

Johnny Depp's Fake News

The dark arts of media manipulation for political gain, once the realm of D.C., have come to Hollywood in the sordid trial of Depp vs Amber Heard, and there's no going back now.

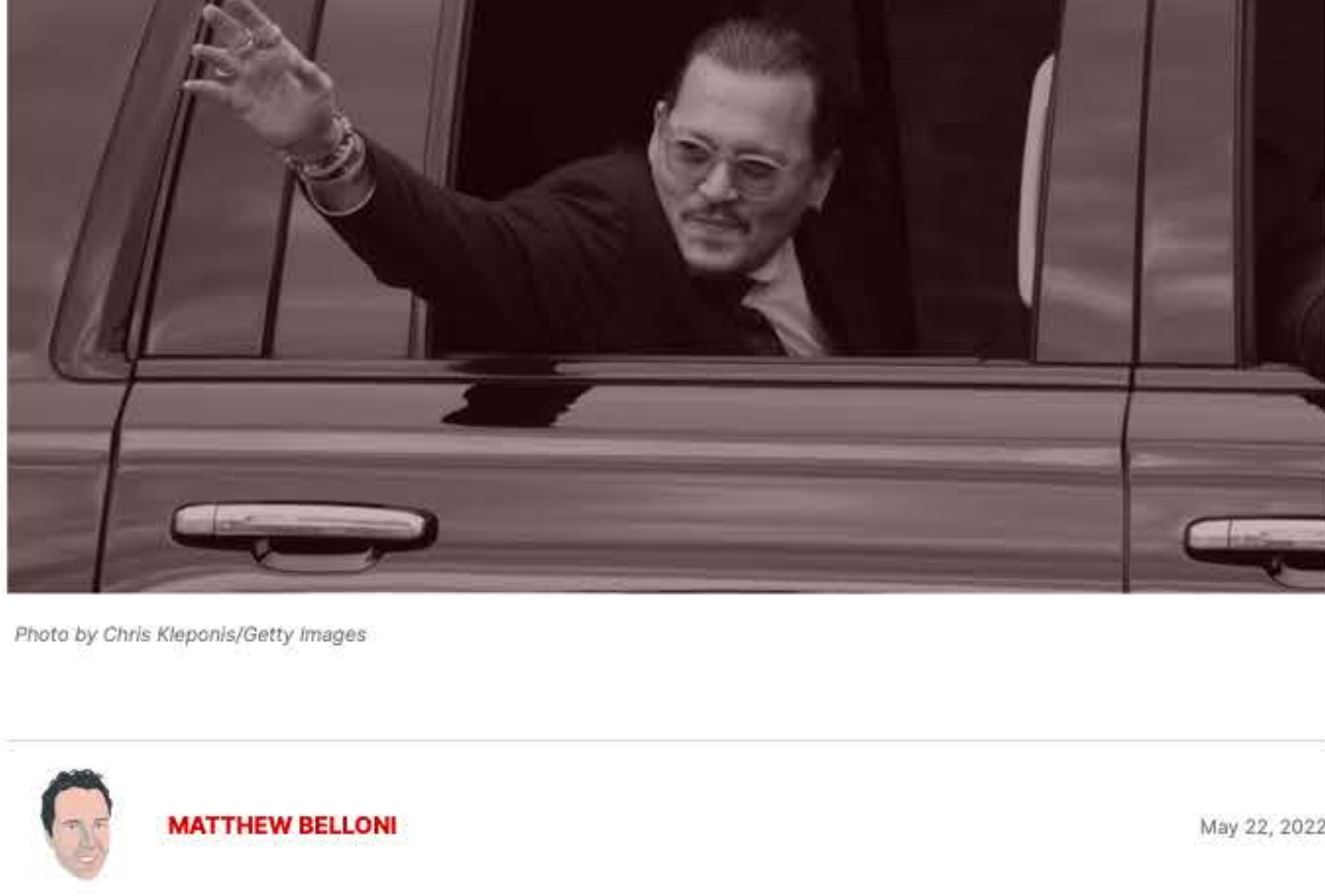
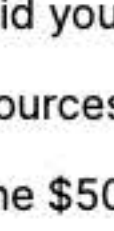


Photo by Chris Kleponis/Getty Images



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Did you know that **Amber Heard** has litigation insurance? She does, according to two sources close to her. The actress's homeowners policy is covering most of the cost of the \$50 million trial against her ex, **Johnny Depp**. Defamation is actually a common area of protection for homeowners, though one prominent litigator told me it's usually carved out for famous people, given their higher likelihood of media disputes. Heard had already spent millions of her own money fighting Depp, I'm told, before discovering in advance of the trial that she could invoke the coverage. (Her rep declined to comment.) She did, so kudos to Heard's business manager, or her broker, or whoever inserted it into her policy, given her notoriety.

That's a positive fact for Heard, but if you're following this crazy trial via digital media or social platforms—and, at this point, *who isn't?*—it's unlikely that you will see it elsewhere in your feed this week, when Depp returns to the witness stand. Instead, you'll probably be exposed to more anti-Heard memes, articles and video clips, the volume of which has been insane and **well-chronicled**.

The content of the trial is partly the cause, of course—the salacious claims of bed-pooping and bottle-tossing, the toxic display of obscene wealth, substance abuse and entitlement. For that, we can thank judge **Penney Azcarate**, who, for reasons known only to her, allowed *multiple* cameras in the courtroom (perfect for those viral reaction shots), and has interpreted the rules of evidence so broadly as to enable a sideshow of innuendo and embarrassments that are mostly irrelevant to the specific defamation claims yet are super tabloid-friendly. Depp is using the Circuit Court of Fairfax County to re-litigate his divorce, and Azcarate is acting as if she were sitting by a pool, eagerly turning the pages of *US Weekly*. It's a joke.

But there's something else going on here, and for attorneys I talk to that handle high-profile disputes, the results of the courtroom circus are less interesting than the implications of the fight *behind* the fight. That's where this ridiculous case, regardless of what the seven-person jury decides, has already been won and lost—the court of public opinion. And let's be clear: Amber Heard has lost.

First, a years-long campaign of misinformation and online attacks seeded the playing field. I won't go too deep into who is actually responsible for the anti-Heard onslaught, because honestly, we don't know for sure. It *is* true that Depp's main lawyer during the years around his divorce, when this online activity started, was not a typical Hollywood pit bull like **Marty Singer** or **Byran Freedman**, but **Adam Waldman**. Based in D.C., Waldman has two very famous clients: Johnny Depp, of course, and **Oleg Deripaska**, a Russian oligarch who used Waldman as a key lobbyist. (My Puck colleague **Eriq Gardner** has **written** a lot more about **Waldman**, so I'll just note that he is a firebrand, he loves to be aggressive, and he was very close to **Julian Assange**, visiting him nine times in 2017.)

It's *also* true that in a 2016 email to **Christian Carino**, his former CAA agent, Depp wrote that Heard was "begging for total global humiliation." The kind of "global humiliation" that only a digital media onslaught could generate? Maybe. As **Michelle Goldberg** **noted** in her *Times* column, Heard's lawyers hired a company called Bot Sentinel to analyze the online campaign against her, and it found 340 "inauthentic" Twitter accounts devoted to disparaging her and trying to get her fired from jobs. In my conversations with people close to Heard, it's clear that her team believes Depp, through Waldman and his contacts in Eastern Europe, launched a carefully orchestrated and coordinated attack on her.

After all, it's *Waldman's* public statements—not Depp's—that form the basis for her \$100 million counterclaim.

Regardless of who started the campaign, the modern, algorithmically-driven media ecosystem is playing a key role—and Depp may have less to do with that. Anti-Heard media rates, so the algos reward the pile-on with traffic and revenue, leading to destructive incentives. You ever feel like TikTok or Facebook *want* you to be interested in this trial, even if you're not? It's gross. **Vice** **reported** this week that *The Daily Wire*, the right-wing outlet run by **Ben Shapiro**, spent tens of thousands of dollars on Facebook and Instagram ads for misinformation articles about Heard, many promoted on the Facebook page of right-wing personality **Candace Owen**, who has attacked Heard. It's one of dozens of outlets generating attention and money off the hate with content *designed to mislead*. On TikTok alone, the hashtag #justiceforjohnnydepp has surpassed 8 billion views, according to the *Times*. I know Depp has legions of fans worldwide, and I'm certainly not advocating that either side is lying or telling the truth in this trial, but do you think TikTok natives care about nothing more than the personal travails of a 58-year-old actor? That's silly.

The fake news game plan is not new, of course. Everyone from ExxonMobil to Big Tobacco to **Donald Trump** have deployed a mix of misleading media articles and social strategies to influence public opinion. If you're Facebook or Juul or BP, it's a given that you've got a media machine out there to game the conversation. DCI Group, Definers Public Affairs, Mercury Public Affairs—these guys pitch *control*. That means managing the mainstream media, but it *also* means that only schmucks let the mainstream media *alone* define them. There are other options these days.

Lawyers like Freedman, who rep high-profile people rather than big corporations, now operate side businesses for "reputation management." That can mean anything from gaming search engines to downplay articles about #MeToo accusations, to identifying "troublesome" Instagram accounts, to flooding the web with paid or quasi-paid "positive" media. In litigation, among the first things to do has always been to engage a P.R. or public affairs firm, and the skill set required these days usually includes experience as a political soldier in the information wars.

Depp, for instance, has Hiltzik Strategies, whose founder, **Matthew Hiltzik**, is an attorney and media strategist who straddles politics, entertainment and crises for everyone from **Justin Bieber** to **Ray Rice**. Hiltzik can establish attorney-client privilege with the lawyers (meaning their communications stay private) and manage the behind-the-scenes dark arts. Heard initially hired **Stephanie Cutter**, an Obama administration alum, as her chief media strategist for the case. But Cutter was replaced mid-trial by **David Shane**, who previously worked for ICM Partners and **Ryan Kavanaugh's** Relativity Media, after what I'm told were clashes with Heard's lead trial lawyer, **Elaine Bredehoff**.

Hiltzik's firm has been doing a good job framing the testimony for the media, and playing off the online impression of Heard as a lying manipulator. After all, Depp has been clear that he brought this case not for money but to "clear his name" to the public and to his kids. Amid all the courtroom mud-slinging, it's easy to forget this is a garden-variety defamation case, so all that matters, legally speaking, is whether Depp lead lawyers **Benjamin Chew** and **Camille Vasquez** can show by *clear and convincing evidence* that Heard, in her *Washington Post* op-ed, made a statement she knew to be false, that the statement was about Depp, and that it harmed his reputation. A *tough* task. But you'd never know that watching Court TV or TikTok.

Hiltzik says he isn't behind any online misinformation game, which likely would have predated his involvement with Depp. Indeed, Heard has been screaming about this issue for years. She tried to assert a claim based on online harassment in this trial, but it was denied. According to a source close to her, at one point she wanted to sue some of the less-opaque bot farms. But that's expensive and risky. When Team Heard was working with Time's Up attorney **Roberta Kaplan**, who had represented several #MeToo accusers before she was engulfed in the **Andrew Cuomo** scandal, Kaplan was excited to learn the *Times* was looking into the origin of the online attack campaign. But the story never ran. It's just so difficult to prove.

For the lawyers who operate in this world, *that's* what's so scary: In *John C. Depp v. Amber Laura Heard*, the dark arts of media manipulation for political gain have come to Hollywood disputes, and there's no going back. These cases are now about the fight *behind* the fight as much as the fight in public view, and everyone is marveling at how effective Team Depp has been. That means when the *next* situation comes up, the first question out of a client's mouth will be, *Where's my Johnny Depp strategy?* And if a lawyer wants to keep the client, he or she better have an answer.

