

# SOCIAL MEDIA AND THE DEPP VS. HEARD LEGAL PROCESS

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*Tsvetelina Dzhambazova. Social Media and the Depp vs. Heard Legal Process*

*Abstract:* The present article analyzes a new media phenomenon: a story coming from social media makes the headlines in traditional media. These are news, which become so popular in social media that journalists simply could not ignore them. This media phenomenon is illustrated through the defamation trial between the actors Johnny Depp and Amber Heard in the spring of 2022. On its own, this case goes beyond the typical celebrities' legal battle and raises questions about the dissemination of disinformation in social media and about the repercussions of the legal decision as a possible precedent in domestic abuse cases. The article also reviews the role of the bot and fake accounts in sharing information about the two concerned parties in the legal process.

*Keywords:* social media, media coverage, Twitter, domestic abuse, disinformation

## **Introduction**

A story coming from news websites getting its continuation in social media is not something new. On the contrary, people are now used to discussing news online – and sometimes this could lead to the exposure of new depths or of more points of view. This could be described as “the traditional role” of social media. Nowadays, though, society witnesses an entirely new phenomenon – social media sensations getting out of these platforms and making the headlines in TV, radio, press, and online news broadcasts. These are cases, which get so popular on social media platforms, that the other types of media simply cannot ignore them. Does this mean that social media now have more influence than traditional media? And will this change in social media's role last?

The article analyzes this new media phenomenon through a case study of the Johnny Depp vs Amber Heard legal case. The legal battle between the two actors is used as the clearest example of the role of social media in society's everyday life. Initially, this case attracted the audience's attention in social media platforms like Facebook, Twitter, Instagram, and TikTok, while the news websites

almost completely ignored it. Fans' humongous reaction and consistent discussions on the legal process transferred the story about Depp and Heard from the lifestyle broadcasts of traditional media to the headlines in trustworthy media like BBC and CNN shifting their attention from global stories like the war in Ukraine or the US anti-abortion law. This is what makes this defamation trial particularly interesting for media analysts.

### **“Trial by TikTok”**

John C. Depp, II v. Amber Laura Heard was a trial held in Fairfax County, Virginia, from April 11, 2022, to June 1, 2022. It ruled on allegations of defamation between the two previously married American actors. Depp, as plaintiff, filed a complaint of defamation against defendant Heard claiming \$50 million in damages. On her end, Heard filed counterclaims against Depp claiming \$100 million in damages. At the end of the trial, the judge ruled that Heard's claims of domestic abuse (which were expressed in a media article in The Washington Post newspaper) were false and made with malice and in that way defamed Depp. He was awarded \$10 million in compensatory damages and \$5 million in punitive damages from Heard, although the court reduced the punitive damages to \$350,000 due to a limit imposed by Virginia state law. The court decision was that more surprising because it came after a court's decision in the United Kingdom, which ruled that Heard's claims were true and the actress was truly a victim of abuse. It can be argued that there have been two cases here: one was decided by a jury and another by the audience.

In their essence cases that depend much on the word of one person against another one are intrinsically risky. "... relatively few people are willing to expose themselves to that level of risk, especially in the knowledge of the press attention that will come with a public trial. The reporting of the evidence, in this case, revealed in intimate detail a lurid and sorry tale of a toxic marriage that stands on the records regardless of where the legal fight might actually end."<sup>1</sup>

While the pre-trial allegations and discussion between the ex-spouses were largely ignored by the media, the beginning of the court meetings managed to capture the journalists' and the public's interest (the trial has been live-streamed). The audience was so captivated by this case that data gathered by the social media engagement tracking firm Newswhip from April 4 to May 16, 2022, showed that news publications about the Depp vs. Heard case had generated more social media

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<sup>1</sup> GILL, Claire. Johnny Depp -v- NGN: Judgement Analysis. Carter-Ruck.com. [cited 1 October 2022]. Available from: <https://www.carter-ruck.com/blog/johnny-depp-v-ngn-judgment-analysis/> .

interactions per publications in the United States than all other significant news topics including the 2022 Russian invasion of Ukraine.<sup>2</sup>

Live streaming is unquestionably one of the reasons behind the popularity of this trial - especially because not all trials are filmed and because this is a relatively new practice (it became popular in the 90s). “I think it’s primarily the celebrity aspects of it and the tawdriness of it”, says Lauen Loff.<sup>3</sup> According to her, the public is driving the case rather than the media. “It’s identifying that as something they should pay attention to. [...] They’re paying attention to it because the public is paying attention to it.”<sup>4</sup>

The Depp vs. Heard trial quickly has become the main topic of conversation for Twitter, TikTok and Instagram users. And since the beginning, it has been clear which one of the engaged sides managed to win over the online audience. BuzzFeed News noted that, between April 25 and 29, 2022, there were 1,667 posts uploaded to Facebook using the hashtag #JusticeForJohnnyDepp, with 7 million total interactions with these posts (likes and shares of the posts). In comparison, Amber Heard only had 16 posts in support, with 10,415 interactions.<sup>5</sup> Online harassment of the actress was almost constantly presented on social media with the hashtags #AmberHeardIsAPsychopath and #AmberTurd trending on Twitter at various times during the trial.

In the end, this legal case has turned into a “trial by TikTok” (using the term first presented by The Guardian journalist Amelia Tait). According to Tait, the case was “a source of comedy on social media”.<sup>6</sup> Culture writer Shannon Keating opined that the “social media frenzy around this case was clearly fueled by savvy PR” and it resulted in “lots of people have happily accepted the propaganda as sacrosanct.”<sup>7</sup> The Arizona Republic author Bill Goodykoontz criticized the social media coverage of this legal dispute, expressing the opinion that “Depp and Heard are real people with real problems, after all, not just meme fodder and hashtag

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<sup>2</sup> ROTHSCHILD, Neal, FISCHER, Sara (May 17, 2022). America more interested in Depp-Heard trial than abortion. *Axios* [online]. 17 May 2022. [cited 1 October 2022]. Available from: <https://www.axios.com/2022/05/17/amber-heard-johnny-depp-trial-social-media> .

<sup>3</sup> TAYLOR PRICE, Jessica. How the Johnny Depp Case Took Over the Internet, and What This Could Mean for Victims of Domestic Abuse. *News@Northeastern* [online]. 27 May 2022. [cited 1 October 2022]. Available from: <https://news.northeastern.edu/2022/05/27/johnny-depp-case/> .

<sup>4</sup> *Ibid.*

<sup>5</sup> DAHIR, Ikran. All Rise, The TikTok Courtroom of Amber Heard and Johnny Depp Is Now in Session. *BuzzfeedNews* [online]. 29 April 2022. [cited 1 October 2022]. Available from: <https://www.buzzfeednews.com/article/ikrd/milani-cosmetics-tiktok-about-johnny-depp-and-amber-heard> .

<sup>6</sup> TAIT, Amelia. Amber Heard v Johnny Depp Has Turned Into Trial by TikTok - and We’re All the Worse for It. *The Guardian* [online]. 11 May 2022. [cited 1 October 2022]. Available from: <https://www.theguardian.com/commentisfree/2022/may/11/amber-heard-jonny-depp-trial-tiktok-fans> .

<sup>7</sup> KEATING, Shannon. Mainstream Feminism Has Failed Us. *BuzzFeedNews* [online]. 31 May 2022. [cited 1 October 2022]. Available from: <https://www.buzzfeednews.com/article/shannonkeating/abortion-rights-amber-heard-girlboss-feminism> .

subjects”. He also argued that “the vile nature of some of the misogynistic tweets and TikTok videos posted about Heard were toxic masculinity at its worst.”<sup>8</sup>

Cyabra, an Israeli firm specialized in tracking online disinformation, followed the Depp vs. Heard case for weeks during the trial in Virginia. Their analysis focuses on social media accounts, which are spreading memes, videos and comments and tries to assess if those accounts are genuine people. The results from the analysis are quite startling. “We were amazed to see that actually 11% of the conversation around the trial was driven by fake accounts, which is a very high number”, commented Rafi Mendelsohn, the company’s spokesperson<sup>9</sup>. He continued: “To give some context, at any given conversation on average, we see maybe around 3 to 5% of the conversation involving fake accounts.”<sup>10</sup> Actually, the best comparison for a conversation with this level of bot and fake accounts would be a big election campaign according to Mendelsohn. In that way, the Cyabra data point out an entirely new aspect of this defamation case: the power of misinformation spread online. It is no surprise that legal experts worry that the social media coverage may have influenced the final verdict<sup>11</sup> – which makes the trial that more unusual. Questions are raised as this case (and the verdict) may have an effect on the role of juries and a person’s constitutionally guaranteed right to a fair trial.

### **Media coverage of the Depp vs. Heard case**

The American website Prowley takes the Depp vs Heard case as an example of how media monitoring can explain or expose trends in society’s attitude toward different problems. Data from different platforms are gathered and presented so one can get a better understanding of this case’s coverage on social media and news websites. Prowley’s media monitoring has been used to collect media mentions connected to the defamation trial between Johnny Depp and Amber Heard. The monitoring period was set between May 1st and May 31st, 2022.<sup>12</sup>

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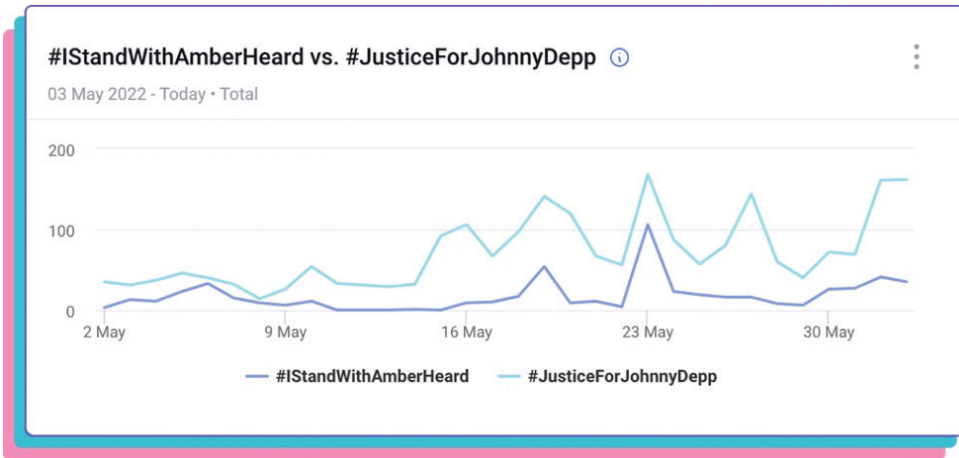
<sup>8</sup> GOODYKOONTZ, Bill. How the Media Covered the Johnny Depp-Amber Heard Verdict, and Why Audiences Cared So Much. The Arizona Republic [online]. 1 June 2022. [cited 1 October 2022]. Available from: <https://eu.azcentral.com/story/entertainment/media/2022/06/01/johnny-depp-amber-heard-verdict-media-reaction/7475369001/>.

<sup>9</sup> SILLITO, David. Amber Heard and Johnny Depp’s “Trial by TikTok”. BBC [online]. 1 June 2022 [cited 1 October 2022]. Available from: <https://www.bbc.com/news/world-us-canada-61649522>.

<sup>10</sup> Ibid.

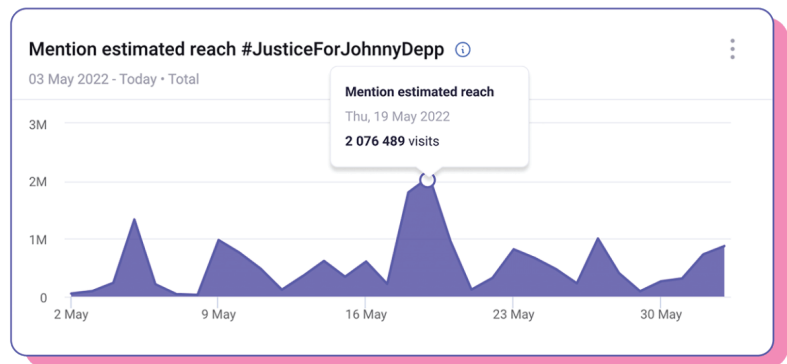
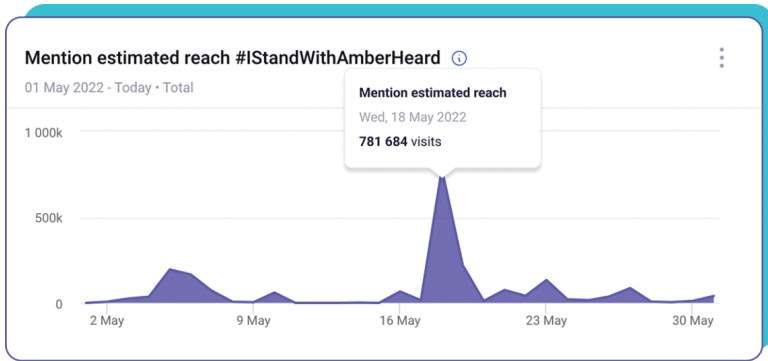
<sup>11</sup> ZOLEDZIOWSKI, Anya. Did Social Media Sway the Johnny Depp Jury?. Vice.com. 3 June 2022. [cited 1 October 2022]. Available from: <https://www.vice.com/en/article/qjkd4q/johnny-depp-heard-trial-jury-social-media>.

<sup>12</sup> Unknown Author. Media Monitoring Case Study: How US Media Covered Depp vs. Heard Defamation Trial in 2022. Prowley.com. Unknown date. [cited 1 October 2022]. Available from: <https://prowley.com/magazine/depp-vs-heard-media-monitoring-case-study/>.



*Fig. 1. Publications mentioning the hashtags #IStandWithAmberHeard and #JusticeForJohnnyDepp*

Fig. 1 focuses on articles mentioning the hashtags #IStandWithAmberHeard and #JusticeForJohnnyDepp during the legal process between the actors in the period between May 1st and May 31st, 2022. One can clearly see when the media's – and the audience's – attention is the highest. All of these dates can be linked to testimony given by key witnesses from both sides (some of these witnesses have been celebrities as well). The peak of articles using both hashtags is around May 25th, 2022, or roughly a week before the final verdict. It is discernible that at the beginning of May there were almost no publications linked to these hashtags. Slowly but thoroughly, the defamation trial manages to capture the media's interest. What is also peculiar is that #JusticeForJohnnyDepp has constant highs and lows when it comes to media coverage, whereas #IStandWithAmberHeard has a peak on May 23rd, 2022, and afterward the number of publications constantly falls. Clearly, the hashtag defending Mr. Depp has a far broader reach than the one defending Mrs. Heard.



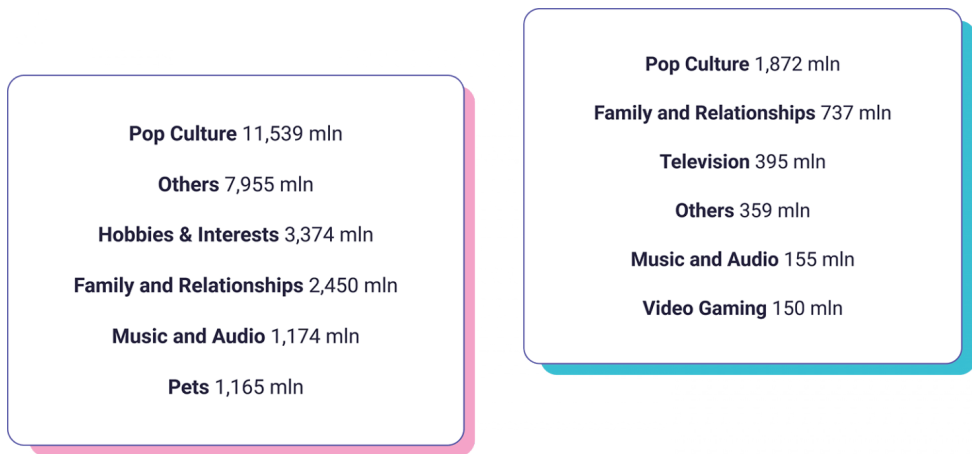
*Fig. 2. Mentions estimated reach of #IStandWithAmberHeard and #JusticeForJohnnyDepp*

The most interesting deduction that can be made from the data gathered by Prowley, is that the 1,928 publications in defense of Johnny Depp versus the 476 publications defending Amber Heard could be seen as a “victory” for the actor and his legal team. Those data can again be used as a confirmation of the role of Depp’s fans in the virtual “battle” between the opposing sides. The data can also be interpreted as a better PR strategy of the actor – and maybe as a reason for Heard’s firing of her PR team, which has happened during the trial.

Of course, it has to be mentioned that not all media platforms have the same reach and focus. A single publication in a popular (and trustworthy) media like The New York Times may have a bigger impact than a dozen articles in local media (e.g. small town newspapers).

Fig. 2 shows another point of view on the hashtags used in defense of one or the other sides in this case. The graphic presents a comparison of the mentions estimated reach of #IStandWithAmberHeard and #JusticeForJohnnyDepp.

Mentions of the hashtag #IStandWithAmberHeard reach their peak on Wednesday, May 18th, 2022, with 781 684 visits while those of the hashtag #JusticeForJohnnyDepp reached its peak on Thursday, May 19th, 2022, with 2 076 489 estimated views. The difference between the number of visits of both hashtags is clearly visible – and tremendous in its amount. It cannot be disputed that the hashtag defending Johnny Depp has a much bigger reach than the one in defense of Amber Heard. Another proof that Depp in the first place won the battle on the media battlefield. It is also proof that social media’s influence cannot be ignored while analyzing the different aspects of this defamation trial – social media posts may even have a key role in the final verdict of the judge and jury.



*Fig. 3. Publications’ Domain Reach and Article Categories for #IStandWithAmberHeard (left square) vs. #JusticeForJohnnyDepp (right square)*

The attention of the third graphic is focused on the publications’ domain reach and article categories for #IStandWithAmberHeard and #JusticeForJohnnyDepp. It is no surprise that pop-culture-oriented publications create the most mentions given the celebrity status of the participants in the legal debate. Categories such as “Hobbies & Interests” and “Family and Relationships” are not surprising either. Family consultants and specialists on male-female relations have used the opportunity to engage the audience with the problem that is domestic abuse and its consequences for the people involved in it, they offered advice on how one has to behave in similar situations. The mention of the Depp vs Heard case in categories such as “Pets” and “Video Gaming” though can only be described as perplexing. Even more curious is the huge number of articles categorized with “Pets” for #IStandWithAmberHeard – 1,165 mln., and “Video Gaming” for #JusticeForJohnnyDepp – 150 mln. texts. It is also interesting that the “Pets” category appears only in materials in defense of Mrs.

Heard, while the “Video Gaming” category contains only publications defending Mr. Depp.

All of the above-mentioned figures are clear evidence that Johnny Depp and his legal and PR team have managed to win the social media users’ support. The number of publications defending his cause is several times higher than the materials in defense of Amber Heard and her claims of domestic abuse. On the one side, this shows that his PR strategy is working much better – and is perhaps the reason behind Heard’s decision to fire her public relations team. On the other side, it is a reflection of Depp’s fans’ successful social media campaign of defending their idol and denigrating Heard’s claims. It is also a very concerning trend: fans’ biased faith in their favorite celebrity’s innocence was able to catch society’s attention and to win its sympathy. Heard may have shown different types of evidence supporting her domestic abuse claims but all of them were completely ignored by Depp’s followers. And not only that – those domestic abuse claims were silenced by the more vocal believers in the actor’s innocence. This is a very concerning particularity of social media and one observed by researchers in the past decade: the news media’s and audience’s attention is caught by the more vocal social media posts. Amber Heard’s fans and defenders obviously couldn’t manage to overturn Depp’s fierce fans’ reaction.

### **Repercussions for domestic abuse victims**

To cast off the Depp vs. Heard case as just another celebrity legal battle or typical fandom discourse is to deeply misunderstand the variety of ways in which people are relating to what’s happening in the courtroom. It can be described as a landmark case after the onslaught of sexual misconduct allegations that was set by the “Me Too” movement (nevertheless that it is actually a defamation trial, Amber Heard has been one of the ambassadors of the movement against sexual harassment since its early days). Both abusers and domestic violence victims have closely watched Depp and Heard’s testimony and behavior in the courtroom. Even more closely watched was the judge’s decision in favor of Depp’s claims because in one way or another, it can become a new weapon in the battle between abusers and abused. It can be concluded that this trial to restore a public reputation would have consequences beyond both concerned parties.

Defamation suits can now become a way for culprits to silence their victims and to continue the violence they’re perpetrating. Nicole Bedera identifies this as a new emerging trend. “A defamation suit offers a perpetrator a deepening of



the power disparities in the relationship and face-to-face contact with a survivor”, Bedera says. “Defamation cases are often a punishment for leaving”<sup>13</sup>.

The defamation suit against Amber Heard also raises the question of whether one’s admission that they have been a victim of domestic or sexual violence still qualifies as a protected speech. That has been the legal assumption before the trial between the two actors.

The director of the Intimate Partner Violence Assistance Clinic at the University of Florida’s College of Law, Theresa Drake, opined that from a legal perspective, this case is unusual because Amber Heard never mentioned Johnny Depp by name in The Washington Post’s op-ed she wrote. “The substantial onus of proving clear and convincing evidence – a standard higher than the preponderance required in most defamation cases because Depp is a public figure - makes her (A/N Theresa Drake) wonder if the case has less to do with defamation and more to do with power”<sup>14</sup>.

In the end, this case brings into light the question of freedom of expression, which only shows more visibly the importance of the legal battle between Heard and Depp. A dangerous side of the trial is the possibility of the judge’s decision becoming a precedent applicable to future defamation cases. Even more concerning is the mocking attitude against domestic violence that was almost ever-present throughout the process. According to Mary Anne Franks “... if this does establish a precedent, you can be sued for an article that doesn’t name a person and speaks about them in the most general terms and it’s an issue that relates to public interest or the public concern. That’s everything that every media outlet needs to worry about”<sup>15</sup>.

Celebrities sharing their private experience of sexual misconduct or domestic abuse under the hashtag #MeToo had a positive impact on women around the world to come forward and share their own stories. The Depp vs. Heard case threatens to undermine all of the progress achieved. Victims now begin to wonder if a prominent woman like Amber Heard with all of her resources – including well-paid lawyers and PR experts – is not to be believed, then what chance do the average women have? Even if survivors do feel comfortable speaking out, misconceptions about how victims ought to behave can affect the way a case is judged. The Depp vs. Heard trial sends a clear message to accusers that they ought not to come forward with allegations against their abusers or else they will suffer public humiliation and

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<sup>13</sup> GERSON, Jennifer. Why the Depp-Heard Trial Worries These Experts. Pbs.org [online]. 25 May 2022. [cited 1 October 2022]. Available from: <https://www.pbs.org/newshour/nation/why-the-depp-heard-trial-worries-these-experts> .

<sup>14</sup> Ibid.

<sup>15</sup> FOSSETT, Katelyn. What Was Really at Stake in the Depp-Heard Trial. Politico [online]. 3 June 2022. [cited 1 October 2022]. Available from: <https://www.politico.com/newsletters/women-rule/2022/06/03/what-was-really-at-stake-in-the-depp-heard-trial-00036985> .

they will be treated with disrespect and distrust by the general audience. Alleged perpetrators can avoid the consequences of their actions using defamation suits. “It’s a public education for abusers. I’ve already started hearing, “If you speak out, I’m going to Johnny Depp you”, says Alexandra Brodsky. “A defamation suit doesn’t have to be meritorious to work. Even before the verdict, the trial served its purpose in punishing Heard in the court of public opinion”<sup>16</sup>.

## Conclusions

Domestic violence is an issue that interests a lot of people around the world. The Depp vs. Heard case is another proof of that – and it’s also one of the reasons behind the audience’s strong reaction to all of the events happening in the courtroom. The public has had unprecedented access to first-person accounts of private matters that took place behind closed doors. A peculiar aspect of the trial is that it has been live-streamed, which isn’t typical of defamation suits. Actually, the media’s and the audience’s access to both parties and their witnesses is the one particularity that defined this trial the most. The other most distinct aspect of the legal dispute is also closely linked to the live stream of proceedings: the level of social media discourse, the participation of fake accounts, and the spread of misinformation in this discourse resemble the discussion of major political events. This news story has broken free of the boundaries and language of traditional journalism.

The trial may already be over but the public eagerly awaits the reverberations of the court’s decision for future defamation or domestic abuse trials. It remains to be seen whether the Depp vs. Heard suit will set out a precedent and whether it would have a lasting impact on sexual violence victims going public about their experience.

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<sup>16</sup> DOCKTERMAN, Eliana. The Depp-Heard Trial Perpetuates the Myth of the Perfect Victim. Time [online]. 2 June 2022. [cited 1 October 2022]. Available from: <https://time.com/6183505/amber-heard-perfect-victim-myth-johnny-depp/>.

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