

Depp v. Heard on Netflix: A documentary about the widely followed defamation suit

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A high-profile jury verdict can reveal underlying social truths. Official public opinion—constantly imposed on the working population—can meet hammer blows in the form of cross-examination.

This was certainly the case with the June 2022 verdict in *Depp v. Heard*, the defamation suit brought by actor Johnny Depp against his former wife, Amber Heard, for allegations she made in a 2018 *Washington Post* op-ed headlined, “I spoke up against sexual violence—and faced our culture’s wrath. That has to change.”

The Fairfax, Virginia jury found that the statement contained in that headline was false and defamatory, as were the following statements in the op-ed:

Then two years ago, I became a public figure representing domestic abuse, and I felt the full force of our culture’s wrath for women who speak out.

and

I had the rare vantage point of seeing, in real time, how institutions protect men accused of abuse.

Over more than six weeks, the jury heard testimony that destroyed Heard’s credibility and tended to show her as both an aggressor and a ruthless opportunist. A brief review of this evidence is important to fairly assess the three-part Netflix documentary *Depp v. Heard* directed by Emma Cooper.

Heard testified, for example, that she gifted Depp a Bowie knife in 2012, at a time when Depp was allegedly beating her regularly. She testified that in 2015 Depp smashed an antique, wall-mounted telephone in a residence in Australia, a phone which other witnesses said did not exist. The jury also heard an audio recording of Heard admitting to Depp that she started a physical fight with him, and after Depp recalls that he left the premises because of this, she taunts, “Yes, you did, so you did the *right* thing, the big thing.” She continues, “You know what, you were *admirable*.”

In another damning audio tape, Heard taunts Depp about his claim that he was attacked, saying, “See what the jury and judge think; tell the world, Johnny. Tell them Johnny Depp, I, Johnny

Depp, man, I’m a victim of domestic violence too ... and see how many people believe you or side with you.”

A serious documentary film about this trial would be a welcome development. It would need to take as its point of departure the gap between, on the one hand, the #MeToo campaign and its anti-democratic insistence that women accusers must simply be believed and, on the other, Heard’s unconvincing performance on the witness stand, the verdict rejecting her allegations and the public backlash against Heard and #MeToo.

A serious documentary would need to examine the context of the #MeToo campaign, the social layers who championed the witch-hunt and those who stood to benefit from it. Such a film would seek answers to a host of related, pressing questions.

While Cooper’s film is useful insofar as it brings together footage of the trial, which has a value in itself, *Depp v. Heard* approaches the eponymous trial in much the same way as #MeToo approaches allegations of sexual misconduct. Inuendo, amalgam and browbeating replace the burden of proof, the rules of evidence and due process generally.

Director Cooper described her approach in an interview with *Rolling Stone*: “It’s really, really hard to figure out what the truth is of anything at the moment, and I was really interested in two people who vehemently believe their own truths, but they both said different things about that truth. I spent a lot of time with the editors banging on about how there are three truths: your truth, my truth, and god’s truth—or the overseeing eye.”

Cooper went on to argue that in the contemporary media “everyone can have an opinion, and it’s really hard to figure out what the truth might be. I was fascinated by this trial and looking at those difficult moral and social questions in our society. I believe in the democratization of facts *and* of social media. I think it’s an absolutely amazing thing that everybody can have an immediate opinion about anything, but it makes it complicated to get to the truth.”

This is a confession of artistic and intellectual bankruptcy in the guise of the “democratization of facts,” with the inevitable nod to postmodern subjectivism and relativism. Very few reputable (or bankable) filmmakers today dare to assert they can “explain” anything, with that word always placed in quotation marks.

Of course, it is “complicated to get to the truth.” This is not, in fact, a purely “contemporary” problem. Novelist Leo Tolstoy noted some time ago that it was “very difficult to tell the truth.” This is the challenge of every serious artist and—for that

matter—trial!

Working backward from her unhappiness with the case's outcome, Cooper spends most of her film attacking the overwhelmingly favorable response to Depp on social media, including the many posts and videos mocking Heard's testimony. No doubt some of this was simply the Depp fan base making itself felt, but that tended to complement a wider public perception. Cooper ignores one possible explanation for both the verdict and the general tenor of the social media response: that the jury and public may have gotten it right.

In terms of style, *Depp v. Heard* tows the viewer along with frequent, uppercase intertitles between a collage of footage of Tweets and Tik Tok videos, of various legal and media commentators and of the trial itself.

There are also numerous shots of various actors portraying members of the gullible public, viewing the trial and social media videos on their phones—an Asian man watches while brushing his teeth, a black woman while working at a desk, a white man does laundry, someone else eats cereal, etc. Ominous music plays. Close-up shots of eyes glued to screens inculcates a sense of social media omnipotence.

One focal point of the docuseries concerns video footage taken by Amber Heard showing her setting up and concealing a camera at Depp's Los Angeles residence in February 2016. Depp is in a kitchen and kicks a cabinet and slams others closed before pouring himself a large glass of wine on the same surface where Heard has placed the camera. Heard appears to adjust the camera, or remove it from concealment—from behind a coffee tumbler—to capture the pouring of the wine and the wine bottle which is mostly empty. She asks, "Have you drunk this whole thing this morning?"

Depp sees the camera and appears to knock it to the floor; Heard appears to pick it up, then smiles and chuckles.

The cabinet incident footage is followed by a video clip featuring celebrity divorce attorney Christopher Melcher, who calls Depp's conduct here "legally abuse." He opines that Heard ought to be able to argue this was abuse and that she was in an abusive relationship. This opinion is offered uncritically. As we will hear from him later, Melcher is cynical about the jury trial process and the possibility of arriving at the truth.

Secondly, and perhaps more significantly, is the great fuss over the unimportant term, "mega-pint." When Heard's lawyer, Ben Rottenborn, questioned Depp about the cabinet incident, Rottenborn specifically called the large, full glass a "mega-pint," a term that had no bearing on any issue in the case. The glass, cup or "mega-pint" was entirely visible to the jury.

Depp scoffed at the term in his response to the question. Cooper then inserts the following intertitle:

SOME PEOPLE ON SOCIAL MEDIA CREDITED BEN ROTTENBORN FOR CREATING THE TERM MEGAPINT.

The film depicts TikTok videos making fun of the word, and shows these videos accumulating a seemingly endless number of "thumbs ups" and "likes," as if this had any bearing on anything. But wait for the truth—in the form of another intertitle:

BUT THE TRANSCRIPT OF THE UK TRIAL SHOWED THAT JOHNNY DEPP DOES USE THE TERM FIRST.

Case closed!

The entire *Heard* sequence is out of context. Amber Heard originally sent this footage to the tabloid TMZ after editing out the portions where she was chuckling and smiling.

Thus, *Depp v. Heard*'s structure follows this general pattern: (1) footage of the trial that undercuts Heard's allegations of abuse; (2) intertitles that advise of an immediate and hostile response (to Heard) on social media; followed by (3) viral videos or posts; and (4) some "expert" opinion reinforcing the premise that social media made everything unfair for Heard.

This formula is repeated on a number of occasions.

Another critical and unsavory ingredient of Cooper's documentary is the unproven allegation—intended to "nullify" the verdict—that Depp's team organized a massive, underhanded social media campaign to help his trial prospects and that the jury violated their oath and used social media during the trial and were influenced by it.

As the third and final episode of *Depp v. Heard* draws to a close, attorney Melcher's voice emerges over another collage of footage and images: "The thing is about justice is, it's not about the truth, it's not about right or wrong. It's about what the judge and jury believes [sic]." Not a bad summary of the method of #MeToo!

What can one say about such a "documentary?"

Largely devoid of artistic merit, it expresses upper-middle-class frustration as the #MeToo campaign—a centerpiece of the Democratic Party—has faltered. The film's hatred for social media echoes the television news media's contempt for blogs and internet news sources years ago. People need to be told what to think by broadcast news pundits and other "gatekeepers"!

More generally, the hostility toward social media reflects deep fear that a means of "changing the discussion" from social class to gender will now fall on deaf ears, or worse.



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