

DEPP V. HEARD TRIAL OUTCOME A LITTLE BIT OF A SHOCK TO ATTORNEY AND RADIO LAW TALK HOST FREDERICK PENNEY

The Trial Of The Decade

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/EINPresswire.com/ -- DEPP v. HEARD TRIAL OUTCOME A LITTLE BIT OF A SHOCK TO ATTORNEY AND RADIO LAW TALK HOST FREDERICK PENNEY

THE TRIAL OF THE DECADE:

For years Attorney and nationally syndicated radio talk show host Frederick Penney has been following and discussing Johnny Depp's legal woes.

<https://www.penneylawyers.com/frederick-w-penney/>

However, by far the most intriguing case that he has followed is Johnny Depp's lawsuit against his former wife Amber Heard. See

https://www.fairfaxcounty.gov/circuit/sites/circuit/files/assets/documents/pdf/high-profile/depp%20v%20heard/cl-2019-0002911_complaint_8766635_03_01_2019.pdf . As

most are aware the case was a libel case against Heard for posting a December 18, 2018, Op-Ed in the

Washington Post alleging in sum that she was a survivor of domestic abuse at the hands of her former husband Johnny Depp. Though she did not mention Johnny Depp by name, it seemed obvious to Mr. Depp and his team of lawyers that she was clearly referring to Mr. Depp.

https://www.washingtonpost.com/opinions/ive-seen-how-institutions-protect-men-accused-of-abuse-heres-what-we-can-do/2018/12/18/71fd876a-02ed-11e9-b5df-5d3874f1ac36_story.html .

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Frederick Penney



Attorney Frederick Penney

On Radio Law Talk Mr. Penney and his co-hosts Denise Dirks and Todd Kuhnen talked extensively about the trial as it drug on for weeks, with a prolonged one week break

in the middle of the trial.

<https://radiolawtalk.com/> . As both parties in the case battled back and forth presenting evidence of drug and alcohol abuse and bickering and fighting between the two, the radio hosts wondered who would come out on top at the end. The case was venued in Virginia since the online edition of the Washington Post Op-Ed was sent out from servers located in Fairfax, Virginia. Thus, the venue was set in Fairfax, Virginia where Depp sued and Heard counter sued for substantial sums of money. A jury of seven Virginia citizens would hear the case. During the radio show Mr. Penney and his co-hosts commented that Mr. Depp would have a difficult time proving that Amber Heard's statement was entirely false. The reason this was argued is because the law makes it very difficult for a public figure to sue for libel.



Frederick Penney, Managing Attorney, Penney and Associates Injury Lawyers

In general, for a public figure to win a libel suit they must prove that the person who published the statement, or in this case the Op-Ed, published it with full knowledge that the statements were false and the individual acted with actual malice. If that is proven then the public figure that is suing must show that they were damaged by the malicious, false statement. <https://www.law.cornell.edu/wex/libel> . It was pointed out in the trial by several experts that abuse can be both verbal and physical. Given that host Frederick Penney believed that all Amber Heard had to show was that she was abused one time and then Mr. Depp could not prove that the Op-Ed statement was entirely false, he was quite surprised with the verdict. However, the evidence did become stronger as the testimony of the witnesses became seemingly stronger for Mr. Depp. Nobody can predict a jury and it is very difficult to determine how or what a jury is going to think and what part or parts of the testimony they will rely on. The radio hosts stated all along that in the court of public opinion Mr. Depp was winning and Amber Heard was not doing so well.

Additionally, the hosts were perplexed why Amber Heard would turn to the jury every time she answered a question. This was quite odd and seemed too contrived. All lawyers have different strategies but this action by Heard seemed odd.

THE VERDICT:

On June 1, 2022, the Jury in the Johnny Depp, Amber Heard case came back almost entirely in

favor of Johnny Depp. The jury held that on all counts Miss Heard defamed Mr. Depp and would be liable for ten million dollars of compensatory damages and five million punitive damages. Punitive damages are meant to punish a party for their actions. Unfortunately for Johnny Depp Virginia law only allows \$350,000 in punitive damages so Judge Penney Azcarate (interestingly spelled like attorney and radio host Frederick Penney's last name) lowered the amount to the statutory maximum. Ms. Heard was awarded \$2 million dollars in compensatory damages for damages that the statement Mr. Depp's attorney made on his behalf. There were no punitive damages against Mr. Depp. The interesting question that few if any have discussed in the case is whether Johnny Depp would be able to force Amber Heard to pay for his attorney fees since Mr. Depp was the prevailing party. The issue of Amber Heard's Travelers homeowners policy covering attorney's fees and expenses is an article for another day.

Does Amber Heard have to pay Johnny Depp's attorney fees?

What were the total amount of attorney fees paid in the Depp, Heard trial? Five million, ten million? It is unknown but realistically it would have to be in the millions. And what about the costs for the experts to testify, they do not work on a case and testify for free. Since Johnny Depp prevailed in the trial can he ask the court to award him attorney's fees? Can Amber Heard ask the court to award her attorney fees since she won a small portion of her counter suit?

Virginia generally follows the "American Rule" that every party must pay their own attorney fees unless it is spelled out statutorily or in a contract. Though the Virginia Supreme Court recently held in Bolton v. McKinney 855 S.E. 2nd 853, that a party may recover its attorney fees without a specific provision in a contract, it does not apply in the Depp, Heard trial. <https://www.leagle.com/decision/invaco20210401b10> . First both parties prevailed in the Depp, Heard trial and the courts narrowly tailored the exception to this one case where parties promised not to sue or bring a case against the other party after signing an agreement. The courts held that they did not overrule the general law that that the prevailing party cannot obtain attorney fees from the losing party.

FINAL TAKE:

There is no final take, this will drag on for years. More to come.

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