours on
 20 end. This was unnecessary and really fucked up. I've not
 21 been anything but understanding and helpful to you, and all
 22 I get are these demands that tax me emotionally ...(reads to
 23 the words)... your moods and temper are going fuck us over."
 24 If your Lordship needs the definition of labile, there you
 25 have it. "If you do not calm down and think about what you're

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1 CLOSING - SHERBORNE
 2 ...(reads to the words)... because I knew that you'd get
 3 fucking violent again. And you keep nailing me like you think
 4 you can do something as enraging and the scarring as that
 5 amount of hatred and then just sweetly apologise. No.
 6 ...(reads to the words)... because I had a conversation that
 7 he needed." Again, I ask, is that the type of language of an
 8 abuser or an abused?
 9 MR. JUSTICE NICOL: Just a minute. (Pause)
 10 MR. SHERBORNE: I am not going to take your Lordship through the
 11 remainder of the text, but you can see.
 12 MR. JUSTICE NICOL: "Slim" is Ms. Heard, is it not?
 13 MR. SHERBORNE: Slim is Ms. Heard. This goes on and on and on.
 14 Again, she keeps writing to him and telling him to apologise
 15 and all this, you can understand why Mr. Depp just wanted to
 16 run away. When he does, he gets criticised for that as well.
 17 That is the monster, the person that runs away. Not one of
 18 the 70,000 texts that the defendants' solicitors received that
 19 they wanted your Lordship to look at.
 20 Sorry, I will wait until your Lordship has finished.
 21 (Pause) As you can see, it is exactly as these arguments go.
 22 Mr. Depp ends up apologising, even though he is not in the
 23 wrong. Because, as he said, he wants to placate her, and one
 24 can tell from these texts that is definitely the better course
 25 of action.

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1 CLOSING - SHERBORNE
 2 MR. JUSTICE NICOL: Just a moment. (Pause)
 3 MR. SHERBORNE: Can I just say this, your Lordship asked
 4 yesterday, I think it is partly an Americanism, and it is
 5 partly just the lexicon of the language that Ms. Heard and
 6 Mr. Depp use, that the word "fight" is an argument, unless it
 7 says something completely different.
 8 MR. JUSTICE NICOL: It is ambiguous. Sometimes it can mean an
 9 argument, sometimes it can mean something physical. In and of
 10 itself it is ambiguous.
 11 MR. SHERBORNE: Yes, my Lord, it is. But one can see the way
 12 these two describe their verbal arguments as fights.
 13 We say even with all of the texts that pick through as
 14 the defendants and Ms. Heard have had, with all the negative
 15 and self-flagellating, exaggerated and extravagantly poetic
 16 texts and messages that Mr. Depp sends, some dark, some
 17 humorous, it is not enough. Your Lordship does not need me to
 18 say that one cannot convict, one cannot find such serious
 19 allegations proven off the basis of picking out the odd text
 20 exchange, as Ms. Wass and the defendants have sought to do.
 21 Mr. Depp may use poetic licence, he may use metaphor, but he
 22 never ever says that he hit Ms. Heard. It would be a lie, and
 23 that is not something that he did.
 24 Recognising this, we say, insuperable problem in their
 25 case, one can see how desperate the defendants became. One

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1 CLOSING - SHERBORNE
 2 example of this desperation, your Lordship will find in the
 3 e-mail of Mr. Deuters, which is at, I think it is file 9,
 4 IO.10 -- file 8, sorry.
 5 MR. JUSTICE NICOL: When you are ready, Mr. Sherborne, can you
 6 tell me the tab?
 7 MR. SHERBORNE: Yes, it is tab 44.
 8 MR. JUSTICE NICOL: In that case it is not 8.
 9 MR. SHERBORNE: IO.9. I am being told a different tab, but it is,
 10 starting at IO.10, your Lordship will recall ---
 11 MR. JUSTICE NICOL: Just a minute. I am trying to find the
 12 document you are talking about. You have said 8, volume 8.
 13 MR. SHERBORNE: Volume 8. It is tab 44 in my bundle. Sorry, no,
 14 I stand corrected. I do not have bundle 8 in front of me.
 15 Now I understand the note. It is tab 62E, it is page IO.10,
 16 which is the start of an exchange. Does your Lordship have
 17 that?
 18 MR. JUSTICE NICOL: I have IO.10.
 19 MR. SHERBORNE: Yes, this is an e-mail exchange you will recall
 20 between Mr. Deuters, whose task it is, not for the first time,
 21 to try and get Mr. Depp in time for various things.
 22 MR. JUSTICE NICOL: So, Mr. Deuters and who?
 23 MR. SHERBORNE: And Mr. Depp. He asks him to be ready by one, by
 24 1.30. At 10.45 he gets the response at 12, Mr. Depp says
 25 this: "I got drunk and destroyed my room. There were hookers

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1 CLOSING - SHERBORNE
 2 and animals in here...", to which Mr. Deuters writes: "Watch
 3 out for Mike Tyson. Have you num-nummed", that means have you
 4 had food. Then Mr. Depp: Don't want nummies thank you.
 5 ...(reads to the words)... is it okay to put on condom?"
 6 MR. JUSTICE NICOL: Nummies means?
 7 MR. SHERBORNE: Food. That is why Mr. Depp says: "I've had to
 8 kill a few of the animals for sustenance. I've made quite a
 9 mess, there's blood and animal tracks everywhere."
 10 Mr. Deuters writes back: "As for the beastly residue
 11 ...(reads to the words)... it'll be great." Then you will see
 12 that that is responded to.
 13 Now, that, in my submission, obvious joke was challenged
 14 by Ms. Wass, who suggested to Mr. Deuters that this was a
 15 serious e-mail, and that there was nothing funny about hookers
 16 and killing animals. Well, if you wanted an example of how
 17 desperate the defendants have become in order to try and plug,
 18 as I say, a glaring hole in their evidence of any physical
 19 violence by Mr. Depp, there is no greater demonstration.
 20 Mr. Depp, we say, was not lying when he denied that drink and
 21 drugs turned him into this uncontrolled monster who runs away
 22 as Ms. Heard complains.
 23 MR. JUSTICE NICOL: Just a moment. (Pause) Yes.
 24 MR. SHERBORNE: Regrettably the court cannot be in any way
 25 confident of the position as far as Ms. Heard goes or her

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1 CLOSING - SHERBORNE
 2 close circle of supporters in term of the reliability of their
 3 evidence. Given the importance of credibility in this case,
 4 your Lordship will need to consider whether one can properly
 5 regard Ms. Heard as a witness of truth. As Ms. Wass herself
 6 recognised, she put it in this way: if you find Ms. Heard to
 7 be a truthful and plausible witness, then her evidence alone
 8 is sufficient to establish the defence of truth in this case.
 9 I would put it another way. If you find Ms. Heard's evidence
 10 to be untruthful in material respects, and implausible ----
 11 MR. JUSTICE NICOL: Just a minute. (Pause)
 12 MR. SHERBORNE: Then, given the dependence necessarily placed on
 13 her, the defence must fail. Whichever view your Lordship
 14 agrees with, it is common ground between us that her
 15 credibility or the lack of it is key, and it is the defendants
 16 who bear the burden of proof.
 17 Our position is quite simple. We say from the big
 18 points even to the small ones, Ms. Heard has proven herself to
 19 be a wholly unreliable witness and, frankly, a compulsive
 20 liar; and I do not say that lightly. This has manifested
 21 itself in a number of different and, we say, highly troubling
 22 ways. First of all, she has lied about the incidents,
 23 tailoring her story to meet the evidence adduced against her,
 24 changing dates.
 25 MR. JUSTICE NICOL: Just a minute. (Pause)

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1 CLOSING - SHERBORNE
 2 MR. SHERBORNE: There are five points I am going to make so
 3 your Lordship knows. Changing dates or splitting incidents
 4 where the evidence disproving her account required her to do
 5 so, rather than admit it was untrue, and we have set out
 6 examples in our annexes.
 7 MR. JUSTICE NICOL: Sorry. Which, is there a particular annex
 8 that you ----
 9 MR. SHERBORNE: There are a few, my Lord.
 10 MR. JUSTICE NICOL: Well, just so that I have a note as to the
 11 points you want to make.
 12 MR. SHERBORNE: My Lord, yes. You can start with the evolution of
 13 incident 2, which is annex B, you will recall that is the one,
 14 the so-called painting incident which changed radically on
 15 multiple occasions in these proceedings, as Ms. Amber Heard's
 16 testimony shifted and so, unsurprisingly, did Ms. Whitney
 17 Heard's as well. Then, there are some in the transcript as
 18 well. If you start with that, and I will come back to that.
 19 Secondly, she has added further details to incidents,
 20 details nowhere referred to in any of the vast amount of
 21 documentation generated in this case. There are examples in
 22 the transcript extracts we have included with each incident.
 23 I have explained to your Lordship, for example, the Kate Moss
 24 example.
 25 Thirdly, Ms. Heard has invented incidents, whole

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1 CLOSING - SHERBORNE
 2 incidents, sometimes based around retro engineering texts, and
 3 they have come out of nowhere. One example your Lordship may
 4 recall is when asked about how many times, asked by Ms. Wass
 5 in re-examination about how many times she took MDMA, she said
 6 she took it once at Coachella and once with Mr. Depp, and then
 7 she added this, "when he attacked a flight attendant on a
 8 flight to Moscow for hitting on me".
 9 MR. JUSTICE NICOL: Just a minute. Once in Coachella.
 10 MR. SHERBORNE: And once on a flight to Moscow with Mr. Depp, and
 11 she then added, again, entirely gratuitously, "when he
 12 attacked a flight attendant for hitting on me". An incident
 13 never ever mentioned anywhere in any of the seven witness
 14 statements she has served, three in the last few days before
 15 this trial, countless depositions or any other time. Once
 16 again, entirely gratuitously, she could not resist an attack
 17 on Mr. Depp. It is no surprise that the defendants did not
 18 even put these improvised allegations to Mr. Depp. Either
 19 they knew about them but realised they stretched the
 20 imagination too far, that is the imagination of everyone bar
 21 Ms. Heard; or they did not know about them and were so struck
 22 by her adlibbing from the witness box, as we were ourselves.
 23 Neither matters.
 24 Fourthly, Ms. Heard has sought to meet any difficult
 25 evidence by simply shifting the blame to others, largely

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1 CLOSING - SHERBORNE
 2 Mr. Depp; but others, Ms. James, Mr. Murphy, even the
 3 healthcare professionals. No one was exempt. Your Lordship
 4 will find examples of that in annex F.
 5 Finally, fifthly ----
 6 MR. JUSTICE NICOL: Just a minute. (Pause) Yes.
 7 MR. SHERBORNE: Fifthly, it is no small point on credibility, she
 8 has flatly refused just to admit that she has not told the
 9 truth when confronted with it; something which, in my
 10 submission, cannot be said of Mr. Depp's evidence.
 11 Now, I will return to that at the end of my speech and
 12 the consequences that flow from these points, but for now
 13 I will say this. If, as we say it will, the court reaches the
 14 conclusion that any one of these five points is correct, any
 15 one of these five points is correct, then Ms. Heard's evidence
 16 can be treated as coming, to use Ms. Wass's phrase, from a
 17 witness of truth, which, given her centrality to the
 18 defendants' case, we say spells doom. However, if, as we say
 19 all of these five are correct, then this court cannot find
 20 that the allegation is proven.
 21 Another of the very few things that Ms. Wass and I agree
 22 about, given the stark contrasts in this case of the evidence,
 23 is what I might call cross-fertilisation, cross-admissibility
 24 I think is the word that Ms. Wass used. She says that the
 25 truth of one incident may support the truth of others. But by

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1 CLOSING - SHERBORNE
 2 the same token, if you find that Ms. Heard has lied about any
 3 of the alleged incidents, i.e., that they did not happen, then
 4 we say it is far less likely that the others are true.
 5 MR. JUSTICE NICOL: Just a minute. (Pause)
 6 MR. SHERBORNE: To put it slightly differently, as we did in our
 7 opening speech, why would Ms. Heard need to lie to make up
 8 alleged incidents if they are true? The only conclusion
 9 your Lordship can reach is that it must mean she recognises
 10 they are not. That is why we have dealt with the incidents
 11 and will deal this afternoon with the incidents in the order
 12 they have been raised by Ms. Heard and adopted by the
 13 defendants. Bearing in mind, as your Lordship will know, that
 14 the original defence of truth had just two particulars of
 15 justification; the same ones that were referred to in the
 16 domestic violence restraining order. Now there are 14 alleged
 17 incidents.
 18 MR. JUSTICE NICOL: Just a minute. (Pause) Yes.
 19 MR. SHERBORNE: This applies with particular force to what I will
 20 call the private allegations. Far more serious, far more
 21 horrific allegations ----
 22 MR. JUSTICE NICOL: Are you content to deal with this in open
 23 court?
 24 MR. SHERBORNE: I am, my Lord, yes. I am going to come back in a
 25 bit more detail later, but it will all be absolutely fine for

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1 CLOSING - SHERBORNE
 2 open court. I am grateful to my Lord for offering that.
 3 These are far more serious, more horrific allegations raised
 4 relatively recently for the first time anywhere in the history
 5 of this whole matter. Why, I ask, both rhetorically and
 6 literally, would one want to invent such hugely serious and
 7 heinous allegations against Mr. Depp, as we will invite you to
 8 find in due course, unless you need to bolster allegations
 9 which you realise you are not going to succeed on.
 10 I am just going to give your Lordship a few examples of
 11 where we say Ms. Heard blatantly lied, which featured quite
 12 heavily in the evidence, and Savannah McMillen is perhaps a
 13 perfect example and one which I am going to start with.
 14 Your Lordship is by now familiar with the fact that Savannah
 15 McMillen, we say, was Ms. Heard's assistant. However,
 16 Ms. Heard claims she was in fact a friend and not her
 17 assistant, at least not her assistant when she was with her in
 18 the United States, whether carrying out duties for her at her
 19 house, as she said, or when she was on set with her,
 20 "accompanying her", is the way Ms. Heard put it, for various
 21 movies such as Magic Mike.
 22 The problem that Ms. Heard faces is that she has told
 23 Homeland Security that Ms. Savannah McMillen was just a
 24 friend, that she does not work for her (period, I would
 25 suggest, and we will look at the letter in one moment) but it

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1 CLOSING - SHERBORNE
 2 does not matter much. What matters, and what would have
 3 mattered greatly to Homeland Security, is the fact that
 4 someone made a complaint to them about the fact that
 5 Ms. McMillen was working for Ms. Heard, plainly in the United
 6 States, without any lawful authorisation, and that is a
 7 criminal offence. So, the distinction is an important one,
 8 the distinction between assistant and a mere friend.
 9 Let us look at the letter dated 28th September 2014.
 10 Your Lordship should find it, for example, at file 2.
 11 MR. JUSTICE NICOL: It is attached, is it not, to Kate James?
 12 MR. SHERBORNE: It is, my Lord. It is tab 56, D206. Does
 13 your Lordship have it?
 14 MR. JUSTICE NICOL: Just a minute. (Pause) I have seen it,
 15 I think it is at D196.
 16 MR. SHERBORNE: Ah. I remember we had this problem last time,
 17 my Lord. Yes, it is at 196 and also 206. I do not know how
 18 easily you can read the one at 196. Mine is not good. If you
 19 have D206, you can read it much more easily.
 20 MR. JUSTICE NICOL: Just a minute. (Pause) I do not have 197-209
 21 in this bundle.
 22 MR. SHERBORNE: Perhaps I can hand an unmarked copy, if we have
 23 one to hand, to your Lordship.
 24 MR. JUSTICE NICOL: I can just about read the ----
 25 MR. SHERBORNE: It is quite important for your Lordship to read

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1 CLOSING - SHERBORNE
 2 it. (Pause)
 3 MR. JUSTICE NICOL: Perhaps someone could provide me with pages
 4 D197-D209 because in my bundle, it is said they are left
 5 intentionally blank.
 6 MR. SHERBORNE: Mine is marked, but not in a way that says
 7 anything. I am not quite sure why I put that line across it.
 8 (Pause) Does your Lordship have it now?
 9 MR. JUSTICE NICOL: Yes.
 10 MR. SHERBORNE: That is a letter which has important consequences,
 11 as your Lordship will know, not only for Ms. McMillen, but
 12 also for the person who is accused of employing her. Can I
 13 just hand that up. (Same handed)
 14 The evidence that Ms. Heard gave in her fifth witness
 15 statement -- I do not need to turn it up -- is this. For
 16 your Lordship's note, it is tab 713 of file 2.1, and it is
 17 E606.33. It is paragraph 54 of her fifth witness statement.
 18 What she says is that Ms. McMillen was detained for seven
 19 hours by Homeland Security when she came through the airport.
 20 If you look at the letter, you will see it refers "To whom it
 21 may concern, 20th September 2014. My name is Amber Heard.
 22 I am a proud, lawful American citizen. I am writing this
 23 letter in response to a fraudulent report made against my
 24 English friend, Savannah McMillen". We say that far from the
 25 report being fraudulent, it is this letter which is a fraud,

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1 CLOSING - SHERBORNE
 2 but I will come back to that. It is a fraud being perpetrated
 3 on Homeland Security because Ms. McMillen was plainly
 4 Ms. Heard's assistant, whether they were on friendly terms or
 5 not.
 6 MR. JUSTICE NICOL: Just a minute. (Pause)
 7 MR. SHERBORNE: She was her assistant and everybody knew that.
 8 What is important for Ms. Heard, if, as we say, Ms. McMillen,
 9 this 18 year-old girl, was an assistant and not a friend, is
 10 that she was working for Ms. Heard and Ms. Heard would have
 11 knowingly lied to the authorities. Your Lordship will know
 12 the relevance of that. The fact, therefore, that she wrote
 13 this letter, if she knowingly lied, would be a real problem
 14 for Ms. Heard, and that is why she has been at pains to
 15 suggest that Ms. McMillen wrote this letter, this English
 16 18 year-old girl, with the rather grandiose speech about the
 17 United States and the pillars of our great justice system, a
 18 letter which your Lordship -- and I am going to read it --
 19 will recall Ms. Heard described in this way.
 20 At day 10, cross-examination, page 1573, Ms. Laws says
 21 to her: "You are saying that the 18 year-old Savannah wrote
 22 this letter; yes? (A) I am saying that. I only smile" -- she
 23 was caught smiling -- "because it seems very much like
 24 Savannah", a nice little detail, no doubt intended to give the
 25 ring of truth to her evidence, but sadly we say that Ms. Heard

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1 CLOSING - SHERBORNE
 2 does not seem to know what truth means.
 3 Your Lordship said, "The language was Savannah's.
 4 (A) But I did sign it because I thought it reflected the
 5 truth. While I may have chosen different words and worded
 6 things differently, because I thought it was truthful,
 7 I signed it. (MS. LAWS): Was it Savannah's idea to try and
 8 get this fraudulent report removed from the record or yours?
 9 (A) It was Savannah's."
 10 Then in re-examination, Ms. Wass asks her this:
 11 "Perhaps we can go through the letter and can I just ask you
 12 some questions about it. This is signed by you, do you agree?
 13 (A) It is. (Q) Did you compose the letter? (A) I did not.
 14 (Q) Can you say who did compose the letter? (A) Savannah.
 15 (Q) Did you read the letter.... (A) Savannah composed the
 16 letter", Ms. Heard was quick to answer. "So Savannah wrote
 17 this letter?", Ms. Wass asked again. "(A) Yes. (Q) Can I just
 18 take you to it?" and then she took her to it. Then she asked
 19 her about various wording: "To whom it may concern. My name
 20 is Amber Heard. I am a proud, lawful American citizen." Was
 21 that your choice of words? (A) No."
 22 Then she took her through another line, again labouring
 23 the point. "Again, was that your choice of words in that? (A)
 24 Those are not mine, exactly."
 25 Then your Lordship intervened with what may have seen at

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1 CLOSING - SHERBORNE
 2 the time a strange exercise, but it was so critical for
 3 Ms. Heard, as always, not to accept responsibility for this
 4 letter. Your Lordship said this: "Ms. Wass, you have
 5 established that the letter was composed by Savannah McMillen.
 6 That is for you, but I am not sure whether it is necessary to
 7 go through each and every phrase."
 8 Now, if you look at this letter that Ms. Heard claims on
 9 oath was written by Samantha McMillen ----
 10 MR. JUSTICE NICOL: Savannah.
 11 MR. SHERBORNE: Savannah McMillen, I said.
 12 MR. JUSTICE NICOL: You said Samantha.
 13 MR. SHERBORNE: I said Savannah. I think your Lordship may have
 14 heard Samantha, but I am sorry if I did. Savannah McMillen.
 15 You notice something quite inexplicable if it is true that she
 16 wrote it. If you look at the third line, "I am writing this
 17 letter in response to a fraudulent report made against my
 18 English friend, Savannah McMillen." You will see that
 19 Ms. McMillen has misspelt her own name. Can I hand up to
 20 your Lordship some pages from her website.
 21 MR. JUSTICE NICOL: Well now, if these are in evidence, then you
 22 can take me to where they are in evidence. If they are not in
 23 evidence, I am not sure that you are entitled to refer to
 24 matters at this stage.
 25 MR. SHERBORNE: My Lord, it is just from ----

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1 CLOSING - SHERBORNE
 2 MR. JUSTICE NICOL: Whatever it is, either it is in evidence now
 3 and you can take me to where it is in the bundle, or it is not
 4 in evidence now and you cannot rely on it.
 5 MR. SHERBORNE: Then I will show you it in a different way. It is
 6 some Coachella photographs. (Pause)
 7 MR. JUSTICE NICOL: Mr. Sherborne, I am looking at the time. If
 8 you would prefer to come back to this after lunch, then ----
 9 MR. SHERBORNE: My Lord, does your Lordship have Kate James's
 10 witness statement still open?
 11 MR. JUSTICE NICOL: I do.
 12 MR. SHERBORNE: If you turn the page, you will see the way in
 13 which ----
 14 MR. JUSTICE NICOL: I have told you that I have not got D197-209.
 15 Can I repeat my request that I have those pages?
 16 MR. SHERBORNE: I am going to give you my copy, my Lord.
 17 MR. JUSTICE NICOL: Mr. Sherborne, I am going to rise and you can
 18 come back to this after lunch.
 19 MR. SHERBORNE: I am happy to do so.
 20 MR. JUSTICE NICOL: Let me repeat that it is too late now to refer
 21 to new evidence. If there is a point that you want to make on
 22 the existing ----
 23 MR. SHERBORNE: I can make it on the existing ones.
 24 MR. JUSTICE NICOL: We will deal with that after lunch. All
 25 right. Five past two.

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1 CLOSING - SHERBORNE
 2 (Adjourned for a short time)
 3 MR. JUSTICE NICOL: Mr. Sherborne.
 4 MR. SHERBORNE: My Lord, yes, I can, before I return to the letter
 5 to Homeland Security, there was a text I forgot to take
 6 your Lordship to. I can do it very quickly and it may be best
 7 just to show you. It is file 10, and it is the first document
 8 in file 10. It is 017 and it is returning to the familiar
 9 theme of Ms. Heard's violence.
 10 MR. JUSTICE NICOL: Just a minute. This is tab 7 ----
 11 MR. SHERBORNE: My tab number has been rubbed off.
 12 MR. JUSTICE NICOL: Mine has as well.
 13 MR. SHERBORNE: They all seem to have suffered the same fate.
 14 MR. JUSTICE NICOL: Anyway, 017.
 15 MR. SHERBORNE: 017. If your Lordship looks down -- these are
 16 more helpfully numbered -- you will see that there is one
 17 dated 5th April 2016.
 18 MR. JUSTICE NICOL: Which number?
 19 MR. SHERBORNE: It is number 3.
 20 MR. JUSTICE NICOL: Yes.
 21 MR. SHERBORNE: April 2016. You will see this. This is
 22 Mr. Depp's text to Mr. Connolly, his security staff.
 23 MR. JUSTICE NICOL: Just a minute. (Pause)
 24 MR. SHERBORNE: Mr. Depp texts Mr. Connolly to say this: "Please
 25 get her out of this room now. She has struck me about ten

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1 CLOSING - SHERBORNE
 2 times. I can't take any more." Then you will see
 3 Mr. Connolly responds, saying, "Amber has gone through, no
 4 problems, are you okay, do you need anything mate, anything
 5 I can do."
 6 MR. JUSTICE NICOL: Do I have the evidence that the "she" is
 7 Ms. Heard?
 8 MR. SHERBORNE: That is why there is a response from Mr. Connolly,
 9 "Amber has gone through, no problems, are you okay, do you
 10 need anything?"
 11 MR. JUSTICE NICOL: I do not have a mark that this was put to
 12 Ms. Heard.
 13 MR. SHERBORNE: I do not remember this being put. I have referred
 14 to this at one point. I cannot remember when.
 15 MR. JUSTICE NICOL: I am not saying that does not mean that you
 16 cannot make the point now, but it does mean that if Ms. Heard
 17 did not have an opportunity to comment on it ----
 18 MR. SHERBORNE: My Lord, yes. Your Lordship will anticipate my
 19 response to that, hence no doubt your Lordship's question. It
 20 is there. It is a text. If one likes, it is a text which is
 21 in marked contrast to anything you will find about Mr. Depp
 22 which, as I have said this morning, is nowhere in the 70,000,
 23 and I repeat, 70,000 texts which were disclosed inadvertently
 24 to the defendants that Ms. Heard was able to look at before
 25 her statement was made, something that Ms. Wass had to correct

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1 CLOSING - SHERBORNE
 2 herself about. They were disclosed in September or October of
 3 last year, in case that is what Ms. Wass is wondering. Her
 4 witness statement, prepared with Simons Muirhead Burton,
 5 Solicitors, is dated 20th December, I believe. That is that
 6 text. I am not going to spend a lot of time on it, but that
 7 is the kind of text that is missing anywhere in the 70,000
 8 that the defendants have roamed through over the last however
 9 many months.
 10 Can I return to the letter to Homeland Securities, if
 11 your Lordship turns that letter up.
 12 MR. JUSTICE NICOL: Just a minute. (Pause)
 13 MR. SHERBORNE: If, at the same time, you open file 4, tab 152,
 14 behind tab 152, it attaches -- does your Lordship have it?
 15 There is a page. No, that is fine. I know what your Lordship
 16 has. Does your Lordship have something saying "Instagram
 17 video"?
 18 MR. JUSTICE NICOL: Yes.
 19 MR. SHERBORNE: Can I hand it up. It is rather like the kitchen
 20 video. I can either show you that on the multimedia or I can
 21 hand up the still of it and your Lordship can place it behind
 22 it. (Pause) That is Ms. McMillen's Instagram and you will see
 23 that she has there a picture of Ms. Amber Heard on the left
 24 and Ms. Whitney Heard on the right.
 25 MR. JUSTICE NICOL: No, unless you have something different,

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1 CLOSING - SHERBORNE
 2 I have only got one person who is driving a car.
 3 MR. SHERBORNE: Oh, your Lordship is looking at a different
 4 version. It does not matter, because ----
 5 MR. JUSTICE NICOL: Shall I pass it back?
 6 MR. SHERBORNE: No, I have two photographs, I have realised. That
 7 one is Amber Heard, so that one is fine. What is important is
 8 that your Lordship will see from Savannah McMillen's own
 9 Instagram account how she spells her name: Savannah Mcmillan,
 10 M-c-m-i-l-l-a-m. The author of this letter said by Ms. Heard
 11 on oath ----
 12 MR. JUSTICE NICOL: Sorry.
 13 MR. SHERBORNE: If your Lordship takes the letter and compares it
 14 with the Instagram account, do you see how Ms. McMillen's name
 15 is spelt in her own hand? If you look in the third line, you
 16 will see that Samantha McMillen is spelt with an "e",
 17 M-c-M-i-l-l-e-n. The author of this letter, if it is
 18 Ms. Savannah McMillen, cannot even spell her name correctly.
 19 MR. JUSTICE NICOL: Just a minute. (Pause)
 20 MR. SHERBORNE: It gets worse for Ms. Heard, my Lord, if you
 21 look back at the letter ----
 22 MR. JUSTICE NICOL: Just a minute, while we are still on this
 23 point, was this put to Ms. Heard?
 24 MR. SHERBORNE: My Lord, it was in re-examination that she said
 25 that she was the author of it. You will recall that Ms. Wass

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1 CLOSING - SHERBORNE
 2 took her through it again and again and again until
 3 your Lordship stopped her and said, "We have got the point
 4 now, you can move on". It is not spelt wrongly once; it is
 5 spelt wrongly twice, and differently wrongly. If you look in
 6 the paragraph starting, "I would like to go on record saying
 7 that Samantha McMillen", there you see there is a capital "M"
 8 introduced, but still the "e" rather than the "a". Does
 9 your Lordship have that?
 10 MR. JUSTICE NICOL: I am just trying to find it. (Pause)
 11 MR. SHERBORNE: If your Lordship is reading it ----
 12 MR. JUSTICE NICOL: This is the last paragraph, is it?
 13 MR. SHERBORNE: No, it is the penultimate paragraph.
 14 MR. JUSTICE NICOL: I beg your pardon.
 15 MR. SHERBORNE: Your Lordship may have noticed that three lines
 16 below, we have the word "bastardized" spelt in the American
 17 way, but perhaps to let Ms. Heard off that one. My Lord, it
 18 is fanciful to suggest that Ms. McMillen spelt her own name
 19 incorrectly not once but twice and in two different incorrect
 20 ways.
 21 There are other documents in the bundle where, for
 22 example, Ms. Heard's own affidavit in the Australian criminal
 23 proceedings spells Savannah McMillen with the "e" as well.
 24 MR. JUSTICE NICOL: Just a minute. (Pause) Have I got the
 25 reference for that?

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1 CLOSING - SHERBORNE
 2 MR. SHERBORNE: I can give it to you. It is file 5.1, tab 200,
 3 page 1230, paragraph 8. It is just to show you again it is
 4 spelt that way.
 5 MR. JUSTICE NICOL: Yes.
 6 MR. SHERBORNE: It is no wonder Ms. McMillen herself did not
 7 provide a witness statement, this close friend of Ms. Heard,
 8 but the important point is this. Ms. Heard was at great pains
 9 to try to fool this court that she was not the author of that
 10 letter, in the same way as she was at great pains to try to
 11 fool this court that Ms. McMillen was not her assistant. I am
 12 not going to take your Lordship back through every document,
 13 but can I just give you the references. There is the Kate
 14 James e-mail in which she gave instructions to her to give
 15 Ms. McMillen her pay -- "pay" is the word, hardly a phrase you
 16 use for a friend.
 17 MR. JUSTICE NICOL: Just a minute. (Pause) Yes.
 18 MR. SHERBORNE: So that is the reference, tab 72, I13, the e-mail
 19 of Kate James. There is then the note of Nurse Burin which
 20 I am going to just read quickly, but it is file 9, tab 132,
 21 K211. That is where Ms. Burin, on 11th May 2016, so the
 22 Coachella birthday trip, records this: "Client is visiting
 23 with assistant, Savannah, and friends, Rocky and Josh. " Nurse
 24 Burin, a friend of Ms. Heard, who was there at the birthday
 25 dinner, the night before Coachella, she herself makes the

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1 CLOSING - SHERBORNE
 2 distinction that Ms. Heard drew to her attention of the
 3 assistant, Savannah, and friends, Rocky and Josh. That was
 4 plainly a lie from Ms. Heard to suggest that she was not her
 5 assistant, as was the attempt to explain away the cheque that
 6 was made out to Ms. McMillen, with an "a", by Kate James.
 7 MR. JUSTICE NICOL: Just a moment. (Pause) The cheque I have
 8 seen.
 9 MR. SHERBORNE: Yes. That is file 2, 56, D 205. I am not going
 10 to take your Lordship back to it, because of the time.
 11 I appreciate I have to move on, sorry. That was a cheque only
 12 a couple of weeks before the letter to Homeland Security for
 13 £1,600, I think it was said to be for groceries, you might
 14 think that is rather a lot to reimburse someone for groceries.
 15 Ms. Heard took every opportunity in the witness box,
 16 when talking about that letter, to have a dig at Ms. James,
 17 suggesting for the first time anywhere in this case -- again,
 18 a typical tactic of hers -- that Ms. James may have been the
 19 person who anonymously gave the tip-off to Homeland Security.
 20 It was another attempt by Ms. Heard to distract from the fact
 21 that she had lied to this court by deliberately suggesting she
 22 was not the author of the letter, she merely signed it. She
 23 realised in doing so the consequences if it was found that
 24 Ms. Savannah McMillen was her assistant, as opposed to just a
 25 friend, because she would therefore have lied to Homeland

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1 CLOSING - SHERBORNE
 2 Security.
 3 MR. JUSTICE NICOL: Just pause. I know that you are short of
 4 time, but just pause on that a moment. Ms. Heard acknowledged
 5 that she had signed the letter to Homeland Security, and stood
 6 by its content, if not its tone.
 7 MR. SHERBORNE: Ah, she said "I would not have chosen the words".
 8 MR. JUSTICE NICOL: Yes, but the point is the letter unambiguously
 9 says that "Savannah McMillen is not my assistant", not working
 10 for her. But if Ms. Heard stands by that as her message to
 11 the Department of Homeland Security, does it really matter
 12 whether she drafted the style of the letter or not?
 13 MR. SHERBORNE: Two answers to that, my Lord. For the purpose of
 14 these proceeds, on oath, emphatically denying having written
 15 it is a lie, the consequence of which I will come to in a
 16 minute. As far as Homeland Security is concerned, there is
 17 one word, and it is "mitigation". Because if she is not the
 18 person who was the author of the letter, rather like the
 19 incident we will come on to briefly about the dogs in
 20 Australia, she has plausible deniability of its contents.
 21 MR. JUSTICE NICOL: Plausible it may be, but that is not the --
 22 she was not trying to deny responsibility for sending the
 23 letter.
 24 MR. SHERBORNE: In this court. But the point is this, she may
 25 say, one can only speculate, if she was charged with an

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1 CLOSING - SHERBORNE
 2 offence by Homeland Security, how she would deal with it, in
 3 the same way as she dealt with the charge by the Australian
 4 authorities over the importation of dogs. She has lied to
 5 this court in the same way, in my submission, as she lied to
 6 the Homeland Security. Your Lordship does not necessarily
 7 have to speculate why she did it, although we say it is quite
 8 obvious why she did it, because it is mitigation. The truth
 9 is she has been caught in the lie. Her name is on the bottom,
 10 she cannot now say "I did not even sign it", it is her
 11 signature. We can compare it to other signatures. What she
 12 can say and what she does say and what she did say on oath to
 13 your Lordship is that she did not write it. For the purposes
 14 of determining her credibility, in my submission, it is a
 15 clear lie on oath.
 16 I put it this way. If she is prepared to lie to this
 17 pillar of our great justice system, as she describes Homeland
 18 Security, in the letter that she wrote, why on earth would she
 19 give a second thought about lying to this court? Plainly, she
 20 does not.
 21 In the interests of time, my Lord, can I then move to
 22 the next one?
 23 MR. JUSTICE NICOL: Yes.
 24 MR. SHERBORNE: This is meant to be a plausible truthful witness,
 25 as Ms. Wass presented her yesterday. Dogs to Australia, I am

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1 CLOSING - SHERBORNE
 2 going to have to deal with that very briefly. Can I summarise
 3 it in this way. Contrary to the impression which Ms. Heard
 4 has sought to create, this is actually quite a simple point;
 5 it is, once you penetrate the web of lies which Ms. Heard
 6 sought to weave. We have set out in detail in our skeleton an
 7 annex with various document references for your Lordship, but
 8 I am going to summarise it quickly, so that your Lordship
 9 knows where it is. You will find it behind, it is annex C.
 10 Do you have it?
 11 MR. JUSTICE NICOL: Just a minute. (Pause) I am going to put
 12 4 away.
 13 MR. SHERBORNE: I am grateful. Whatever gloss Ms. Heard tried to
 14 put on it, that these were Johnny's staff dealing with it,
 15 Johnny's plane the dogs were flying on, no doubt Johnny's pen
 16 was used to fill in the form, but it was clear that it was
 17 Ms. Heard and Ms. Heard alone who was getting involved in
 18 taking the dogs to Australia. The text messages and other
 19 communications your Lordship will see attached to Mr. Murphy's
 20 witness statement demonstrate that she was the one who was
 21 involving herself in the arrangements. Not Mr. Depp, who
 22 Mr. Murphy explained and who was not challenged by Ms. Wass,
 23 that Mr. Depp preferred that the dogs stay in Los Angeles
 24 where they were better cared for. The texts passing between
 25 Mr. Murphy, Ms. Heard and finally Mr. Deuters, but notably not

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1 CLOSING - SHERBORNE
 2 Mr. Depp, show, as your Lordship will see when you follow
 3 through the note, when she left Los Angeles Ms. Heard was well
 4 aware of the fact that the dogs did not have the appropriate
 5 paperwork, and could not travel legally. But, this is Amber,
 6 "And I get what I want", so she travels anyway. When she gets
 7 caught, Mr. Murphy is prevailed upon to get Kate James to
 8 provide a witness statement that would help her with her state
 9 of knowledge.
 10 MR. JUSTICE NICOL: Take that again a bit more slowly. Who
 11 prevails?
 12 MR. SHERBORNE: Mr. Murphy is prevailed upon by Ms. Heard to
 13 procure Kate James, even though she no longer works for
 14 Ms. Heard, to take the wrap, to provide a witness statement
 15 which exonerates Ms. Heard from the critical piece of the
 16 jigsaw; namely, her knowledge at the time that she left
 17 Los Angeles that the paperwork was not in order. As I said,
 18 "I am Amber and I get what I want". That would have resulted
 19 in her being prosecuted for the more serious offences. Let me
 20 come to that in a moment. Mr. Murphy refused to do that.
 21 MR. JUSTICE NICOL: Just a moment. (Pause) Yes.
 22 MR. SHERBORNE: He was prevailed upon instead, to provide a false
 23 statement, which exonerated, wrongly exonerated, Ms. Heard
 24 from knowledge that the paperwork was not done. In response
 25 to this, trying to, as always, to create smoke and mirrors,

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1 CLOSING - SHERBORNE
 2 Ms. Heard said, "But I have already pled guilty". But two
 3 matters, as we say in our annex, are obvious from the court
 4 documents in the Australian criminal proceedings. First of
 5 all, Ms. Heard had not, at the time of the exchanges in
 6 October 2015, about obtaining evidence from Kate James,
 7 your Lordship will recall the e-mails passing between Marty
 8 Singer, instructed for Ms. Heard and Carl Austin, Ms. Heard's
 9 entertainment lawyer, I will resist temptation ---
 10 MR. JUSTICE NICOL: Just a minute. (Pause)
 11 MR. SHERBORNE: Ms. Heard's entertainment lawyer, Ms. Heard's
 12 e-mail address, Mr. Singer acting for Ms. Heard, at the time
 13 of those exchanges where Mr. Singer says, "Be careful if you
 14 are going to get Kate James to say something that is not true
 15 and become public", at the time of those exchanges in October
 16 2015, Ms. Heard had not pled guilty to any charge. She was
 17 offering to do so, but this is the important point, she was
 18 offering to do so as part of a plea bargain. This was, as
 19 usual, a critical distinction which Ms. Heard was trying to
 20 keep glossing over in the hope that the court would accept it.
 21 You see, at that time in October 2015, Ms. Heard had every
 22 reason to ask someone, whether Kate James, the unfortunate
 23 ex-assistant, or Mr. Murphy, to lie for her in order to
 24 strengthen her hand in the plea bargaining, to get the more
 25 serious charges dropped. This is set out in our annex.

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1 CLOSING - SHERBORNE
 2 As is clear from her own counsel's written submissions
 3 for the hearing, on 18th April 2016, referred to in our annex,
 4 Mr. Murphy's false declaration was relied upon by Ms. Heard in
 5 order to advance her case that she had made a mistake only in
 6 relation to the dogs and she did not know the paperwork was
 7 not in order, something which Mr. Murphy's texts demonstrate
 8 was another lie.
 9 Once again, in that witness box over there,
 10 your Lordship heard Ms. Heard lie to this court on oath in
 11 relation to legal proceedings. It does not get more blatant
 12 than this. Suggesting she had already pled guilty was a lie,
 13 designed to put us off the scent, and I pardon the pun.
 14 Your Lordship may spare a thought for poor Mr. Murphy who
 15 instructed and paid for a lawyer in Australia, once Ms. Heard
 16 and the control that she exercised over Mr. Depp was no longer
 17 in place, to look into having his declaration withdrawn, as he
 18 said in his witness statement. He was not challenged by
 19 Ms. Wass on that, but, as you heard yesterday, let us just
 20 accuse him of lying anyway.
 21 Can I move on to another lie. Ms. Heard was steadfast,
 22 as your Lordship will recall, in maintaining her denial that
 23 she vomited at the Coachella festival shortly after her
 24 birthday dinner. I am just going to take this very quickly.
 25 Ms. Heard, you will recall, was taken to a note made by her

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1 CLOSING - SHERBORNE
 2 registered nurse, Erin Burin, which clearly referred to her
 3 having vomited, and told Nurse Burin that she had vomited. In
 4 cross-examination, in order to avoid that, Ms. Heard suggested
 5 that the words "felt like" should be inserted, a valiant last
 6 minute attempt to save herself, but unfortunately, not one
 7 which was grammatically correct.
 8 Mr. Jenkins, the driver who worked for Mr. Depp for many
 9 years, shadowed the group that night as they partied hard just
 10 a day after the birthday dinner where Mr. Depp is meant to
 11 have violently attacked Ms. Heard. He confirmed to this court
 12 he had seen Ms. Heard vomit. It was suggested to him by
 13 Ms. Wass that he had got his Heards mixed up, "It was Whitney,
 14 was it not?" As once again Ms. Heard's little sister was
 15 pressed into service for the court. You will recall how
 16 unequivocal Mr. Jenkins was as he readily identified each and
 17 every member of the crew who were there with her on her
 18 birthday, separating the two sisters out, not least because of
 19 their very different clothing. I am not going to rehearse
 20 Ms. Whitney Heard's attempt to support her sister's lie, not
 21 for the first time in that witness box. Unfortunately for
 22 Ms. Heard, Raquel Pennington had not learned the script and
 23 when asked by Ms. Laws, she admitted that Amber Heard had been
 24 vomiting.
 25 MR. JUSTICE NICOL: Just a minute. (Pause)

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1 CLOSING - SHERBORNE
 2 MR. SHERBORNE: I am just going to deal with one more lie and then
 3 I am going to move to the incidents.
 4 I am going to turn to the issue of control very briefly.
 5 Can I remind your Lordship that the suggestion that Mr. Depp
 6 controlled Ms. Heard lies squarely in the middle of the
 7 defence of truth. Just to make that good, if your Lordship
 8 takes file 1 of the bundle and you turn to the reamended
 9 defence you will see the way in which the defendants have
 10 deliberately chosen to frame their case. It is to be found at
 11 tab 14, page C17, internal paragraph 8. You will see the
 12 Lucas-Box meaning there, and it is worth bearing that in mind
 13 as we go through. "The claimant beat his wife, Amber Heard,
 14 causing her to suffer significant injury and on occasion
 15 leading to her fearing for her life".
 16 Then particular of truth A: "Throughout their
 17 relationship, the claimant" -- and this has been specifically
 18 added recently -- "the claimant was controlling and verbally
 19 and physically abusive towards Ms. Heard, particularly when
 20 under the influence of alcohol and drugs."
 21 The defendants have therefore specifically made their
 22 case on the basis that Ms. Heard was controlled by Mr. Depp.
 23 Throughout her witness statement, as your Lordship will
 24 recall, Ms. Heard has given example after example of how she
 25 says she was controlled by him; examples both big and small.

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1 CLOSING - SHERBORNE
 2 All designed to show a picture of an abuser controlling his
 3 victim. One of the many answers she gave during her evidence
 4 was this: "I am a woman who has made literally no choices in
 5 her relationship", she said. What utter nonsense,
 6 particularly when you analyse it.
 7 One of the examples she gave, and I am not going to take
 8 much time, is the fact she said she was not allowed to drive
 9 by Mr. Depp, that he took her car away and refused to give it
 10 back, which meant she was forced, forced to be driven
 11 everywhere. Your Lordship will recall how risible that
 12 example became, as it was clear that she could and did drive
 13 when she wanted to.
 14 You see, this is clever, because this is another example
 15 of Ms. Heard saying when it suits her she had to be driven
 16 everywhere and therefore she had no control. But when it came
 17 to the suggestion therefore that she had constant interaction
 18 with Mr. Depp's staff, who could see how she behaved, she
 19 tried to play down that interaction. Welcome to the evidence
 20 of Ms. Heard.
 21 In the end, under cross-examination by Ms. Laws, her
 22 gripe amounted to little more than the fact that Mr. Depp
 23 apparently did not pay the bill for all of the repairs he had
 24 asked them to make on souping up her vehicle and she was left
 25 to fund it herself.

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1 CLOSING - SHERBORNE
 2 The reality, my Lord, is this is a woman with all the
 3 choices. She was not controlled. She was barely controllable
 4 as a witness, and that is even inside this courtroom. Even on
 5 big issues, Amber got what Amber wanted: Pre-nup, no, do not
 6 think so. Post-nup, no, not for me. However she dressed it
 7 up, the point is this, Ms. Heard went out with, moved in with,
 8 installed her friends and family around, and then married
 9 Mr. Depp. The first and only of his long-term relationships
 10 that he ever got married to and all without a pre-nup or a
 11 post-nup. But do not be fooled. This is not about money; it
 12 is about control. You can see it in the texts I showed
 13 your Lordship not long ago. Can you see it in her medical
 14 notes. She may not want to accept that it was her, not
 15 Mr. Depp, who had difficulties with being absent; but that is
 16 the truth.
 17 MR. JUSTICE NICOL: Difficulty with being?
 18 MR. SHERBORNE: With being absent, her partner being absent.
 19 Hence the pleading texts over and over again, as she lost
 20 control of where Mr. Depp was, after that argument which was
 21 caused by Mr. Depp wanting to spend time with his friend Isaac
 22 Baruch.
 23 The only relevance of all this, as I say, is that it is
 24 a principal plank of the defendants' truth defence that she
 25 was controlled and had very little choices open to her in her

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1 CLOSING - SHERBORNE
 2 relationship. That suggestion would be funny if it was not
 3 for the seriousness of the allegation which rests upon it. It
 4 is no wonder, though, that in her closing speech yesterday
 5 right at the end, summarising the defendants' case, Ms. Wass
 6 revealed that the defendants too have no belief in the
 7 reliability of Ms. Heard's evidence.
 8 Let me read to you what Ms. Wass said about the woman
 9 she described on several occasions during this trial as a
 10 feisty independent woman. This is what she said: "Ms. Heard
 11 was a modern and ambitious woman. It was not in her nature to
 12 wait until he [Mr. Depp] got home so she could take his boots
 13 off. The self-scripted Southern gentleman required a
 14 supplicant wife and this was not a typecast role for the young
 15 Ms. Heard; they were, in effect, generations apart.
 16 "When Mr. Depp chose Ms. Heard as his life partner, he
 17 did not expect her to carry on acting in films with young and
 18 attractive actors. Mr. Depp was unable to control Ms. Heard."
 19 The concept of Ms. Heard being controlled is nonsense,
 20 and even the defendants finally agree with it. Every step of
 21 the way, and despite being financially independent with no
 22 children to tie them, and a wealth of opportunity as an
 23 actress surrounded by adoring other individuals in the
 24 industry, and entrepreneurs ready to step in, Ms. Heard moved
 25 in with, as I say, got engaged to, and married Mr. Depp,

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1 CLOSING - SHERBORNE
 2 despite his endless torrent of violence, apparently, and being
 3 in fear for her life.
 4 I am sorry, there are many, many victims of domestic
 5 abuse and different situations, but this is a huge disservice
 6 to those genuine victims as well as the #MeToo movement, for
 7 Ms. Heard to count herself as one of them as she plainly does.
 8 Just ask Katherine Kendall. After all, that is what made the
 9 defendants call her to give evidence, and yet they did not
 10 challenge, as I said, her feeling of upset at being misused by
 11 Mr. Wootton in the article, not even an apology from Ms. Wass
 12 on behalf of the newspaper. That sums it all up.
 13 The concept of control, all those pages of Ms. Heard's
 14 witness statements, are yet further examples of her lies. So
 15 many I could mention, but I do not have time. The pattern of
 16 their arguments, Ms. Heard's whole complaint undermines this,
 17 as you have heard from the tapes. Your Lordship will have
 18 seen, Mr. Depp is the man who runs away, who splits in an
 19 argument or a fight, who wants to avoid confrontation. Surely
 20 that is the opposite. Ms. Heard wants him to stay and fight.
 21 Nowhere does she say she wants him to stop punching her
 22 repeatedly on just about every part of her body.
 23 Finally, as I say, you heard Ms. Wass say a number of
 24 times that Ms. Heard gave her evidence at a time without
 25 having had the benefit of the texts, and so you could treat

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1 CLOSING - SHERBORNE
 2 her evidence as reliable because it was corroborated by them.
 3 Later on yesterday, she had to correct that. Of course, all
 4 the texts had been inadvertently disclosed well before Simons
 5 Muirhead & Burton took her through ----
 6 MR. JUSTICE NICOL: Not all of them.
 7 MR. SHERBORNE: They were all in the 70,000.
 8 MR. JUSTICE NICOL: Is that the extraction report?
 9 MR. SHERBORNE: No. It is the 70,000, it is the original
 10 database.
 11 MR. JUSTICE NICOL: Is the 70,000 different from the extraction
 12 report you were taking me to just now?
 13 MR. SHERBORNE: Yes, it is. (Pause) My Lord, can I turn to the
 14 incidents? Before I go through them, and why we say the
 15 evidence supporting them it demonstrably unsustainable, it is
 16 important to put them in context. As we have said, they have
 17 not arisen in some linear form, like a carefully documented
 18 and coherent narrative as you would expect from someone
 19 recounting a story. They have come in waves, some heaped upon
 20 us only shortly before trial for the first time. To reflect
 21 this, the defendants have sought to rely on them in an equally
 22 piecemeal and, we say, erratic way. The reason more have been
 23 mentioned is because, we say, it is quite clear they do not
 24 add up. So, what does Ms. Heard do, she invents more,
 25 sometimes by retro engineering texts she has seen, or simply

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1 CLOSING - SHERBORNE
 2 adding some. Like the now three-day incident which she
 3 described for the first time around the Keith Richards
 4 documentary. It is hard to call that one perhaps a hostage
 5 situation, as she was moving between the various homes
 6 available to her at the time, at Sweetzer, Eastern Columbia
 7 and also Orange Avenue. Some of these new ones were not even
 8 put to Mr. Depp, so they fall away. I will return to the
 9 private allegations in a moment.
 10 We say that is why it is important to take the
 11 allegations in the order they were made by Ms. Heard and how
 12 they came to be relied on by the defendants in these
 13 proceedings. The date, as I have said, the world was first
 14 told about these claims was 27th May, As Ms. Heard turned up
 15 in the courthouse in Los Angeles to collect her ex parte order
 16 against Mr. Depp, surrounded by paparazzi. A temporary
 17 restraining order, as your Lordship knows, granted on the
 18 basis that Ms. Heard was in fear for her life, because if
 19 Mr. Depp came within 100 yards of her at any stage, that would
 20 breach the order.
 21 MR. JUSTICE NICOL: Now, just help me on this. There was some
 22 reference in the course of the evidence to the restraining
 23 order being for a limited time initially and then extended.
 24 MR. SHERBORNE: My Lord, yes, it was.
 25 MR. JUSTICE NICOL: Can you just take me through that sequence, so

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1 CLOSING - SHERBORNE
 2 that I have the dates.
 3 MR. SHERBORNE: I am trying to think the best way to do it. I am
 4 wondering whether it is in our note. I do not know -- no, it
 5 is not. So your Lordship knows what you have, at annex E, you
 6 have the point we made that Ms. Heard turned up to the
 7 courthouse to physically pick up, so it was just a collection,
 8 to pick up the order. There was no need for her to do so, and
 9 it was a publicity stunt. I do not think in that note -- what
 10 she received was a temporary order until a hearing and the
 11 hearing was listed for 17th June.
 12 MR. JUSTICE NICOL: This is 27th May 2016.
 13 MR. SHERBORNE: Yes, if your Lordship turns to our note, I can
 14 take you to a certain point and then I can take you beyond it.
 15 MR. JUSTICE NICOL: Is this annex E?
 16 MR. SHERBORNE: Annex E.
 17 MR. JUSTICE NICOL: Yes.
 18 MR. SHERBORNE: So, you see there paragraph 1, that is the
 19 transcript where Ms. Heard denied it was a publicity stunt.
 20 Then you will see paragraph 2, about it was not required for
 21 her to show up. That is clear if you look at the various
 22 forms and paragraph 4 gives you the form.
 23 So on 26th May, what happens is a form is collected and
 24 then a hearing is scheduled. There is absolutely no
 25 obligation on Ms. Heard to turn up, particularly if she did

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1 CLOSING - SHERBORNE
 2 not want publicity, as she said, which was another lie. The
 3 form shows, as you will see in paragraph 4, that there is a
 4 hearing listed for 17th June.
 5 MR. JUSTICE NICOL: Just a minute.
 6 MR. SHERBORNE: Then from there ----
 7 MR. JUSTICE NICOL: Just a minute.
 8 MR. SHERBORNE: Sorry, my Lord. (Pause)
 9 MR. JUSTICE NICOL: Have I understood it right, that the initial
 10 order is what we would call an ex parte order?
 11 MR. SHERBORNE: Yes, it is just held over until a hearing.
 12 MR. JUSTICE NICOL: Well.
 13 MR. SHERBORNE: There was no hearing on 27th May.
 14 MR. JUSTICE NICOL: Yes, but what is granted on 27th May is
 15 granted without hearing anything from Mr. Depp.
 16 MR. SHERBORNE: Yes, of course. Yes.
 17 MR. JUSTICE NICOL: Then it is listed for presumably a hearing at
 18 which Mr. Depp could be represented.
 19 MR. SHERBORNE: My Lord, yes, F677.
 20 MR. JUSTICE NICOL: Then do I have any order from the California
 21 court on 17th June?
 22 MR. SHERBORNE: It is tab 113, I think.
 23 MR. JUSTICE NICOL: Just a minute. (Pause) So, this is volume 4,
 24 is it?
 25 MR. SHERBORNE: Yes. Sorry, yes, my Lord, volume 4.

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1 CLOSING - SHERBORNE
 2 MR. JUSTICE NICOL: What is at 113 is a record of the hearing on
 3 16th June; is that right?
 4 MR. SHERBORNE: Yes, sorry, this is the continuance. As I
 5 understand it, Ms. Wilson is going to find it. There was an
 6 agreement that it would go over until the hearing.
 7 MR. JUSTICE NICOL: The respondent in this case was Mr. Depp, was
 8 it not?
 9 MR. SHERBORNE: My Lord, yes. There are documents here about
 10 issues which I will not trouble your Lordship with at this
 11 stage about issues that arose as to Ms. Heard not providing
 12 documentary disclosure and not turning up for depositions and
 13 so on. So there is a date in August and it is extended. It
 14 is during this time, 22nd July ----
 15 MR. JUSTICE NICOL: Just a minute. (Pause) So, on 16th June, the
 16 restraining order is extended until 15th August.
 17 MR. SHERBORNE: My Lord, yes.
 18 MR. JUSTICE NICOL: Is that correct?
 19 MR. SHERBORNE: That is right. Then it was disposed of by the
 20 settlement. It is during this period, namely, 22nd July, that
 21 we have the meeting between Ms. Heard and Mr. Depp.
 22 MR. JUSTICE NICOL: Is that the one in San Francisco?
 23 MR. SHERBORNE: My Lord, yes, requested by Ms. Heard to meet
 24 Mr. Depp in San Francisco where he is on tour with his band
 25 despite the restraining order. You will see from the

[Page 2601]

1 CLOSING - SHERBORNE
 2 transcript -- I do not have time to take your Lordship through
 3 it -- that Mr. Depp fears it is a trap and that Ms. Heard may
 4 well ask her lawyers to do something as a breach of the order,
 5 something she reassures him it is not.
 6 There is no presence of Mr. Carino, notwithstanding what
 7 Ms. Wass said. Perhaps she is mistaken about what happened
 8 the day before, when Mr. Carino acted as an intermediary to
 9 start the ball rolling, but he was not there when the two of
 10 them were in the hotel room together. There, in the hotel
 11 room, as your Lordship will recall from what we said in our
 12 opening statement and what Mr. Depp said in his
 13 examination-in-chief that your Lordship permitted me,
 14 Ms. Heard did not stay 100 yards away from him. She wanted to
 15 hug him, to touch him, so terrified was she, so in fear of her
 16 life.
 17 MR. JUSTICE NICOL: Mr. Sherborne, I am not a jury. You do not
 18 need to make jury points to me.
 19 MR. SHERBORNE: My Lord, I am grateful. Your Lordship will have
 20 seen that he justifiably gets very angry that she wants a hug
 21 and he says, "It is because you have accused me of this shit
 22 and now you want to hug me." At no point does Ms. Heard try
 23 to explain that it is not shit, it is not nonsense that she
 24 has publicly accused him of in the world.
 25 What happens next, as your Lordship will recall, is that

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1 CLOSING - SHERBORNE
 2 Ms. Heard falls asleep in the bed. She asks Mr. Depp to join
 3 her and he chooses not to do so. Instead, as he said, he goes
 4 to sit in the sitting room and he cries because, as his
 5 evidence went, he simply could not piece together what was
 6 happening. As he said, "I was trying to do my best to make
 7 sense of all of this."
 8 Ms. Wass did not challenge his account of it, nor could
 9 she. It does not make any sense to the defendants, I suspect,
 10 as well. Mr. Depp, as he sat there, had to try to make sense
 11 of it, as he said, sitting in the strange hotel room in a
 12 different city, make sense of the last four years of his life,
 13 and understand why he and Ms. Heard had got to this point,
 14 understand what Ms. Heard had done, why she had accused him of
 15 being a vicious wife beater and told the whole world when it
 16 was completely untrue. Your Lordship will recall that it is
 17 on that tape that he refers to the haymaker punch shortly
 18 before her birthday, something that she does not deny.
 19 As I say, Mr. Depp tried to piece together how they had
 20 reached this point, but your Lordship does not need to do so.
 21 You do not need to work out what Ms. Heard's motivation was,
 22 from, on the one hand, accusing him to the world of being a
 23 wife beater, but on the other, finding herself in a hotel
 24 bedroom with him, notwithstanding the restraining order, and
 25 him telling her it was all nonsense that she had accused him

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1 CLOSING - SHERBORNE
 2 of, and why on earth would he then want to hug her?
 3 This court only needs to determine whether there is
 4 cogent and compelling evidence that he physically attacked her
 5 causing significant injury and to fear for her life. Now,
 6 there are several reasons why this complex woman, with all
 7 sorts of issues, might have come to this point, but that is
 8 not for your Lordship. However, it is relevant in this sense.
 9 He says it was a hoax; that is what he suggested. It was
 10 insurance. That is what he was cross-examined about by
 11 Ms. Wass.
 12 Now, when you step back and think about this, Ms. Heard
 13 was cataloguing him, cataloguing incidents all along. There
 14 is no doubt she was doing that. She says she was doing it.
 15 In her witness statement, she says the reason she was doing it
 16 was to show Mr. Depp what he had done because he had forgotten
 17 about it. But the critical piece of jigsaw missing is that at
 18 no stage did she ever show him it, nor is it suggested that
 19 she did. So the secret recordings, the photos, they remained
 20 secret, until this court case that is. After hearing that
 21 strange speech she gives, that Ms. Laws took her to in
 22 cross-examination, about people believing that either
 23 Ms. Heard was in a secret fight club or else had been putting
 24 this evidence together for years, you can understand why
 25 Mr. Depp, sitting in the chair, crying, in a hotel room in San

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1 CLOSING - SHERBORNE
 2 Francisco, started to piece it together in that way, but as I
 3 say, your Lordship does not need to.
 4 Just going back to the Los Angeles courthouse, I am not
 5 going to take your Lordship through that. As you will have
 6 seen from the note, we say that it was a publicity stunt,
 7 something Ms. Heard did not need to do and certainly not, as
 8 she says, her lawyers required her to do. That is nonsense
 9 and the references are in our note.
 10 What we do know is that she turned up to collect her
 11 document with the most massive public media attention. I do
 12 not think I have time to show your Lordship that video again,
 13 but she turned up, as your Lordship will have seen, in what
 14 Mr. Baruch describes as an "Amish smock", with visible
 15 injuries to her face on 27th May. Can I take you to the TMZ
 16 article, file 5, 173C.
 17 MR. JUSTICE NICOL: Just a minute. (Pause) Mr. Sherborne, can I
 18 relay a request to you, please, from your solicitors, that
 19 I get a set of indexes for the various bundles, multiple
 20 copies, so they can be put in each one?
 21 MR. SHERBORNE: Yes.
 22 MR. JUSTICE NICOL: Because they have been slightly worn, the ones
 23 that I have, in the course of being opened and closed so
 24 often. Which was the file you wanted ----
 25 MR. SHERBORNE: File 5, my Lord, tab 173C. This is an article

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1 CLOSING - SHERBORNE
 2 your Lordship has seen, which was suggested was somehow leaked
 3 by Mr. Depp. Your Lordship will see from the article that it
 4 is an absurd suggestion given the account of Ms. Heard's
 5 claims about Mr. Depp: "Heard showed up with her lawyer...
 6 (reads to the words)... and it contains the business card left
 7 by the police officers."
 8 Your Lordship will recall that there was an attempt to
 9 try and pin this on Mr. Bett because someone misread his
 10 witness statement as suggesting that he was a member of the
 11 Los Angeles Police Department. That is what Ms. Wass put to
 12 him. He explained that he was not. It simply does not make
 13 sense. This is plainly something that comes from the Heard
 14 team, at least someone close to Ms. Heard. The precursor to
 15 that, your Lordship will find in the letter that we saw in
 16 file 9 which was sent by her solicitors. It is file 9, tab
 17 134, page L1. Your Lordship will recall this letter ---
 18 MR. JUSTICE NICOL: Just a moment. Yes.
 19 MR. SHERBORNE: --- sent by Samantha Spector, on behalf of
 20 Ms. Heard, to Mr. Depp's lawyers, referring to the fact, in
 21 paragraph 2, that Mr. Depp had supposedly violently attacked
 22 and threatened Ms. Heard on 21st May. There are several
 23 witnesses to this incident and there were photographs
 24 depicting the physical injuries inflicted. "Unfortunately,
 25 this is not the first incident of domestic...(reads to the

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1 CLOSING - SHERBORNE
 2 words)... and why we did not arrange for Johnny to have been
 3 personally served at last night's movie premier." Very
 4 gracious!
 5 MR. JUSTICE NICOL: Just a minute. (Pause) Which paragraph now
 6 are you reading?
 7 MR. SHERBORNE: The third: "Unfortunately, this is not the first
 8 incident."
 9 MR. JUSTICE NICOL: Yes.
 10 MR. SHERBORNE: "Amber wishes to work quickly towards a private
 11 and amicable resolution. To this end, please have Johnny
 12 promptly sign and return by Friday, May 27th the enclosed
 13 notice and form. If it is not returned to me by May 27th, we
 14 will have no alternative but to arrange for Johnny to be
 15 served personally." That 27th May is the date that Ms. Heard
 16 turns up at the LA courthouse.
 17 Then the final paragraph on the next page: "We are
 18 indeed hopeful that we can swiftly work out mutually
 19 acceptable short and long-term solutions outside of the public
 20 eye." I am not going to take your Lordship through all the
 21 divorce documents to make good what we say is the fact that
 22 Ms. Heard was, on the one hand, threatening publicity and, on
 23 the other, seeking an amicable resolution on her terms.
 24 Can I turn to the first incident, though. If we go back
 25 from the 27th, the letter on the 24th, to the actual night of

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1 CLOSING - SHERBORNE
 2 21st May, your Lordship will recall that Mr. Depp had told
 3 Ms. Heard that he was coming to the Eastern Columbia Building
 4 to pick up his things. The last time he had left was after
 5 she had hit him on the night of her birthday and then she had
 6 gone off partying with her friends, despite saying she had
 7 been brutalized the night before and was so sad her marriage
 8 had reached an end.
 9 Mr. Depp brought him with Mr. Judge, who has sadly
 10 deceased, and Sean Bett, just in case Ms. Heard was in
 11 argumentative mood once again. He was not disappointed. An
 12 argument started, as your Lordship knows, about the faeces
 13 left on the bed. I am not going to trouble your Lordship
 14 about it. It is accepted that that is what the argument was
 15 about and that Mr. Depp was upset by it. Plainly he was. The
 16 argument became heated, Ms. Heard started screaming, and his
 17 security, who were standing outside, thought it best to come
 18 in and take him out, as they had done, as your Lordship heard,
 19 on other occasions.
 20 MR. JUSTICE NICOL: Just a minute. (Pause)
 21 MR. SHERBORNE: 911 had been called and Mr. Depp left.
 22 MR. JUSTICE NICOL: Now, somewhere, I think yesterday, I got from
 23 ---
 24 MR. SHERBORNE: The defendants.
 25 MR. JUSTICE NICOL: --- the defendants, a quite detailed

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1 CLOSING - SHERBORNE
 2 chronology of the events of ---
 3 MR. SHERBORNE: Yes, your Lordship, can I say this about it.
 4 Obviously, your Lordship will read the chronology, but one has
 5 to remember what this incident was about. Ultimately, this
 6 is, as far as the incidents go, one where there was relatively
 7 little physical injury alleged by Ms. Heard. There obviously
 8 is and your Lordship, we say, will need to consider that very
 9 carefully. However, we do not need to have too detailed, at
 10 this stage, certainly given how many incidents I have to go
 11 through, I am not going to take your Lordship through it in
 12 that way. I am going to present the differences so that
 13 your Lordship can focus on that because so much of these
 14 incidents was looking at the texts behind the scenes and so on
 15 as opposed to focusing on what is the account that is given by
 16 Ms. Heard as to what she suffered, and is that account one
 17 that the defendants can prove on the basis of cogent and
 18 compelling evidence.
 19 MR. JUSTICE NICOL: You draw a sharp distinction between the
 20 account and the texts, but as I understood Ms. Wass yesterday,
 21 part of her submission was that the account that was given was
 22 corroborated, or at least consistent with, other things that
 23 could be shown.
 24 MR. SHERBORNE: Are you talking about 21st May, my Lord?
 25 MR. JUSTICE NICOL: I am talking about 21st May.

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1 CLOSING - SHERBORNE
 2 MR. SHERBORNE: Yes, with her friends, who are all part of the
 3 setup, as we have said. Ms. Heard's account is different in
 4 relation to 21st May. She says that Mr. Depp hit her with his
 5 mobile phone. In fact, what she said is that he pulled back
 6 his arm like a baseball pitcher and launched it at her in slow
 7 motion. It hit her full on in the face, she said, and eye,
 8 which was pretty good, considering that he was some
 9 considerable distance away. Now, no one, apparently, other
 10 than Ms. Heard and Mr. Depp, were witnesses to this; not
 11 Mr. Tillet Wright, who was on the phone, or ---
 12 MR. JUSTICE NICOL: Mr. Tillet Wright was across the other side of
 13 the country, was he not, in New York.
 14 MR. SHERBORNE: He was, yes, but he was on the phone, and
 15 Ms. Pennington as well, who somehow then managed to enter the
 16 flat without being seen by Mr. Bett or Mr. Judge, who were
 17 standing outside the flat waiting. Mr. Depp's case is that
 18 Ms. Pennington was already inside. This was, as we say, a
 19 setup. So much so that, as you have seen in his evidence,
 20 despite being a considerable way away from her at the time,
 21 Ms. Heard shouted, "Stop hitting me, Johnny" -- a classic case
 22 of a setup. That was when, as your Lordship heard, Mr. Depp's
 23 security stepped inside and removed him.
 24 Mr. Depp was obviously shaken by this, as you see in the
 25 lift, and who would not be. Ms. Heard says that this left a

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1 CLOSING - SHERBORNE
 2 visible bruising injury. There was also massive damage, they
 3 say, done to the property. A veritable farmer's market was
 4 left all over Penthouses 3 and 5. What is not in dispute is
 5 that the police arrived, two officers, who were deposed in
 6 July 2016.
 7 MR. JUSTICE NICOL: Again, I am sorry to keep interrupting you,
 8 but it helps me to try and sort this out. Looking back, as I
 9 did last night, at Ms. Wass's chronology about this episode, I
 10 see that there were at some stage two teams, each of two
 11 officers.
 12 MR. SHERBORNE: Yes. Perhaps I will show you the document and
 13 then your Lordship will see. It is the incident report that
 14 we were looking at yesterday. It is file 5.1. These are very
 15 interesting documents. If you look at the first one, it is
 16 5.1.
 17 MR. JUSTICE NICOL: Which tab?
 18 MR. SHERBORNE: It is 191; 5.1, 191. You will see that the first
 19 document, which is the incident report, this is the
 20 interesting thing. The first one, as you can see, is timed at
 21 about 8.30, "Incident initiated". Does your Lordship see
 22 that?
 23 MR. JUSTICE NICOL: Yes.
 24 MR. SHERBORNE: "Received call from victim's friend, Amber".
 25 MR. JUSTICE NICOL: Just a minute (Pause) Now, "Received call, FR,

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1 CLOSING - SHERBORNE
 2 Vic friend Amber assaulted by boyfriend."
 3 MR. SHERBORNE: Yes. "Refused to give further." Then you will
 4 see they turn up. "Second hand, declined ...(reads to the
 5 words)... suspect Johnny Heard, white male." If you look
 6 further down, do you see the 9.22 timing: "Met with victim,
 7 checked location, verified husband left. Victim advised
 8 verbal dispute" -- victim advised verbal dispute -- "and
 9 refused to give any further information. Issued business
 10 card." That is the first one.
 11 You will recall Officer Saenz and Hadden. Officer
 12 Hadden was not called by the defendants to give evidence or be
 13 challenged, but both of them, in their depositions, referred
 14 to seeing Ms. Heard on two occasions, at both of which they
 15 saw no injuries, no bruising, and so on.
 16 That is not what I think your Lordship is referring to,
 17 which can be seen on the next document, 1197.3 which, as I
 18 understand it, are two different officers who came, and
 19 I think this was generated by Mr. Tillet Wright's call.
 20 I think what happened is ---
 21 MR. JUSTICE NICOL: Was it not the first?
 22 MR. SHERBORNE: It was, but in the system, they picked up the call
 23 later in the sense that somebody suddenly thought, "Hold on,
 24 we have had a call" and did not realise ----
 25 MR. JUSTICE NICOL: I do not think that can be right because there

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1 CLOSING - SHERBORNE
 2 is reference at 20.37 to "secondhand FN, NYPD". Mr. Tillet
 3 Wright was in New York, was he not, and so presumably when he
 4 calls 911, he gets through to the NYPD.
 5 MR. SHERBORNE: He does, and it was routed through. My
 6 understanding -- and maybe it does not matter -- is that
 7 actually, for some reason, I think there was a belief that his
 8 original call was not activated even though it was, and that
 9 is why there was a second visit generated. It does not matter
 10 much. As I understand it, that is what happened.
 11 MR. JUSTICE NICOL: Yes. Anyway, we did not have any evidence,
 12 did we, about the second lot of police officers?
 13 MR. SHERBORNE: No, we do not, my Lord. Again, there is a
 14 reference to a verbal argument only, as you see.
 15 MR. JUSTICE NICOL: Yes, but there was no evidence from the police
 16 officers.
 17 MR. SHERBORNE: No. I spotted this also yesterday when I looked
 18 at that.
 19 MR. JUSTICE NICOL: We are both indebted to Ms. Wass.
 20 MR. SHERBORNE: What is not in dispute is that the police arrive,
 21 two officers, as I said.
 22 MR. JUSTICE NICOL: And this is Saenz and Hadden.
 23 MR. SHERBORNE: Saenz and Hadden, who testified that they had seen
 24 nothing. They saw no injuries, they saw no damage, not just
 25 once, but twice. I am not going to take your Lordship back

[Page 2613]

1 CLOSING - SHERBORNE
 2 through their evidence in this court. It is in our transcript
 3 file.
 4 Now, the defendants obviously cannot live with this
 5 evidence because it blows a complete hole in their case. They
 6 are entirely independent, trained police officers, one an
 7 expert in domestic violence cases. Ms. Wass sought to rely on
 8 what she had said in a number of ways in her closing speech,
 9 but on the other, was not prepared to actually accept her
 10 evidence. These entirely independent officers, with no axe to
 11 grind, saw absolutely nothing.
 12 MR. JUSTICE NICOL: There was not much in the way of contemporary
 13 documentation from them, was there?
 14 MR. SHERBORNE: My Lord, only a matter of weeks later, they were
 15 deposed to give evidence about it, and they did, and they
 16 maintained that they saw nothing. I can take your Lordship to
 17 the deposition. It is unequivocal. They were cross-examined
 18 as you will appreciate.
 19 MR. JUSTICE NICOL: Well, on a deposition, help me with the
 20 process. You say they were cross-examined, but is that right?
 21 I had understood, but again you will tell me if I am wrong
 22 about this, that the purpose of a deposition is to take, as it
 23 were, the evidence-in-chief, and cross-examination would not
 24 occur until a trial, but if I have misunderstood that, correct
 25 me.

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1 CLOSING - SHERBORNE
 2 MR. SHERBORNE: Let us look at the deposition, but I ---
 3 MR. JUSTICE NICOL: There will be lawyers from the opposing party
 4 present and quite often one hears, or sees on the transcript,
 5 that those lawyers have objected to a particular question.
 6 MR. SHERBORNE: Yes.
 7 MR. JUSTICE NICOL: Again, as I understand it, there is no judge
 8 present at the deposition. It is simply a way of recording
 9 that a particular question is objected to and then, if that is
 10 persisted in, it can be argued out in front of a judge at a
 11 later stage.
 12 MR. SHERBORNE: My Lord, yes. It is video-taped.
 13 MR. JUSTICE NICOL: Of course.
 14 MR. SHERBORNE: I am just looking for the individual one. My
 15 index has also disappeared. (Pause) If your Lordship looks at
 16 Officer Saenz, you will see ----
 17 MR. JUSTICE NICOL: Which volume is this?
 18 MR. SHERBORNE: It is file 3, tab 87, page F43 and following.
 19 Your Lordship will see that Ms. Spector ----
 20 MR. JUSTICE NICOL: Yes.
 21 MR. SHERBORNE: ---- who was the solicitor who was acting for
 22 Ms. Heard, she is asking questions.
 23 MR. JUSTICE NICOL: Well.
 24 MR. SHERBORNE: On page F51, for example. She asks questions at
 25 the end: "Could I ask you a few questions?" The witness

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1 CLOSING - SHERBORNE
 2 says: "Sure."
 3 MR. JUSTICE NICOL: Just a minute. (Pause)
 4 MR. SHERBORNE: So, your Lordship is right that there are
 5 questions asked by Mr. Depp's solicitor, but there are also
 6 questions asked by Ms. Spector.
 7 MR. JUSTICE NICOL: If you look at F51.
 8 MR. SHERBORNE: Yes, page 35.
 9 MR. JUSTICE NICOL: Internal pagination 36, the heading at the top
 10 of that internal page is "Examination".
 11 MR. SHERBORNE: That, the heading does not really answer it, with
 12 respect, my Lord. If you look at page 35, do you see
 13 Ms. Spector at the bottom, that is Samantha Spector,
 14 Ms. Heard's lawyer: "Can I ask a few questions", so she asks
 15 questions of the officer. So, Ms. Spector had the
 16 opportunity, and one she took, to ask questions. One can
 17 understand why she did not want to ask too many questions
 18 given the unequivocal answers these officers gave, unequivocal
 19 ----
 20 MR. JUSTICE NICOL: But it is one thing if this is the only
 21 opportunity for cross-examination, in which case one might
 22 draw inferences from the absence of questions. But if this is
 23 a precursor to a trial, then the absence of asking questions
 24 may not amount to the same, not lead to the same inference.
 25 MR. SHERBORNE: I am not suggesting that they admitted that these

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1 CLOSING - SHERBORNE
 2 officers were correct. All I am saying is that she had the
 3 opportunity to ask questions. If it is going to be suggested
 4 this was simply a one-sided exercise, then it is simply not
 5 correct. In any event, of course, these officers were
 6 cross-examined in this court. Your Lordship will recall, they
 7 have no vested interest at all, these officers, they are
 8 entirely independent. It is not like Ms. Heard's clique or
 9 what could be said of Mr. Depp's employees. As I say, the
 10 suggestion from Ms. Wass for the first time, your Lordship
 11 asked me about whether things were put to Ms. Heard, with the
 12 greatest respect, a lot of things were put to Ms. Heard. What
 13 was not put to the officers, which is quite unfair, is what
 14 Ms. Wass said in her closing speech. This is what we have
 15 said time and time again in this case, allegations have been
 16 thrown around by the defendants without those people who have
 17 been brought into the cross hairs having had an opportunity to
 18 meet those allegations. Being accused of negligence, as
 19 Ms. Wass did, but not having the strength to actually put it
 20 to them, in my submission, shows it is an unworthy and
 21 unsustainable suggestion. There is no evidence of it, and
 22 merely because it is said for the first time in
 23 cross-examination does not make that good.
 24 Of course, the police officers are not the only people
 25 who did not see any of those injuries between the 21st and

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CLOSING - SHERBORNE

CLOSING - SHERBORNE

the 27th. We have set out in our annex, your Lordship will see, in our annex D, it is not numbered, but it comes before E and comes after C. So, I suspect we can call it safely annex D! There, we have a summary of the individuals who either gave an account of what they saw or rather, what they did not see, including the defendants' witnesses, taking you through each day with their evidence. What is interesting indeed is the fact that there are a number of individuals who might have given evidence for Ms. Heard about having seen her with injuries. No single independent witness has come forward to say "I saw them"; no one who happened to be at Amanda de Cadanet's party on the 22nd, let alone Ms. de Cadanet herself.

is what the defendants have done with Mr. Waldman. It is unedifying, not least because each of those witnesses with their different accounts, came to give evidence on oath and they did so, and all of them accepted that was their evidence. The only person who suggested otherwise to this court was Laura Divenere, Elon Musk's PR, who despite having sworn a declaration saying she saw no injuries or marks on Ms. Heard's face, in order to curry favour with Ms. Heard, who you can hear on a recording she goes to visit, she says, "I did not say anything, it was a very neutral declaration, I did not say anything bad", but she did. She tried to suggest she had been put under pressure by Mr. Waldman to give the evidence and that he had suggested the wording. But your Lordship was able to see the e-mails passing between her and her lawyer, in which she made clear that three times she had asked for changes to the statement, and three times those changes had been made. That it was untrue to suggest that any pressure had been put on her by Mr. Waldman. She never thought those e-mails would see the light of day, and nor did her lawyer, who stood up to object, but that objection fell away as so much of the defendants' case did, when we had Mr. Murphy's ---

What is very interesting is Melanie Inglessis, described, as she was, as Ms. Heard's option number one for makeup, a woman who was a close part of the clique, who you see in the Coachella photographs, who you see on the May 25th CCTV footage, as one of the individuals, the co-conspirators who your Lordship may have spotted looking out of the lift, checking left and right to see if the coast is clear. Melanie Inglessis was one of them. She was, as I say, the makeup artist, and yet there is no evidence from her, even though she came and gave evidence by way of video link about 15th December, she gave no evidence and was not asked about the May incident. That is a telling omission.

MR. JUSTICE NICOL: Well, I am not sure it is fair to say it fell away. What I said to the American lawyer was that I would

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CLOSING - SHERBORNE

CLOSING - SHERBORNE

Not even Mr. Franco, who you will recall Ms. Heard referred to, when she saw that CCTV footage and she said that when he is seen nuzzling into her, instead of whispering sweet nothings, he is apparently saying to her, "Your face looks awful", something that has never been said in this case before. No evidence from him.

decide as part of my judgment whether his objection on the grounds of privileged was justified. As I have understood it, can we just focus on that before we break.

That is why, we say, when you look through this schedule, and you look through the individuals who said that they saw nothing at all on her face, by way of injury, bruising or red marks, why we say the case is so difficult for the defendants.

MR. SHERBORNE: Of course.

MR. JUSTICE NICOL: As I have understood it, any claim to privilege must be decided by me according to English law.

I will make one last point before we break. Ms. Wass, in her closing speech, tried to suggest that the way in which each of these many witnesses said that they did not see any injuries or bruises, and that Ms. Heard was not wearing makeup, was somehow the same. Your Lordship may recall that the list and description that she read out varied in almost every single case, despite the point she was trying to make. What was the point she was trying to make? She was trying to suggest that somehow Mr. Waldman, Mr. Depp's American solicitor, there are enough American solicitors sitting in the gallery of other courts on behalf of all of the parties in this case, but what does the defendant do? It is that famous phrase, if you cannot get the ball, go for the man, and that

MR. SHERBORNE: Yes.

MR. JUSTICE NICOL: As a matter of English law, what you say is that, first of all, the privilege is that of the client, not the lawyer.

MR. SHERBORNE: Yes.

MR. JUSTICE NICOL: Secondly, that as a matter of English law, privilege can be waived.

MR. SHERBORNE: Yes.

MR. JUSTICE NICOL: And on the facts, you submit, it was waived.

MR. SHERBORNE: My Lord, yes.

MR. JUSTICE NICOL: I have understood your case.

MR. SHERBORNE: Your Lordship has, and the e-mail from Mr. Murphy, which were forwarded by Ms. Divenere to him without she thought anyone knowing ----

MR. JUSTICE NICOL: It is not the e-mail from Mr. Murphy, it is the e-mail to Mr. Murphy.

MR. SHERBORNE: I thought is what I said, my Lord, if I did not say that then I am sorry. They were forwarded. Your Lordship

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1 CLOSING - SHERBORNE
2 saw the e-mails that Mr. Murphy received from Ms. Divenere, in
3 which she made clear, first of all, her declaration was true;
4 secondly, Mr. Waldman had not sought to pressurise her,
5 despite what she said to Ms. Heard, because she knew Ms. Heard
6 wanted to hear it, as did the defendants. The truth is, that
7 was her declaration, she saw nothing. Even the most reluctant
8 witness, friends of Ms. Heard, was unable to escape the
9 reality that she saw nothing, because there was nothing there.
10 If that is a convenient moment, my Lord?
11 MR. JUSTICE NICOL: Yes.
12 MS. WASS: My Lord, may I raise a matter at some stage, and if now
13 is convenient it is to do with something Mr. Sherborne has
14 said to my Lord, which may have been inadvertently misleading.
15 It is to do with the 70,000 texts. I have managed to print
16 out a copy of what was said from the live note transcription.
17 (Pause) What I will do is, allow Mr. Sherborne to read it. He
18 was suggesting that all of the 70,000 texts were -- sorry, all
19 of the relevant texts in this case were amongst the 70,000
20 that had been disclosed in advance of Ms. Heard making her
21 witness statement. That is not entirely correct. Many of the
22 important texts ----
23 MR. JUSTICE NICOL: Ms. Wass, I am going take a break now. While
24 I am taking the break, you can have a word with Mr. Sherborne
25 about what you think he has said that was wrong, and you can

1 CLOSING - SHERBORNE
2 the legal argument that took place before the trial.
3 Now, I understand that the chronology that I have set
4 out is not accepted by the claimant, but this is, as my Lord
5 knows, an extremely important part of the case, and the late
6 revelation of the Nathan Holmes drug texts have been an
7 important part. So, we refute any suggestion that has been in
8 the hands of the defendants since before June of this year.
9 I am sorry to take the time up but it is important that
10 my Lord knows the dispute.
11 MR. JUSTICE NICOL: Yes.
12 MR. SHERBORNE: My Lord, can I say this, first of all, we do not
13 accept for a second that there was any late revelation of
14 these texts, nor do I accept their characterisation is
15 extremely important. But as a matter of fact, the Bettany
16 texts and the Nathan Holmes texts were part of the original
17 70,000. They were i-messages, so that was the nature of the
18 inadvertent disclosure, the entire i-messages were provided.
19 They were not, as I understand it, caught by search terms that
20 were applied to that 70,000, so that is why they did not show
21 up for the claimant. But they were provided to the defendants
22 and the defendants, we were told, looked through all of those
23 texts before they decided what to return. So, we are very
24 clear on this. It is not that there is a difference, and
25 I sound like we are squabbling, but we are right, it is not a

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1 CLOSING - SHERBORNE
2 let me know after the break.
3 MS. WASS: Certainly.
4 MR. JUSTICE NICOL: Whether there is an agreed position. So,
5 I will give you a little longer time to deal with that.
6 MS. WASS: I do not want to eat into his time, I am sure it will
7 take only a minute.
8 MR. JUSTICE NICOL: I will say ten minutes.
9 (A short break)
10
11 MS. WASS: My Lord, I have an opportunity of speaking to
12 Mr. Sherborne, and there is a difference between us, but it is
13 an important issue, and I would like to put forward the
14 position of the defendants, which I will say it very briefly
15 and it is as follows. 70,000 texts were disclosed before
16 Ms. Heard made her witness statements. I think that was in
17 October of last year. In March of this year, there was a
18 tranche of disclosure which comprised a shortened version of
19 the extraction report, as it is called, and that contained
20 texts which were not in the original 70,000. Then, in June of
21 this year, the full extraction report was disclosed and that
22 is the report in bundle 10 of the trial bundles, and that is
23 the bundle which revealed what has been referred to as the
24 Nathan Holmes drugs texts from Australia, and that is why the
25 complaint was made by the defendants about non-disclosure and

1 CLOSING - SHERBORNE
2 difference, we are simply right.
3 MR. JUSTICE NICOL: When there is an argument, it usually is the
4 case that each person is right! There was, though, I mean,
5 there was an argument about the Nathan Holmes texts.
6 MR. SHERBORNE: Yes, there was.
7 MR. JUSTICE NICOL: Because the Nathan Holmes texts were what led
8 to the complaint that there had been non-compliance with my
9 unless order.
10 MR. SHERBORNE: Yes, but it is a different complaint. As
11 I understand it, it was not thrown up by our search terms,
12 that is why we did not disclose it in that sense. But it was
13 part of the 70,000 i-messages. There is not two ways about
14 that, it was part of the 70,000 i-messages as I understand.
15 That is I said what I said on instructions. The fact that we
16 did not disclose it because it was not thrown up by the search
17 terms that we applied is a different point. That was the
18 nature of the argument.
19 Your Lordship will understand the difference of that .
20 It is one thing to ask whether we were provided it
21 inadvertently; it is another to ask why we did not disclose
22 it. We did not disclose everything on those 70,000. We
23 applied search terms to the 70,000, but we did give the 70,000
24 by mistake to the defendants. So, they were able to look at
25 all 70,000 and my recollection of the witness statement from

[33] (Pages 2621 to 2624)

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1 CLOSING - SHERBORNE
 2 their solicitors is that is what they did, before they
 3 realised and gave them back, they chose to give certain ones
 4 back. We do not need to have this debate now, but it is wrong
 5 to suggest that just because there was some disclosure
 6 application that somehow makes it correct that the defendants
 7 did not have it. They did. That is why I said what I said.
 8 MR. JUSTICE NICOL: There we are.
 9 MR. SHERBORNE: Can we return, I am very conscious of the time,
 10 your Lordship will understand there have been a number of ways
 11 in which I have not progressed the way I would, and I hope
 12 your Lordship will indulge me on that to some extent. I will
 13 go as fast as I can over the remaining incidents. I have not
 14 quite finished yet.
 15 Taking very quickly the photographs, for example, that
 16 were taken by Ms. Heard's friends, just to show your Lordship
 17 the point that we have made, taking the example. If
 18 your Lordship turns to bundle 6, you will see at tab 148E,
 19 F894 ----
 20 MR. JUSTICE NICOL: Just a minute. (Pause) 148E.
 21 MR. SHERBORNE: F894.173. I am going to show your Lordship two
 22 photographs taken at exactly the same time.
 23 MR. JUSTICE NICOL: Just a minute. (Pause)
 24 MR. SHERBORNE: If you find 173, and you have a finger in that at
 25 the same time as 175 -- so 173A, actually, is easier. Do you

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1 CLOSING - SHERBORNE
 2 have 175A? These are taken exactly the same time, but it
 3 makes just one of the points that we make about photographs.
 4 That is two photographs taken at exactly the same time in the
 5 exactly the same way, and look at the difference between them
 6 in terms of one showing a much more pronounced redness than
 7 the other, which shows barely anything. The other thing that
 8 is very curious about these photographs, if you look at 175A,
 9 is, look at the redness on both cheeks. The phone, which
 10 Mr. Depp, acting qua baseball pitcher, hits supposedly
 11 Ms. Heard's right eye and cheek. Yet, if you look in that
 12 photograph, she is flushed on both sides. One of a number of
 13 points your Lordship will have detected from our submissions.
 14 Now, we know what happened is that on that night, after
 15 the police were called, Ms. Heard made contact with three
 16 different people: her lawyer, Samantha Spector; her publicist,
 17 Jodie Gottlieb.
 18 MR. JUSTICE NICOL: Just a minute. (Pause)
 19 MR. SHERBORNE: Her lawyer, Samantha Spector, her publicist, Jodie
 20 Gottlieb, and the person who described herself as her "option
 21 one makeup artist", Melanie Inglessis, a strange choice, one
 22 might think, if you were going to keep all of this private,
 23 which is what Ms. Heard said was her reason for not wanting to
 24 file a report to the police. But she did still want them to
 25 be called, which is rather a strange thing.

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1 CLOSING - SHERBORNE
 2 MR. JUSTICE NICOL: Just a minute (Pause) Curious if she wanted
 3 no, what did you say?
 4 MR. SHERBORNE: No publicity. Why ring your lawyer, your
 5 publicist and your makeup artist. What is even more curious,
 6 my Lord, is that she asked for 911, for the police to be
 7 called, but she did not want to file a report. Why not? What
 8 the police could have done, if she had told them about this,
 9 is of course they would have taken the photographs themselves.
 10 They would have had her examined. They would have made a note
 11 of the findings. They might well, as is often the case, have
 12 wanted to see her text messages and to investigate an
 13 allegation of physical abuse. Of course, that is not what the
 14 contact form says, is it? It talks about a verbal abuse by
 15 Mr. Depp. It is a curious step, that instead of getting the
 16 police to take the photographs that she is so keen for
 17 Ms. Pennington or Mr. Drew to take, she does not. So that is
 18 what happened on the 21st.
 19 I am not going to take your Lordship through, as I say,
 20 all of the damage that was described, that none of the police
 21 officers or even I think Mr. Baruch saw.
 22 The week of the 22nd-27th May, we say, is critical
 23 because of how many people saw her and did not see anything,
 24 and I am going to leave your Lordship with that annex. I am
 25 going to turn back in time to the other incident, the only

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1 CLOSING - SHERBORNE
 2 other incident that is specifically identified in the domestic
 3 violence restraining order, the birthday dinner on 21st April.
 4 Again, the actual supposed act of violence is utterly at odds
 5 with the evidence and the circumstances. Can I just read to
 6 your Lordship, just so that you can see, Ms. Heard's first
 7 witness statement, paragraphs 148-150, and we can listen to
 8 her account of what she says she suffered: "On 21st April,
 9 I was having my thirtieth birthday party with friends at the
 10 penthouse...(reads to the words)... I tried to walk past him,
 11 but he pushed me to the floor again."
 12 That is the account that Ms. Heard puts in her witness
 13 statement. Your Lordship will compare it with the evidence we
 14 actually heard. This is an important point because it was
 15 quite easy in this courtroom to forget what actually was being
 16 alleged by way of the physical act of violence. So, there is
 17 no dispute as to what the actual evidence was. There is no
 18 dispute that Mr. Depp was late for Ms. Heard's birthday party.
 19 He had had a bad day -- certainly a bad day on most people's
 20 view -- when he found out he had been defrauded to the tune of
 21 a few hundred million dollars. Maybe, he accepted from
 22 Ms. Wass, he might have had some cannabis on the way back to
 23 calm the stress. As I say, it is an example of Mr. Depp being
 24 prepared to accept points put to him if he thought that they
 25 might be right.

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CLOSING - SHERBORNE

We have heard the effect that he says cannabis had on him and it is hardly rocket science. He arrives late, but he is sociable. He chats with everyone and he is friendly. I am not going to take your Lordship back to the note of Erin Burin, but for your Lordship's reference, it is F640.10.

Your Lordship, when you look at the note, will see, "Client appeared irritable and upset, angry with husband because he was late", but later on in that note, it describes how he turns up, "he is sociable, he is in good spirits, he greets the client's guests. During dinner, he sits next to her. He is affectionate towards her. They are affectionate towards one another" and then he talks with a number of people and they spent time laughing and so on.

Josh Drew's account was very similar, albeit he wanted to say that Mr. Depp, he thought, had been drinking, although there was no reference made to him being high, as Ms. Heard sought to suggest. It is after her friends leave, apparently, that another trade mark argument of Ms. Heard's happens. Rather than justify himself, as he said, he decided to get into bed and read. He had learned not to engage.

Your Lordship has heard the haymaker reference in the San Francisco tape on the recording secretly made by Ms. Heard. At no point does she suggest the litany of violence that she records in her witness statement. In my

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CLOSING - SHERBORNE

submission, it is utterly implausible that if that happened she did not mention it, even if only to say, "I punched you, but what about what you did to me?"

MR. JUSTICE NICOL: Just a minute. (Pause) Is your point that she does not mention the damage to the property?

MR. SHERBORNE: No, she does not mention ----

MR. JUSTICE NICOL: No, I am just asking you, is that the omission you are talking about?

MR. SHERBORNE: No, she does not mention the account of flying glass, of him screaming at her, of him shoving her, pushing her down, squaring up to her, bumping her on the chest, grabbing her by the hair, she scrapes her limbs on glass -- the list goes on of acts of violence. That is why I say your Lordship has to focus, with respect, on what is it that are said to be the acts of violence that Ms. Heard mentions.

Your Lordship can be forgiven, if I can put it that way, because Ms. Heard's accounts of injuries change every time she gives it. It is tempting, therefore, to just work off the last version as it comes out of her mouth, but these are pleaded cases. These are witness statements that are met by other witness statements. There must be, in my submission, consequences for a witness whose reliability, whose evidence lies at the centre of this defence of truth, if that witness is unable to maintain a consistent and, I say, plausible

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CLOSING - SHERBORNE

account of what she says actually happened. In the nicest possible way, whether Mr. Depp turned up half an hour late or two hours late, whether he had had cannabis, whether he had drunk or anything like that, is of tangential relevance to the critical issue of did he perpetrate the acts of violence which she suggested and which caused the injuries which she said happened?

When you analyse each of these incidents in that way, we say that it is palpably obvious that there is not clear and cogent evidence to support them, not least because of the utter unreliability of Ms. Heard in terms of the evidence she gives.

What we have instead, as your Lordship has seen, is Mr. Depp having been attacked, he leaves, and he texts, as your Lordship has seen, to say he just cannot do it any more. Would your Lordship give me a moment? (Pause)

What we then have, as your Lordship knows, is that Mr. Depp goes and Ms. Heard goes to Coachella. In her witness statement, she describes herself as having a terrible, miserable time at Coachella as a result. What she told Nurse Burin at the time is a very different story. For your Lordship's reference, it is file 4, tab 108, page F640.11. Sorry, the entry in Nurse Burin's note is the page before to start with. It is page 640.10, 22nd April, so

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CLOSING - SHERBORNE

the day after: "Client notified registered nurse via text she was awake. She states, 'I had a long fucked up night'. She also states that she was concerned that her marriage with husband JD was over."

Mr. Depp is the one that left. As I say, it was not consistent with him having been violent. It was Ms. Heard that was violent and she was scared, because of her violence, that Mr. Depp was going to take this no longer, as he said.

The note on F640.11 is Nurse Burin's note of her visit to Ms. Heard at her home in downtown Los Angeles on 11th May. She provides her with medication.

MR. JUSTICE NICOL: On the 11th.

MR. SHERBORNE: 11th May.

MR. JUSTICE NICOL: Did you say 11th May?

MR. SHERBORNE: Yes, it is, and I will explain. I will just read out the note and then it will be obvious. I am sorry, my Lord: "Client discussed her birthday trip to Coachella music festival. Client admits to illicit drug use during the trip and states she ingested mushrooms and MDMA simultaneously while also consuming alcohol and states she vomited and was high for at least 24 hours straight. Registered nurse reminded client that illicit drug use will not be tolerated by medical staff and that any medication or drugs that are not prescribed can interfere and cause adverse effects with her

[35] (Pages 2629 to 2632)

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CLOSING - SHERBORNE

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prescribed medication. Client laughed and also reported using illicit drugs, mushrooms and MDMA", which makes MDMA twice at least, despite Ms. Heard having said in the witness box that she only took it once and then a second time with Mr. Depp, you will recall, on that trip to Moscow, when the flight attendant hit on her and Mr. Depp attacked him. "Client laughed and also reported using illicit drugs on 9th May at home with a high profile male acquaintance. Client reported her husband was not aware of the male visitor nor her illicit drug use."

across the face. When one analyses the injuries and how they are meant to have taken place, it is clear -- and no texts will help the defendants on this -- that it is utter fabrication. He is meant to have blacked out, but at the same time he is still punching her and screaming at her how much he hates her. If this was true -- and one has to take the account in full, not parts of it -- you can imagine how she would have been absolutely black and blue, not just on her face, but her whole body being dragged from room to room like a rag doll, with hair coming out of her scalp, a complete wreck. One can only imagine what she would look like the next day.

I am not going to remind your Lordship about the evidence, as I say, of her vomiting.

Well, let us look at what has been said about what she looked like. Samantha McMillen, you will recall, saw her when she was preparing for the James Corden show. This was the 15th, when this is said to have taken place, and Samantha McMillen saw her on the 16th. She said she saw nothing and she saw her without makeup. Ms. Heard disputes that and says that she had already had her makeup done and then at the next point says that she was in the process of having her makeup done, something Samantha McMillen completely refutes.

Can I go to the next incident, which is December 2015, at the James Corden show. Again, it is important to see how it is put in Ms. Heard's witness statement. It is at paragraphs 138-141. She says this: "Again, we were at the penthouse in LA. Johnny got mad at me...(reads to the words)... screaming over and over how much he hated me", and so on and so forth.

Let us look at what Nurse Erin said in her notes when she goes to visit Ms. Heard. Your Lordship will recall that it is F880, so we are going back to file 4, tab 139,

In her cross-examination, she went further and said about her injuries, that she had two black eyes, a broken nose, a broken lip, bruised ribs and bruises all over her body.

MR. JUSTICE NICOL: Just a minute. (Pause)

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CLOSING - SHERBORNE

CLOSING - SHERBORNE

MR. SHERBORNE: She went back over it when your Lordship asked her: "I had bruised ribs, bruises all over my body, bruises on my forearms from trying to defend the blows, two black eyes, I had a broken nose, I had a broken lip, I had bruises, primarily the really bad ones were in my hairline, in my scalp, my chin, there were chunks of hair missing, there was pus in the wounds in my hairline, dark red bruises specifically like purple-red on my temples and in my chin, and also the inside of my upper lip was cut."

page F880. It is a document we have seen before. On 16th December 2015, she has a call from Ms. Heard saying she has had an argument with her husband, he has left home, she is unaware of his location, she reports getting into a verbal disagreement with her husband -- a verbal disagreement -- she states her husband was inebriated, she states the disagreement escalated and the husband used his forehead to hit her head. That is all she says. She does not describe any of the other actions which her witness statements include. She does not describe being pulled from room to room like a rag doll, being forced into the bed, being grabbed by the throat and strangled, any number of the more, in my submission, physical activities. She just describes that he used his forehead to hit her head.

Now the first thing to say about this alleged incident is there is no context given to it at all. There is no reason why Mr. Depp is supposed to have launched into this extraordinarily vicious assault over a lengthy period of time and that is despite it being, as she described, one of the worst and most violent nights when she was in fear, she says, of her very life, but yet she cannot remember how it started.

She denies loss of consciousness. She states she has a headache and a bruised eye and not surprisingly, and not for the first time in this case, she is encouraged by those to whom she tells these actions that she should go and visit the emergency room. But what does she do? She declines.

Secondly, there are so many details in her account that I do not have the time between now and finishing to show how they are not even logistically possible: for example, how Mr. Depp, if one hand is below her on the stairs and then above her, how he is grabbing her by the throat, therefore he is in front of her and she is face up, and then pushed on to the bed, but the next minute, she is somehow being smothered with her face in the mattress, but he is also slapping her

The next day, Nurse Burin goes to visit her to bring round medication and what does she say happens? She waits at the door for several minutes after knocking. What happens when the door finally opens? She finds Ms. Heard looking dishevelled. Her hair is unbrushed. She appears weepy and

[36] (Pages 2633 to 2636)

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CLOSING - SHERBORNE

1 sad. She tells about the argument with her husband. She is
2 reminded that Ms. Burin could not stay because she was
3 visiting to deliver the medication, but despite that, she does
4 examine Ms. Heard and what does she find? She finds some
5 bright red blood at the centre of her lower lip, fresh blood.
6 Fresh blood two days later?

7 You will recall Mr. Depp saying that the one thing he
8 remembers about Ms. Heard is that she had terribly chapped
9 lips and when he was asked about what she did, he said she
10 would pick it and it would bleed. Bright red arterial blood?
11 You can see that Ms. Heard suggests that she does not even
12 notice. That is what Nurse Burin says. She made the client
13 aware she was actively bleeding on her lip.

14 Ms. Heard, warming to her part, says it was from the
15 injuries sustained in the argument between her and her
16 husband. It continued to bleed actively. Well, it does if
17 you pick it.

18 The client states that her head is bruised and she has
19 lost clumps of hair during the altercation. Ms. Burin looks
20 at the scalp, but was unable to visualise the haematomas that
21 the client had described. A trained nurse is being asked to
22 look at the injuries that Ms. Heard describes -- a broken
23 nose, bruised ribs, bust lip, big black eyes, clumps of hair
24 being pulled out at the root -- and what does this registered
25

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CLOSING - SHERBORNE

1 nurse see? Nothing, other than chapped lip that is bleeding a
2 bit.

3 The nurse encourages the client to be seen by Dr. Kipper
4 or go to the emergency for a thorough assessment, but what
5 does Ms. Heard do? She does not do it, and one knows why she
6 does not do it. It is because it would be clear that she had
7 not suffered any of the injuries which she claims to this
8 court that she has.

9 What she does do is she goes on the James Corden show.
10 Now, I did want to play your Lordship a couple of minutes of
11 that because it is quite clear from that video that Ms. Heard
12 has not been subjected to the extraordinary catalogue of
13 violence. It is only two minutes' long; and if your Lordship
14 will permit, I am going to play it.

15 (Recording played to the court)

16 MR. SHERBORNE: My Lord, I think that is enough. Your Lordship
17 will look, for example, at file 9, tab 87N.

18 MR. JUSTICE NICOL: Just a minute. (Pause).

19 MR. SHERBORNE: There are stills from that performance by
20 Ms. Heard that I can show you, but we have one in the bundle
21 already, J113. Your Lordship will see that there is
22 absolutely nothing on Ms. Heard's nose despite the fact that
23 it was supposedly broken during this incident. Even if, as
24 Ms. Inglessis said, she had to apply something to Ms. Heard's
25

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CLOSING - SHERBORNE

1 lips, the suggestion that came from Ms. Heard time and time
2 again, as I read, that she had a broken nose, is quite plainly
3 nonsense, as are the other injuries which she reports, which
4 are nowhere visible, as you will see, in her performance on
5 the James Corden show. It is in marked contrast with the
6 photographs that I can take your Lordship to. If you take
7 file 6 and if we start with 894.107 ----

8 MR. JUSTICE NICOL: Sorry, which tab are we on now?

9 MR. SHERBORNE: We are at tab 148C, and compare that to start
10 with, if you just put a finger in there, and you look at 114
11 ----

12 MR. JUSTICE NICOL: Sorry, you gave me a page number.

13 MR. SHERBORNE: 107.

14 MR. JUSTICE NICOL: Yes.

15 MR. SHERBORNE: You will see -- if your Lordship gives me a
16 moment. (Pause) Can you see 107?

17 MR. JUSTICE NICOL: Yes.

18 MR. SHERBORNE: And then you look at 114, this is another example
19 of how the difference in lighting alone shows how different
20 her face looks in those two photographs, taken at exactly the
21 same time or thereabouts. These are the points that we have
22 made.

23 Look, for example, at 112A, again completely different
24 facial photographs. Somebody is doing something which is
25

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CLOSING - SHERBORNE

1 showing up differently. That is why we say it is just one of
2 the reasons why you cannot trust these photographs taken in
3 this way.

4 Of course -- and it is an obvious point -- if Ms. Heard
5 had actually taken up the recommendation of Nurse Burin,
6 either on 16th or 17th December, to visit the hospital, she
7 would have had a proper examination, proper photographs,
8 independent verification of the injuries which she claims she
9 suffered, albeit one cannot see most of them in any event, but
10 even the ones which she now says there are, we would have
11 evidence of it, independent evidence.

12 Instead, we have just these photographs; photographs
13 taken, no doubt, perhaps to show Mr. Depp, as she says, the
14 next day, only she did not show him the next day. The first
15 time we have seen these is in the context of this court case.
16 Your Lordship will understand why this catalogue, as she
17 describes, looks more and more like some sort of dossier being
18 put together.

19 These are not the only photographs we have. We have the
20 photographs of the scalp if you look at 894.145. Does
21 your Lordship have that?

22 MR. JUSTICE NICOL: I do.

23 MR. SHERBORNE: There, you will see that this is where hair has no
24 doubt been pulled out at the roots from her scalp, as was
25

[37] (Pages 2637 to 2640)

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1 CLOSING - SHERBORNE
 2 suggested. It is just a very short point, this. It is one
 3 that is made by Mr. Murphy and rather pooh-poohed (pardon the
 4 phrase) by Ms. Wass. If you look at 122A, you will see the
 5 hair that was found, the clumps of hair. It is hair that, as
 6 Ms. Laws put to Ms. Heard, shows no roots at all. This is
 7 hair that, for some reason, has broken off in the middle.
 8 I am not aware of any hair that breaks in the middle like
 9 that. In any event, those are pictures of the scalp and that
 10 is the clump of hair that is found. The two do not match.
 11 MR. JUSTICE NICOL: Sorry, are you saying that from 145, I can
 12 tell that this is not hair from that particular point in the
 13 scalp?
 14 MR. SHERBORNE: My Lord, all I can tell you, because these are
 15 photographs taken by Ms. Heard and her friends, is what we can
 16 see. We know nothing at all ----
 17 MR. JUSTICE NICOL: I thought you were making the point, or making
 18 a point, that one can tell that the clump of hair at 122A is
 19 not hair that is taken from 145.
 20 MR. SHERBORNE: My Lord, I am making that point. Remember the
 21 evidence is that the hair was pulled and it came out from the
 22 scalp. This was put by Ms. Laws. I am not saying this for
 23 the first time. This hair that you see, we say, cannot come
 24 from that scalp. This is the problem because nowhere is there
 25 any independent verification, despite ample opportunity for

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1 CLOSING - SHERBORNE
 2 Ms. Heard to do it.
 3 One last point to make, because it has been suggested,
 4 is that your Lordship will have seen from the San Francisco
 5 tape that Mr. Depp responds to Ms. Heard when she refers --
 6 perhaps I can take you to it very briefly just because it is
 7 important. (Pause) Is it file 5?
 8 MR. JUSTICE NICOL: A question like that to me can only be
 9 rhetorical.
 10 MR. SHERBORNE: I am so sorry, my Lord.
 11 MR. JUSTICE NICOL: It is all right.
 12 MR. SHERBORNE: It is 5, and it is 161N. (Pause)
 13 MR. JUSTICE NICOL: Yes.
 14 MR. SHERBORNE: It says this at the top. It is Ms. Heard: "You
 15 have been screaming, it is like somehow ----
 16 MR. JUSTICE NICOL: Sorry, top of which page?
 17 MR. SHERBORNE: Sorry, F1009.18.
 18 MR. JUSTICE NICOL: Yes.
 19 MR. SHERBORNE: It is at the top of that page: "You'd been
 20 screaming. It's like somehow it'll end, all be in the sort of
 21 offensive thing. You can't throw a punch but yet screaming it
 22 okay", she says to him. "You can headbutt somebody screaming
 23 but don't scream." He says: "Headbutted you in the fucking,
 24 I couldn't believe you did that, forehead. That does not
 25 break a nose. I don't know if you're aware, I don't think you

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1 CLOSING - SHERBORNE
 2 did, I don't think you broke it" -- she knows this is being
 3 recorded -- "Don't think I broke it, I didn't touch it", he
 4 says to her. "Oh, please you didn't touch it, you don't know,
 5 there's nothing wrong with your nose", Mr. Depp says to her.
 6 Then she says: "Just like you didn't throw a phone at my
 7 face, right", she knows this is recording, he does not. "You
 8 don't know." "I didn't throw a phone at your face ----"
 9 MR. JUSTICE NICOL: This is going back to 21st May.
 10 MR. SHERBORNE: Sorry, my Lord.
 11 MR. JUSTICE NICOL: The phone in the face is ----
 12 MR. SHERBORNE: This is her allegation.
 13 MR. JUSTICE NICOL: ---- of 21st may.
 14 MR. SHERBORNE: This is her allegation which he denies. He does
 15 not know he is being recorded. What he says there is: "I
 16 didn't", and that was his explanation in the witness box as to
 17 what he meant, which is that in trying to stop her from
 18 punching him, as she repeatedly did, he put his arms around
 19 her, you remember he showed the court exactly how it happened,
 20 and as he said, their foreheads may well have banged against
 21 each other. That is very, very different from what Ms. Heard
 22 says when, in her witness statement, she says that he leaned
 23 back and then he went forward and whacked her deliberately on
 24 the nose, and that is why she said she had a broken nose. In
 25 her witness statement, in this court, on oath, and yet she

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1 CLOSING - SHERBORNE
 2 does not even say it on this transcript. It was then put to
 3 her ----
 4 MR. JUSTICE NICOL: Mr. Sherborne, we have got to 4.30, I will
 5 give you ten minutes more, but only ten minutes.
 6 MR. SHERBORNE: My Lord, I am sorry, I will not have got through
 7 the incidents by then.
 8 MR. JUSTICE NICOL: It has been your choice, Mr. Sherborne, as to
 9 how you make use of your time.
 10 MR. SHERBORNE: Then I will have to take it very, very quickly,
 11 your Lordship will understand I have had to deal with several
 12 things that have been raised during the course ----
 13 MR. JUSTICE NICOL: Yes. I said to you yesterday you need to
 14 finish today.
 15 MR. SHERBORNE: I understand. So, as I say, the suggestion that
 16 was put by Ms. Wass that this was the first time he mentioned
 17 it is belied by the fact that even Ms. Heard in her first
 18 witness statement, paragraph 147, refers to the fact that when
 19 a few days later she raised this with Mr. Depp, he said
 20 "I just gave you a little knock with my head", that is exactly
 21 what is said here and, therefore, the suggestion that he came
 22 up with this explanation for the first time in the witness box
 23 or in his witness statement after he saw the recording
 24 recently is a nonsense.
 25 Can I then quickly race through the others. As to the

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1 CLOSING - SHERBORNE
 2 next incident, that was the Keith Richards one, your Lordship
 3 has our annex. Really, that is all there, what happened is
 4 that Ms. Heard, in the face of it being clear that this could
 5 not have been on 8th March, because the Keith Richards
 6 documentary was on the 21st, the 22nd and the 23rd, she chose
 7 to then split the incident. The reason she had to stick to
 8 8th March is a classic case of retro engineering, as we say in
 9 our annex. Because she found the text saying "disco
 10 bloodbath" and then she had to make an incident around it.
 11 When she was asked to explain what the blood was, her
 12 explanation was beyond implausible. Her problem came, because
 13 even though we then retreated to the neatest cocaine table in
 14 the world, despite Whitney Heard saying when she arrived the
 15 place was a complete mess to go to the documentary, when we
 16 had a photograph of her with Whitney, with Keith Richards on
 17 the 21st showing no injury, she had to say the argument took
 18 place on the 22nd. But what she did not know is that the
 19 photograph of her with Mr. McLagan on the 23rd equally showed
 20 no injury. So what did she do in classic Ms. Heard style, she
 21 suggested that her busted lip, her split lip, which was her
 22 evidence, can be seen in a photograph, where it just is
 23 plainly invisible. It was not just her, her little sister
 24 decided to give the same evidence and lie to this court as
 25 well.

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1 CLOSING - SHERBORNE
 2 Moving on to the next incident, Australia. I am going
 3 to have to deal with that very, very quickly. That was a
 4 three-day hostage situation, which involved a hostage who was
 5 able to not only leave by the sliding French doors in the
 6 bedroom, which she said she barricaded herself in, but she had
 7 a phone and iPad by which she could and did contact her
 8 sister, a call which was recorded on the tape that she herself
 9 recorded, as opposed to Mr. Depp, and at no point in that call
 10 did she tell her sister that she was subjected to this three
 11 days of violence. Even the security guards outside the house
 12 were not Mr. Depp's.
 13 Her account of the injuries which you will find in our
 14 annex is beyond farcical, as is her description of how the
 15 phone, how Mr. Depp came to lose his finger to the phone, she
 16 said. You will recall a description of meat being left out,
 17 blood dripping from the walls, pools of blood, of there being
 18 30 bottles thrown at her which missed her for some reason in a
 19 space of several yards, as opposed to a mobile phone that hit
 20 her from 20, on 21st May. Mr. Depp could not even hit her
 21 with 30 bottles that suddenly came from nowhere. As I say,
 22 your Lordship will compare the injuries. If she really did
 23 pull herself through broken glass in the way that she
 24 suggested, she would have walked through the airport looking
 25 like a victim of a bad slasher movie. Yet while she had time

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1 CLOSING - SHERBORNE
 2 to take photographs of Mr. Depp apparently defacing a
 3 lampshade and a mirror, she did not take the time to take
 4 photographs of any injuries at all that she says she suffered
 5 to the soles of her feet, to her arms, and so on. The only
 6 thing we have is a 2019 photo of her arm. As I say, had she
 7 taken what we say would have been the appropriate course, she
 8 had suffered the injuries which she claims throughout the
 9 Australia incident and gone to seek medical help, we would
 10 actually have some evidence to support the catalogue of
 11 injuries that she claims.
 12 Your Lordship heard from Mr. King how she said on the
 13 way back, "Have you ever lost control?", she told him that she
 14 was talking about Mr. Depp. When actually, it echoes exactly
 15 the words she used in another recording. That is Australia.
 16 The Boston plane is very simple. Even that, on her
 17 account, she says she was kicked in the back, she had no
 18 evidence to corroborate that. Mr. Deuters gave a very clear
 19 account of what happened, and as he did, of why he was asked
 20 by Mr. Depp to say anything he could to placate Ms. Heard in
 21 order to bring an end to the argument. Evidence all about
 22 drink and drugs is nothing to the point, when there is no
 23 evidence that actually anything took place and no injury.
 24 I am not going to deal with incident 6, it is a savage
 25 and lunatic text, it is a classic case of retro engineering,

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1 CLOSING - SHERBORNE
 2 when suddenly for the first time in this courtroom there was a
 3 connection made between another text to someone called Clive
 4 Barker, to suggest that was the cause. It has never been
 5 included before or said in the witness statement.
 6 The Malaysian train is similar. The only evidence
 7 supposedly to support this, despite what Mr. Connolly who was
 8 with them said, is the novella, the secret novella of
 9 Ms. Heard which was drafted into action to support.
 10 The tattoo incident, incident 1, is equally implausible.
 11 It was suggested that of course although she must have seen
 12 that tattoo hundreds of times, the reason why she laughed in
 13 2013 is because Mr. Depp was acting like a wino. But of
 14 course that is not the defendants' case as was put. Ms. Wass
 15 put to him that he was off the wagon by 2012, so she had a
 16 year of looking at that tattoo and thinking it must be funny,
 17 before, apparently, Mr. Depp threw into a rage, hit her with
 18 some rings and apparently there are no injuries to support
 19 that.
 20 Bahamas, the detox incident, again, there is very little
 21 there in terms of evidence. She says that Mr. Depp kicked a
 22 door, but we have a photo of the wrong door. The description
 23 of the injuries that took place is nowhere corroborated by
 24 either Dr. Kipper or Nurse Lloyd who were on the island and
 25 could well have inspected and seen something had they been

<p style="text-align: right;">[Page 2649]</p> <p>1 CLOSING - SHERBORNE 2 asked to do so. Mr. Depp's evidence that he was suffering 3 from such convulsions he could barely do anything, that rather 4 suggests it is again another implausible one. 5 As to Tokyo, it was barely mentioned by Ms. Heard, 6 incident 7. The only thing that has been pressed in support 7 of it is a text exchange between Mr. Deuters and Mr. Gough 8 where they talk about a monster that is so obviously Godzilla, 9 it is hard to understand why the defendants have persisted. 10 We then have the Thanksgiving incident on 11th November, 11 it is one that is not even persisted in by Ms. Wass. Your 12 Lordship will have seen what we say about that, the fact that 13 "monster" and "savage" are terms that are used by those they 14 enjoy it, as one sees Ms. Heard's father trying to playfully 15 attack Mr. Depp's son. The account given by Ms. Pennington is 16 entirely at odds with what was happening that night. It is 17 another split incident once Ms. Heard realised she was in 18 trouble, but it is not one that is even persisted in. 19 Finally, the Hicksville incident. Again, the only 20 damage there is was the wall sconce which Mr. Depp says he 21 went to deal with. Ms. Sexton, who says she saw the damage 22 also describes how Mr. Depp's security team had come in to try 23 and figure out and then gone off to deal with the management. 24 As Mr. Connolly gave evidence about, there was no security 25 team, he was on his own and he knew absolutely nothing about</p>	<p style="text-align: right;">[Page 2651]</p> <p>1 CLOSING - SHERBORNE 2 As I say, I am not going to ask your Lordship leave to 3 deal with those. 4 That finally leaves, as I say, two points: first, the 5 photographs. Our point on that is this. That whilst the 6 camera, we say, can lie in certain circumstances, depending on 7 the lighting, the apps you use, and so on, and makeup can be 8 applied by the number of people who Ms. Heard dealt with. As 9 your Lordship heard, Kristina Sexton was very clear in what 10 she said. Ms. Heard did not wear makeup most of the time when 11 she was out, except when she was going to a special event. 12 Ms. Wass cross-examined her to say, "You do not have any 13 experience, do you, of makeup?" To which she got the 14 unhelpful response that yes, she had studied and had courses. 15 It is quite clear therefore that when all the individuals gave 16 evidence saying they had not seen Ms. Heard with makeup, add 17 to which Ms. Heard said "I always go out in LA with makeup", 18 she was lying once again. 19 The bruises, these magic bruises that only appear when 20 she is on her own or with friends, but never appear when she 21 is out to anyone independent films them, we say, give the key 22 to all of this. 23 The bigger point is this. Why is it -- and this is 24 something I have wondered some the start of this case -- why 25 is it that Ms. Heard did not go to the police, did not go to a</p>
<p style="text-align: right;">[Page 2650]</p> <p>1 CLOSING - SHERBORNE 2 going to see the management. Mr. Depp's evidence was plainly 3 correct; as was the suggestion that there was nothing in it. 4 Can I therefore just deal very quickly with the final 5 thing that I wanted to say. If your Lordship will permit me 6 five minutes to do so, I would be very grateful. Can I deal 7 with the private allegations for two minutes. They were 8 raised ---- 9 MR. JUSTICE NICOL: The what, sorry? 10 MR. SHERBORNE: The private allegations, I am going to do it in 11 open court. They were raised very late. They were heard and 12 dealt with by your Lordship in private. I am not going to 13 trespass on that. What I can say is this, these allegations 14 were novel even for Ms. Heard, they are of a completely 15 different nature, completely different seriousness for 16 Mr. Depp and, if true, would be absolutely horrific and far 17 more serious, with far more serious consequences for him. 18 On the other hand, what is utterly implausible is not 19 only their logistics but the fact that nothing was done as a 20 result of what was said to be suffered, which one would expect 21 anyone to do in those circumstances. It is inconceivable that 22 they are correct. It is why Ms. Wass devoted only four 23 minutes in four days of cross-examination of Mr. Depp to these 24 allegations, despite them being far more serious than the ones 25 which are complained of and heard in open court.</p>	<p style="text-align: right;">[Page 2652]</p> <p>1 CLOSING - SHERBORNE 2 hospital in any way? The answer is this, because, as I say, 3 had she done so, we would not have spent the last three weeks 4 going through the catalogue of documents which is very thin 5 indeed, that she has produced to somehow support her case. 6 Because we would have independent verified evidence of any 7 injuries, of her medical history, of texts, not just the ones 8 that she chose to give, but any. That is why calling 911, but 9 not asking them to do anything is so extraordinary. 10 When one listens to the tapes of their conversations to 11 each other, we say, as we say in our opening that Mr. Depp, 12 far from being the domestic abuser, is the domestic abused. 13 That is why, first, Ms. Heard denies that she hit him. Then 14 she belittles him for complaining. Then for the fact that he 15 wants to leave. 16 Just one word, if I may, about what the consequences 17 that flow from this. 18 MR. JUSTICE NICOL: Mr. Sherborne, one sentence, please. 19 MR. SHERBORNE: Well, your Lordship will know that at the end of 20 this case, it is something that I have to deal with as 21 your Lordship will understand, if your Lordship finds that the 22 defendants have not made out just their defence of truth, then 23 your Lordship will need to decide what the right level of 24 compensation is. That is all ---- 25 MR. JUSTICE NICOL: You have set out your position in the skeleton</p>

[40] (Pages 2649 to 2652)

[Page 2653]

1 CLOSING - SHERBORNE

2 and in the opening statement.

3 MR. SHERBORNE: My Lord, yes. As I say, what is important to
4 Mr. Depp is clearing his name of this appalling allegation,
5 expanded on, as it has been, over the last few years, as a
6 result of which he has lost nothing less than everything he
7 would say. Johnny Depp kitchen cupboard beater ---

8 MR. JUSTICE NICOL: This is not a claim for special damages. It
9 is a claim for general damages. You have set out the position
10 that the claimant advocates in your skeleton and in your
11 opening statement.

12 MR. SHERBORNE: My Lord, just to be clear, when I say he has lost
13 everything, to him everything is obviously his reputation.

14 I am not suggesting for a moment this is about money.

15 MR. JUSTICE NICOL: That is the point of a libel action.

16 MR. SHERBORNE: My Lord, yes, exactly. This is not about money,
17 this is vindicating him for his reputation. Because
18 Johnny Depp kitchen cupboard beater, he can live with. But
19 Johnny Depp wife beater, he cannot.

20 Thank you. I am very grateful to your Lordship. Can
21 I offer, as I did, that I will provide your Lordship with my
22 closing speech with the references which I was not able to
23 take you to.

24 MR. JUSTICE NICOL: I think the transcript is being provided
25 anyway.

[Page 2654]

1 CLOSING - SHERBORNE

2 MR. SHERBORNE: My Lord, it will be, but it will not have the
3 references that I was not able to take you to because of the
4 pressure of time. So, I will make that good, so your Lordship
5 has our case.

6 MR. JUSTICE NICOL: Anyway, any post-hearing submissions are only
7 to be references.

8 MR. SHERBORNE: My Lord, yes.

9 MR. JUSTICE NICOL: Well, thank you all very much indeed. I will
10 say that I will reserve my decision. It will be dealt with in
11 the usual way. When a draft is circulated, I would be
12 grateful if counsel could give me any corrections of a
13 typographical nature, and agree, hopefully, at that point what
14 order should follow.

15 MR. SHERBORNE: I am grateful, my Lord.

16 MR. JUSTICE NICOL: Thank you very much, and I extend my thanks to
17 the solicitors on both sides as well.

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