IN THE HIGH COURT OF JUSTICE **Claim No. 3SA90091**

SWANSEA DISTRICT REGISTRY

HHJ SEYS LLEWELLYN QC

BETWEEN:-

(1) STEPHANE PARIS

(2) ANGEL GARDEN

Claimants

-and-

(1) DR ANDREW LEWIS

(2) MELANIE BYNG

Defendants

CLAIMANTS' CLOSING SUBMISSIONS

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1. Cs submit that they have proved the case detailed in their contemporaneous publications, letters before action, Original PoC, Amended PoC, Reply to the Defence, Cs witness statements, Skeleton Argument and disclosure. Had Ds at any time in the last 3½ years published facts alongside their excoriating opinions, those documents would have no reason to exist. Ds are proven to have systematically lied about and defamed Cs, including to large numbers of covertly warned people among a classes of journalists, film-makers and other publishers, in a particularly malicious humiliating and shunning manner, with extensive covert defamation and smearing, to deliberately damage Cs, their familay and the Titirangi settlement, and to try and stop Cs earning a living.

2. *D's finally also admit they have defamed Cs.* To the extent that it is necessary to do more than assess the damage Ds have wreaked on Cs, Cs are forced, before detailing that, to detailed rebuttal of the astonishing number of red-herrings employed by Ds in their defence, through similar types of distortions as their copious overt *and* covert defamatory publications adopt. Cs note that Ds *intention* in defaming Cs has *always* been to frame any protest by Cs whatsoever, including begging them to stop, as "harassment", so it is no surprise that it continues..

3. So Ds suggest that Cs shouldn't be awarded damages because Ds now assert, against any discoverable fact, that Cs have accused Ds of 'sexual abuse' [para 58.4 Para 58.2.2] "*When*

contacting such people, Cs ***frequently compared D1 to Jimmy Savile****, and accused him of censorship, hypocrisy, of trampling upon their human rights and* ***of being a danger to children***." Cs have emphasised the connotation.

4. Cs have certainly accused D1 of censorship and hypocrisy, but the rest is complete fabrication in pursuit of the very sensationalism that they falsely seek to impute to Cs - only possible by misrepresentation. For example, "*trampling upon their human rights*" is a sentence D1 himself wrote in a tweet about Cs in order to misrepresent and humiliate them and their position. Cs actually correctly said that D1 was deliberately suppressing the knowledge of a potentially useful Human Rights initiative about the most reported problem in Steiner, i.e. purveying potentially *dangerously misleading information which could put children at risk*. It is the same type of distorting imputation as when D1 said to the Cs in front of all at the pub "*if I see you near my family or anything like that I will call the police*".

5. Cs have at all times published fact and opinion, separated the two very definitely, offered Ds a right of reply *and publicly stated that they knew this would be judged at such time as these matters could be dealt with,* and when Cs would be able to show the extent to which Cs have had to defend themselves. "*I must now use my own right to free speech to express my disgust at this behaviour to the very limits of the law - and this I will do, to point out exactly where they have gone beyond them*". **[C1 -1592 & CX-3]**

6. Cs have been forced to such transparent invitation of scrutiny of their publications, their outlets and their motivation, in robust defence of their reputation due to the level of attack. Ds' 'connotations' on the other hand, can *and could only have been*, arrived at by the kinds of deliberate distortions, omissions, misquotes and misrepresentations that arise from covert activity.

7. So again, in paragraph 37 of the Defence, the comma preceding the facts which qualified the use of the word "grooming" in all relevant contexts, *was deliberately replaced with a full stop* by Mr Price*,* in order to hide this fact and then, even though this tactic had already been objected to, he made C2 read out the falsely truncated sentence at trial to force her to misrepresent herself to the court. Thus *"How can we call it otherwise when "Thetis Mercurio" made so many advances towards her, with healing offers of help to re-engage her with school, even sending out her son to us with the message that he came really only to talk to our daughter about his wonderful school, in the country." was truncated after "so many advances towards her".*

8. Cs' opinion that D2's actions and inactions *could not be called other than* grooming, in reference to cult behaviour, in an article about cults and cult practises, on a website dealing with what Ds refer to as a deceitful cult, may be an unpalatable opinion and it is one based on certainly unpalatable facts. D2 has neither denied, nor tried to justify her distressing and uncontested actions towards Cs' child, neither did she make any objection to similar actions being also called grooming, with reference to Steiner, and understandably so, as she believes it to be a dangerous cult.

9. In spite of D2's obvious clear understanding of the reference, telling D1 in her warning letter, that it was *"presumably because I suggested Sands as a possibility and then withdrew my support."* **[C8-3755 & CX-43]***, D2* nevertheless set out to misrepresent the observation the better to further foment her own victimising campaign against Cs, also telling D1 that Cs had told journalists that she was a child molester and that one of them had written to her asking what to do about it. This was easily exposed at trial as yet another fabrication, when the email to which she referred **[C8-3746 & CX-38]** was shown to contain no mention of it, at which point D2 claimed it was in a different email which she could then not produce.

10. C2's observation of *specific mechanisms D1 has used to hide corruption that were also used by Jimmy Savile,* was in one pitch and not as in this bald lie "*many instances of Cs alleging in lengthy unsolicited correspondence to third parties (including numerous journalists) that D1's conduct was compared to that of Jimmy Savile*" [para 58.4.2 of the Ds' Closing Submission]. and the observation was set next to other facts which bear out the comparison in every specific respect mentioned, including D2's lying that Cs were extorting him, i.e. *"her demands for me to give her money to go away against the threat of a defamation case"* **[C11-4685 & CX-70]**. Savile "*there's women looking for a few quid, we always get something like this coming up for Christmas*". [2009 police transcript, published in media on 16/10/13, co-incidentally the same day D1 made his comment.]

11. The single mention was a response to D1's heavy handed actions (including use of police) to prevent Cs from the requested 'ordinary democratic inclusion' on the basis of 'impeccable behaviour' at an 'open' BHA event on a Human Rights platform, by D1's bullying threats not to speak if the BHA allowed us to attend. **It was well after any head of claim in this case** and shows how much Ds had to ramp up their harassment once Cs were no longer safely on the other side of the planet.

12. Cs accept that their opinion may be unpalatable to D1, however both facts and opinion are properly qualified by an express statement that it has nothing to do with sexual abuse*:* "*I am definitely not saying that Dr Andrew Lewis is "like" Jimmy Savile, (watch skeptics miss that)*" **[B1/43/345 & CX-98]**. Further any person using such methods, including police, to avoid awkward questioning about facts, must lay themselves open to all sorts of comparisons, none of which are likely to be flattering, but this one was in the news at the time. Similarly had D2s uncontested actions toward a child been differently framed by Cs as '*inappropriate conditioning*" for example, it is unbelievable that D2 would not have used that in the same way.

13. Further D2's opposite claims that Cs owed her child a duty of care but that D2 and her husband did not owe the same to Cs' child, prove the point that D2's behaviour *was* similar to the other behaviour at the school and her outrage at our correctly identifying the similarity in her own actions to those of an abusive member of staff at a "cult" school, cannot justify her misrepresenting those actions. **Trimingham v Associated Newspapers Ltd, 2012 EWHC 1296 -** "*the distress suffered by the claimant was not caused by the course of conduct specified in the claim or the publication of the words complained of but by the publication of true and defamatory articles about her and the claimant had not made a claim in defamation*." and "*the fact that articles caused foreseeable distress to an individual does not, in itself amount of harassment of that person*". Also **Thomas v News Group Newspapers Ltd 2001 EWCA CIV 1233]** in which even robust press criticism did not constitute unreasonable conduct and did not fall within the natural meaning of harassment.

14. Cs submit that to allow Ds in any defamation trial to get away with tricks like those would have a predictable chilling effect of free speech. During recess Mr Price even admitted to Cs that he would say in closing that '*free-speech is harassment*', although he said wouldn't be putting it like that and he hasn't, because he has put it like this!

15. The same shifting distortions of meanings and inferences characterise both public and private elements of Ds' whole campaign, in the disclosure as well as very obviously in the Heads of Claim: "*odd and disturbing people*", "h*arassment…of myself and others*", "*I understand the school says*", and is also visible in their tortuous and malicious pleading on "claims/says" in Ds' Witness statements and in oral testimony. Cs note the continual downgrading of 'harassment' by re-qualification, which shows Ds concern at having attacked free-speech so hard.

16. Ds' shuffling meanings must be seen in light of facts. Comments like this from D1, "Your email was useful in that it provides extra evidence of her constant harassment, should it come to the

point when authorities need to be involved." **[B1-43/339 & CX-93]** which was sent merely days before publication on Posterous (and which refers to polite, evidential documentation), and this one by D2, "*let me know the minute you see anything because I can probably do something about it*", are not connoting any vernacular definition of harassment. **[C8-3838 and CX-47]**

17. "there are lots of people who know about this now and they will tell each other. But let me know the minute you see anything because I can probably do something about it." [C8-3838]

18. Although Cs obviously not only wanted but *needed a response,* not a reaction, in order to get Ds to stop their very damaging actions, Cs have certainly never averred anywhere that they set out to "provoke" or "goad", and in fact Cs didn't '*set out*' at all, but only rose to defence of themselves in face of vicious group attacks, using contemporaneous publication of evidence of, as is now proven, Ds stalking Cs by IP address, substantial interference with Cs' professional, personal and familial lives and even intentional attempts to sabotage Cs' Human Rights settlement and worse to huge degree. (**APPENDIX 1** - page 2-5 - shows the chronology of Cs' continued specific defences to specific attacks by Ds)

19. Cs do not expect that Ds should have that Ds should hold a good opinion of them only that even excoriating opinion should be clearly distinguishable from facts, i.e. ordinary principles of responsible journalism Ds which deliberately ignore the better to promulgate and disguise their victimisation campaign against Cs.

20. Quite simply if those under attack cannot talk about it, even to beg their attackers to stop, how on earth *can* they defend themselves? Yet anything Cs do in defence of themselves, which until service of this claim, has been confined to publication, and since then has been simply to work on this claim is then used as justification for further defamation and harassment by Ds and their proxies.

21. Only this double-ended mechanism of defamation, coupled with covert and proxy harassment, interference and sabotage, could have allowed Ds to attempt defence of their defamation with 'justification' or 'qualified privilege' and then only until such time as their disclosure was made known. Cs have not come across any case like this in these respects. This perhaps explains Mr Price's statement at the start of trial, that this was a "novel case".

22. The intentional 'stop' on public discourse achieved by the defamation is proven to depend depends on the further tactic of *not offering right of reply to the defamation at the same time as*

not exercising any right of reply to Cs' own defensive publications. This enables the *covert* harassment and defamation to propagate unhindered by any likelihood of detection.

23. Cs submit that such tactics are extremely and deliberately tormenting and that *whether a full stop is placed on pubic discourse by dismissive humiliating defamation with no right of reply*,, *or is deliberately removed from a sentence in order to distort evidence in a court*, both such actions are deceitful and malicious and cannot be anything else

24. Novel the case may be, but attacks on free speech are not without precedent, In Rita Pal, V GMC, Judge Harris commented, "*For myself I don't really see why somebody complaining about the behaviour of doctors or the GMC, if that is what they are doing, why that should raise a question about their mental stability, unless anybody who wishes to criticise "the party" is automatically showing themselves to be mentally unstable because they don't agree with the point of view put forward on behalf of the GMC or the party….It is like a totalitarian regime: anybody who criticises it is said to be prima facie mentally ill – what used to happen in Russia."*

Publication - general

26. Ds early threats to strike out on Jameel, (**LETTER**) occasioned Cs, previously LiPs, to hire legal representation, though they could ill afford it, especially following transglobal relocation. Mr Dougan's high-handed attitude to Cs as LiPs from the start, including deliberately misleading statements to them regarding ADR before issue of the claim, [paragraph 5 of Cs' Skeleton Argument] in spite of a punishing statute deadline. All this was just too intimidating for Cs. [Dougans WS]. **[APPENDIX 5**, page 19-21**]**

27. In a further full year of proceedings, however, Ds pursued no case on publication:
    a) no application for any strike outs was ever made even at the PTR when Cs re-amendment application on covert harassment claims was described by Ds as 'very late'.
    b) Further details of warnings from D2 and D1, were not supplied as requested at the PTR, including D2's claim that D1 "*knows most of the big-hitters, so he has put out a warning*" **[C9-4050 & CX-56].** The covert campaign fomented by both Ds make this case *very dissimilar* to Jameel.
    c) *To any extent that Cs can be implicated* by Ds' lack of attention to the issue, Cs have never expected Ds to both hide the identities of those they have warned, and then *use that exact same covert harassment of Cs as a reason not to infer publication*.

d) Ds “low figures for publishees" argument contravenes the points made in **Cairns v Modi 2 [2012]**, regarding insight into limitations on Jameel’s usefulness and the caution that publication should not be reduced simply to a numbers game or “used as an additional hurdle which Claimants must overcome”. Cs also again note the lack of any covert campaign of character assassination and avowed destruction in *that* case.

e) Any claim by Ds of a lack of inference of publication should be struck out because of the fact that they *do use their influence* to operate exactly such a covert campaign of Cs. As D1 said: “*Getting a full translation of a UK blog with some profile (coughs) would neutralise them. And make them hopping mad*. **[C9-4220 & CX-60].**

f) Twitter’s search facility and the public love of scandal, lead Cs to submit that rare public statements from influential people, to large numbers of followers, in the context of wide warning and mental health smearing, some of which publishes are in the class of “top journalists who have been told lies about Cs, including mental health smearing but Cs don’t know who they are” are likely to be widely seen and meant to be extremely and painfully humiliating.

g) Ds high-headed and aggressive use of Jameel, both to deny their covert harassment, and to create (Ds hope) insurmountable hurdles on both thresholds, having not applied for strike outs, and when they know that *publishees are hidden by their own covert campaign*, must amount to abuse of, not only any principle of Jameel, but process generally as it is yet another illustration of the extent to which Ds seek to turn the case against Cs, in a manner Cs understand not to be permitted by law. “a defendant may not plead particulars in such a way as to have the effect of transferring the burden to the claimant of having to disprove them.” [Gatley page 209]

THE BLOG POST

28. **publication**

a) Cs repeat paras 27d, 27e, 27f and 27g above

b) Ds also pointedly make the specific claim in support of low numbers on Quackometer (18.5.1 of Ds closing) of D1 *not promoting* the Quackometer publication on the home page. Publication on Posterous, in contrast, was immediately and widely promoted twice on FaceBook and at least 22 times on Twitter, including by SL Singh to 60,000 followers (currently). Numerous other promoters (Appendix 19.3 of the original Poc) had followers numbering in the thousands.

c) The current total number of followers of all those known to have promoted the blog post on Posterous solely on the day it was published (9/11/2012) at this time exceeds 87,000. Cs

submit that given changes in follower numbers over time, a figure of 60,000 potential publishees could be inferred just on the first day of the post's existence on Posterous.

d) Claimed views of the Quackometer post from Auckland *cannot* be from Cs since they were no longer in New Zealand by the time the post was republished there. Views from Bristol *cannot* be from Cs since they do not live there. Moreover the Ds could only surmise Cs were even passing through Bristol by looking at Cs' Timelines on Twitter, something that Ds claim "no ordinary user of Twitter" does, in order specifically to try and reduce publication numbers! [para 46 of Ds closing]

e) As with Twitter, D's descriptions of how others may have found the post, are insufficient, misleading and based on the narrowest possible suppositions which even by their own use are shown not to be true, as in D1's 'excuse' at trial that he *accidentally* favorited one of C2's tweets, and since he blocks C2 he can only do using the search function. Using the Twitter search feature is a normal use of Twitter and Cs content is done by most users to find information and new people to follow.

f) There is no safe way to infer small numbers of Posterous blog post readers.

29. Posterous Blog Post by D2

a) Cs repeat paras 27d, 27e, 27f and 27g above

b) as D2 warned so many people **by other means**, it is extremely unlikely that some of them did not go and look at the blog post.

c) By way of a single example, disclosure shows D2 pointing Matt Sims towards it, to provide a single example, by DM (Twitter private message) "worth looking up the case Arkell v Pressdram (1971) if you want a chuckle". **[C10-4482 & CX-67]** (date unknown)

d) Further, D2's action also makes clear the limitations of Ds' argument about how 3rd party publishees were 'likely to have come across the Blog Post", paras [18.5.1 and 18.5.2 of Ds' closing].

e) Cs submit that over 700 followers were exposed to the tweet linking to the blog post which D2 retweeted **(see APPENDIX 6, page 22-29 for an explanation of this figure)**.. Including all of the above, it would be unsafe to assume low publication of the blog post caused by D2's retweet.

IDENTIFICATION/Reference is admitted by Ds.

30. Defamation/Meaning

a) Cs welcome Ds retreat from their earlier deliberate conflation of two separate defamatory statements into what C1 referred to as a "passage" in his WS, and which were spread as wide as possible by Lucas Box meanings, to attempt artificial inference of a *tendency.*
b) Cs now stress the important 'context' of the whole post, to the now properly separated sentences in the head of claim.
c) Cs note that defamation must be examined in context, including, not just the context of the rest of the article, but the context of facts at the time, whether known or unknown.
d) Save for Cs' names and Twitter handles, the 'context' within the post itself, was shown at trial to be that of unevidenced opinion bolstered by rumour and hearsay, and appeals to hidden authority.
e) The wider context and facts are the known campaign of covert harassment, as well as the Ds' public statements on the matters in the Heads of Claim.
f) Cs look at each sentence in this head of claim in terms of meaning, justification, qualified privilege and malice.

"They claim their children were expelled because they were being bullied. I understand the school says it was because of the parents' behaviour."published by D1 and D2.

31. meaning

a) The defamatory meaning is that stated in para 15 of the APOC or as determined by the court. The statement is defamatory of a child.
b) The sentence *is* deliberately weighted to imply:
   - that the parents point of view is an unsubstantiated, ***unevidenced*** **claim**;
   - that the schools point of view is a **statement**;
c) D1 did not state his belief that Steiner is a deceitful cult next to this statement.
d) D1's expert status meant that he knew that independent mediation with a Steiner school was highly unusual, as confirmed by two other Steiner experts: Mike Collins **"***I'm not aware of a Steiner ed organisation ever agreeing to participate in a mediation process [...] Or, to be precise, no participation in any independent and neutral mediation process"* **[C6-3277 & CX-26]** *and Roger Rawlings "I am not aware of any Steiner school agreeing to the sort of mediation you mention."* **[C6-3272 & CX-25].**
e) D1 did not provide or verify facts about the Claimants' Human Rights mediation, currently in progress.
f) D1 admitted in court, that if he had put the facts and proper context, including the fact that he believes Steiner to be a deceitful cult, it would have created a substantially different impression to readers.

g) Cs submit that such a properly contextualised statement would not be capable of holding any meaning defamatory to Cs but on the contrary would have given the impression of a wronged family, lied about by members of an authoritarian and victimising group, i.e. the true situation and the one seen and acknowledged by critics before D2's "post-Joe" distortions.

h) No reasonable person who knew of D1's beliefs about Steiner would expect him to make such an obviously imbalanced statement without substantial reason [See **APPENDIX 3**, Page 11-15 for a list of examples of what both Ds and other Steiner critics say how these schools commonly treat families who raise concerns]

i) Mr Price's clumsy attempt to force "claims/says" into a 'bane' / 'antidote' frame, obliged him to turn the whole phrase around and say it backwards. [closing 22.2]

j) Ds second submission that alternatively "no comment as to the reasonableness or otherwise of Cs' behaviour can be drawn from the article" - is directly contradictory to their statement that the sentences must be looked at in 'context' of the article as a whole, which includes wider context and based on facts.

k) Moreover Ds themselves have averred that those looking at the blog post would be likely to be extrinsically knowleageable. (19.2 of Ds closing)

l) 4 days before, D1 had been covertly soliciting material for a police file following a chat with a psychiatrist; i.e. this was merely the visible tip of a very large and nasty iceberg. (5/11/2011 **[B1-43/339 & CX-93]**,

m) Ds claim that damage caused by this defamation would be minimal, and should be 'at the lower end' studiously ignores D1's status as an expert in this field and someone who is often interviewed about this subject. In the context of D1's influential position as a Steiner expert *it is the most defamatory thing he could have said.*

n) The statement sets Cs and their whole family apart in a manner so defamatory, that it could only be sustained by the use of covert smearing and harassment.

Defences

32. **Justification** D1 and D2

a) Ds are required to prove its substantial truth both in context, and "*against the overall factual position as it stood at the material time (including any true explanation the claimant may have given for the apparently suspicious circumstances pleaded by the defendant*." [**GATLEY page 409]**

b) Cs resubmit that Ds' justification defence should fail due to their substantial covert harassment, including sabotaging Cs work prospects as much as possible, largely through mental health smearing. Additionally, Ds labels as strictly 'evidence-based' mean Cs could not imagine Ds would experience evidence-based enquiry as harassing them in any way.

c) To the extent that those known to be covertly harassing and sabotaging Cs are allowed to plead justification, Cs submit that, as both self evident and easily admitted by Ds at trial, neither defendant is in a position to know what happened at Titirangi although both repeat on trust anecdotal account of similar events in other Steiner schools, and state how common unchecked bullying is in Steiner. **[C6-3191 & CX-15]**

d) Ds both believed and publicly stated elsewhere that Steiner education is a deceitful cult, which belief is pointedly not mentioned anywhere in the post.

e) The only sense in which it can be said to be true is one in which the context of the statement is avoided altogether and the relevant facts are not given.

f) D1's case on taking the statement at face value, and it therefore being 'true' is only that it is *possible* that it could have been Cs' behaviour, [in his Witness Statement (adopted by D2)] in spite of the ubiquity of similar reports worldwide, as reported also by Ds **[Para 73 of Reply]**

g) In court, D1 admitted that the school's admission in the settlement means that Cs child's accounts of bullying were honest (this includes the one threatening of Cs child by a boy with an axe).

h) Two days following publication on Posterous (11/11/12) a commenter on Quackometer spoke of himself having been warned off communicating with the Human Rights Commission by a Steiner school and D1 requested this letter, stating that having it would be "*incredible*". **[C20-150 & CX-83]** (this was the same thread on which he was deleting any mention of Cs' Human Rights initiative by any third party **[C6-3235 & CX-19], [C6-3236 & CX-20], [C6-3237 & CX-21], [C6-3238 & CX-22], [C6-3239 & CX-23].**

i) This was a very few days after his email to Sid Rodriguez (5/11/12) soliciting material for his dossier. **[B1/43/399 & CX-93]** .

j) "Substantial truth" of the blog post also needs to be seen in context of D1's motivation and propensity for creating a public 'stop' on any current or future discourse about Cs and their concerns, the better to serve his secret campaign.

k) As he knew Cs to be safely out of jurisdiction, Cs submit that this provided the confidence he needed to employ such defamatory contempt to the over-riding objective.

l) On balance of probabilities, even at first publication, this statement would have been impossible to prove, except in the most misleading, pedantic, grammatical sense and is like a known critic of scientology suddenly claiming that "The parents claim their child was brainwashed by the cult, I understand the cult says they were proud to initiate a new adherent of Xandu".

m) Ds claim of wanting "nothing to do" with Cs, while continually covertly stalking them and warning others about them.

33. Qualified Privilege D1 and D2 - Malice

a) **It is submitted that qualified privilege should not apply due to their substantial covert and proxy harassment, which cannot protect the privilege claimed.**

b) The post is self-evidently a deliberately humiliating retort to Cs' sincere defamation notice, which had been occasioned by several simultaneous realisations about the level and extent of his misleading of the public on his blog and elsewhere **(see page 5 of APPENDIX 1)**

c) D1's retort that he had "had enough" can only mean that D1 *had had enough of Cs having enough*, and set out to further humiliate Cs, drawing on the "always appreciated insight" of D2 to decide on the funniest last sentence, in complete contempt of both the CPR and the over-riding objective. **[C10-4321 & CX-64]**

d) D1's conversation with Sid Rodriguez shortly before Cs sent him the first defamation notice, concerning his collecting of information for a file for the police, **[B1/43/339 & CX-93]** would have still occurred whether Cs had written the email to D1 or not. This shows an undeniable level of malice underlying this publication.

e) In Cs' email, he knew Cs sought to resolve issues with D1. This is not an attack.

f) No statement from Ds about Cs' Steiner initiative could be any kind of reply to any attack, in any case as the situation regarding Titirangi had nothing to do with Ds at all.

g) Cs only said they would not accept D1 lying about them or about bullying within Steiner education. Even without his covert harassment of Cs, this would be to use the privilege for something that it does not protect.

h) D1 frankly admitted in court that the accounts of bullying which the school accepted were 'honest' were the accounts, not of the parents, but of a child of 8, and this admission, coupled with that it is defamatory, points to the defamation of a child. This has not been sued for as Cs didn't realise until it was too late to do so. However, a defamatory dismissal of the integrity of an eight year old cannot be a reply to any sort of attack, must be an abuse of the privilege and shows malice.

i) D1, in his Witness Statement only quoted material from "the school" that suited his purpose, when others from the school, including a trustee, was of quite a different opinion and told Cs *"You and your family have been very badly treated. [...] You are being blamed for everything that is wrong in the school rather than seen as the catalyst of change that is needed. [...] My wife & I discussed your situation at length and we questioned what we would do if we had been in your situation... we concluded that we would have not kept quiet either."* **[B1/43/59 & CX-89]** This is also an opinion of 'the school', but he has ignored that in order to achieve his misrepresentation.

j) Ds have also, cited in support an “open letter” by the school, written a few months after the settlement, and following media coverage. The school has in fact taken that letter down from their website now, a year later than they said they would, **[C14-5398 & CX-72]. This is not acknowledged by Ds in contradiction to D1’s** contempt for those misrepresenting settlements. “C*hiropracters begin rewriting the history of their humiliating defeat*” **[C5-2883 & CX-11]**)

k) Critic Margaret Sachs said “Do not accept the school's version at face value.” **[C6-3189 & CX-14]** which is something D1 is fully aware of but didn’t mention in his blog post about Cs.

l) D2’s “The bullying in Steiner may or may not be related to Steiner” stance at trial, is also an opposite position to D2’s usual one, and cannot be found anywhere but in this case. At trial, having struggled to answer whether or not she would still hold to the point of view she expressed in 2010 that the demise of Steiner schools was inevitable through their necessary exposure, D2 settled on “they need to be more open”, a point of view which is contradicted in her own disclosure as she notes the ubiquitous vilification of families, saying to D1 on 1/2/2012 that “In Steiner you often hear about it, in Edinburgh apparently a child’s arm was broken. I’m not sure if it was ever reported, but I was told that the family (who of course complained) were ostracised by the school community.” **[C8 3769 & CX-45]** On 13/3/12 she said to “Steiner schools quite often exclude parents, in my experience”. [**C8 3934 & CX-52]**

m) It is not believable on balance of probabilities that D2 believes that schools should simply “be open” about breaking children’s arms or any other abuses or that she has genuinely changed her point of view in any other respect than for the benefit of bare denial of her own actions in court.

n) It is likewise unbelievable on balance of probabilities at D1 believes in his statements that “claims/says” is merely an unprejudiced, balanced statement, as, following trial he has reverted back to his more normal position, tweeting on 14/4/15 “My own research on Steiner shows *nothing* should be taken at face value when looking at Anthroposophical institutions.” **[CX-1]**

”**Since February, I have ignored and filtered [sic] out their constant harassment by blog, tweet and video, both of myself and of others.**” Published by D1 and D2

34. meaning

The meaning is that set out in para 15 of the defence or as the court determines.

35. Justification D2

a) Para 32 a and b regarding level of proof and Ds covert harassment are repeated.
b) the ever changing reasons for D2's hatred of Cs all evaporated at trial, for example the claim that C2 had been "angry" with D2's son and that had been 'afraid' (which Cs note he, although an adult, did not subject to any scrutiny) and to the extent this is necessary is fully documented in **APPENDIX 2**, Page 6-10.
c) Chronology demonstrates clearly that Cs were *only and at all times* responding to the now proven attacks upon Cs originating from D2. This became apparent during Ms Garden's oral evidence, and is detailed further a**t APPENDIX 1**, Page 2-5.
d) Cs have demonstrated how they became personally and professionally shunned by D2's friends, originally overseen and covertly fomented by D2 during the lengthy mobbing on Ms Hamberg's blog, and then later on D1's blog and the Waldorf Critics. D2 exhorted those she sought to adopt as proxies to hide the real reasons for her sudden hatred of Cs, distorting and lying when sharing private information with 3rd parties to make it appear that Cs' *working methods* as publishers should be attacked and discredited, even though D2 had referred to them as 'brilliant' not long before.
e) D2's claim to naivety at trial in not having been "skeptical enough" initially cannot obfuscate the several spurious nonsensical and untruthful reasons that have been cooked up at the last minute in witness statements and at trial, to attempt to cast a wide net in spurious justification through multiple vagaries. (**APPENDIX 2**, page 6-10)
f) Where Defendants covertly decide, "to see if they could not call in question her medical health", justification defences must fail, as Judge Harris commented in **Pal V GMC.**
Judge Harris commented, the claimant's case, as Mr Jay made clear, is that the GMC officials were so annoyed about her complaints and correspondence that they decided to see if they could not call in question her medical health. If pique or antagonism was indeed their motive - putatively unlikely, but it is not wholly fanciful to see this in some of the language used - then of course there could be no question of the defendants establishing the Article 8.2 justification".

36. Justification - D1

a) Para 32 a and b regarding level of proof and Ds covert harassment are repeated.
b) Notwithstanding a), D1 abuses the justification defence by stretching any usual allowances for inaccuracy and ordinary human "recklessness", as opposed to the deliberate recklessness implied by a malice.
c) Abuse of justification defence by deliberately claiming in the case that the definition of harassment is one which is not borne out by the sense D1 was simultaneously using privately i.e. with mention of law enforcement.

d) Hard to rebut hearsay evidence to augment authority/gang: “and others” must be intentionally vague. Nevertheless D1 is required to substantially prove this statement, which he has failed to do having not succeeded in either proving that Cs were “harassing him” or “others” in spite of continually redefining ‘harassment’.

e) Cs have demonstrated [**APPENDIX 1**, page 2-5] that everything they did was in defence.

f) D1’s insistence that he made up his own mind, is contradicted by his conversation with @animalsinsuits on 3/11/2012, “*they have malice at heart*” and have “*behaved terribly towards [D2] and spread a whole string of very terrible lies*”. **[C17 - 7083 & CX-76]** This shows he did not just make us how own mind but sided with D2 and adopted her reasons.

g) Cs are forced to note that there has been no specific allegation of lying towards the Cs from D1, except in the defence where Ds attempted to cross-justify the allegation of ‘lying’, by objecting to a **single** misquoted claim that D1 was himself promulgating a campaign against Cs, as opposed to merely joining in with one. How ironic that on inspection of his disclosure, the misquote itself turned out to be true! Nevertheless it is again that “Cs lied to D1 when they claimed to have evidence that he had fomented the gang-stalking of them”. [para 58.3 of Ds’ closing].

h) D1’s disclosure however evidences that he *has and is* deliberately fomenting a campaign against Cs, quite independently and can be found suggesting himself as a source of “information” for others about Cs: **“***Happy to talk to anyone who wants anything checked about them***.” [C11-4591 & CX-68], [B1-43/339 & CX-93] & [C17-7081 & CX-75]**

i) Having admitted in court the inaccuracy in the publication, D1 then also admitted that he likes holding his defamation against a google search for Cs’ names in order that others who don’t like Cs will know they are not alone, i.e. deliberately fomenting a gang.

j) D1’s framing of Cs’ investigation and publication of and about him as harassment is self-evidently the exact opposite of the approach he takes with others, even those who are *much* more insulting to him (as shown during trial with Ted Wrinch’s tweets **[C5 - 2753 to C5 2854]**)

k) The framing is also belied by his scathing and aggressive approach towards the misleading information of others upon which he enjoys the reputation he was so keen to highlight in court saying he “stood by” his actions with regard to Lynne McTaggart, claiming reasonableness because the subject matter was ‘claims about cancer’. Para 11 regarding **Trimingham v Associated Newspapers Ltd** is repeated.

l) D1’s “CALL TO ACTION” regarding WWDTY resulted in literally thousands of unsolicited tweets being deliberately launched at the Twitter feeds and complaints departments of major supermarket chains across the country, for over a year.

m) He knows full well that tweeting to and about people who have not specifically asked not to be included or tweeted about is not harassment, and that having blocked someone, you would not see them tweeting at you or about you in any case.
n) D1 has never requested that Cs cease to either speak to or about him, saying only in an email that “this is the last time I will communicate with you on this matter”,
o) Apart for the purposes of the Overriding Objective, Cs have not communicated with D1 since he blocked them.
p) D1 told Cs when shutting them out of the public open debate which he intended to have on his blog about Steiner education, “*I believe you have your own platforms*”.
q) He now claims that Cs’ publications on these platforms is itself harassment, having studiously eschewed the offered right of reply, in order to covertly frame Cs as criminally mentally ill and criminally dangerous.

All Ds’s claims of justification must fail.

Qualified privilege - “**harassing myself and others by blog tweet and video” D2**

37. Paragraph 33 a) above is repeated regarding Ds campaign and scope of privilege.
a) D2 was the originator of the harassment and defamation of Cs, and the only one who could correct her own lies.
b) she is simply projecting her own lying, threatening and bullying onto Cs.
c) D2’s end-game is extremely damaging to Cs entire family “I really do see her ending up in prison” **[C8-3686 & CX-36]**
d) the extent of her campaign and using proxies to spread her lies as D1 said to @animalsinsuits “[C2] has behaved terribly toward [D2] and made up a whole string of very terrible lies.” **[C17-7083 & CX-76]**
e) D2’s clear awareness that she was hiding behind covert harassment: “She can't mention me because I haven't written anything she can point to.” **[C9-3994 & CX-54].** and “I'm certain they’d threaten me with libel if they had evidence I’d warned anyone.” **[C9-4225 & CX-61]** and “I've done my very best on Twitter - so many people to write to...I've tried to stop people tweeting their stuff but I don't know everyone.” **[C9-4166 & CX-59]**
f) D2 knew that she’d used her husband’s reputation to intentionally damage Cs, an action admitted to be likely to significantly aggravate the smear by Dr Byng at trial.
g) Para 24 of the Reply concerning D2’s humanism is repeated.

38. **Qualified privilege** - “**harassing myself and others by blog tweet and video” D1 Malice.**
a) Paragraph 33 a above is repeated regarding Ds campaign and scope of privilege.

b) D1 can have no honest belief in this statement and knows he was compiling a secret file on Cs in order to give to law enforcement when the time comes, based purely on mental health smearing and of Cs having published about him, and in which 'harassment' was referred to with regard to law enforcement, *i.e. not in any vernacular sense.* **[B1/43/339 & CX-93]**

c) No reply to attack privilege can be served by the deliberate vagary and use of hearsay in his publication.

d) Ds' case must be that Cs sending D1 a defamation notice and request for resolution in service of the OO, justifies D1's further defamation of Cs along with publication of that defamation notice. Cs submit that D1's claim "reply to attack" privilege for publishing a defamation notice, sent in service of the OO, is an abuse of process.

e) Cs' defamation notice said quite clearly that Cs had had enough of his mendacity, whereas he now claims to have published this post because *he* had had enough. So he is saying that he had had enough of Cs having enough i.e. like saying "*I've had enough of receiving defamation notices from people I publish lies about but won't talk to*".

f) D1's contemptuous publication of this email proves the point of him trying not to receive Cs communications and shows how confident he felt, and had no concern that anyone would object to such a clear lack of democracy. This puts the potential level of covert smearing at an extremely worrying level and points to a potentially higher number of publishees.

g) His apparent *disbelief at C2's defensiveness about commenting on his blog,* asking in court, "*who does that*?", is belied by the answer, which is that he does:
D1 commented "*What The Guardian does not want you to read about the Saatchi Bill*" linking to his own blog, when comments were heavily moderated **[C17-7150 & CX-79]** (16/11/2014)
"I am staggered you blocked me from commenting because I asked pertinent questions. You are doomed b/c you wont engage." [**C6-3308 & CX-28]** (30/5/2012)

h) No sincere belief in the validity of Cs' mentally ill, criminally dangerous status on the part of D1 can exist. At trial D1 claimed mental health terms were just a pastime, but his actions in collating a dossier and seeking police involvement bely that.

i) any pursuit of the OO by sincere plaintiffs can be, by definition almost, framed as "a threat". Cs didn't 'threaten' *anything other* than a law-suit if D1 did not stop lying about Cs. Again this framing of sincere pursuit of the OO as threatening, is almost impossible to deal with.

j) documenting corruption is not harassment and in this case it has uncovered substantial evidence of real harassment of Cs by Ds.

k) D1 knows that he deliberately framed the situation like that in order to put a 'stop' on public discourse, the better to foment his mental health smearing on the quiet.

l) he told @animalsinsuits a few days earlier that he knew the origins lay with the Byngs, whereas here he covertly extrapolates a tendency to dismiss Cs Steiner connection.

m) Lack of belief exists in vagueness, insinuation, and lack of fact, as demonstrated in court.

n) in spite of shuffling definition of harassment within the case, for the purposes of lowering the threshold, he *actually* says to people that Ms Garden is "*borderline*" **[B1/43/339 & CX-93]**, that Cs have tried to extort money from him **[C11-4685 & CX-70]**, that Cs are "*dangerous, serial stalkers*" **[C10-4423 & CX-66],** a threat to his family, and at the time he published this post, that it was all to do with Melanie and Richard Byng, as revealed through his conversation with @animalsinsuits.

o) D1's claim to be using the privilege properly for himself is self-evidently not true as he deliberately uses covert authorities without giving any names of others Cs are supposed to have harassed.

p) Cs have published no videos about D1 since "*Ethics*", which itself was not an attack, but a factual account of events. He did the things documented in Ethics and has admitted that he did them. His case appears to be '*they made a video about me*'. Yet his Posterous post itself opens dismissively "*writing about contentious issues and having a blog that is read widely will mean that I attract attention from quarters that can be annoying at times*".

q) He has never commented on or about "*Ethics*" publicly although there are open comments, only limited by personal insult and mobbing.

r) Ds were attacking Cs in a very real sense, stalking Cs physically, for a long time and over a year before Cs ever contacted any other news outlet about them.

s) If D1 had any honest belief in their defamatory statements, they would be able to risk right of reply, and would have no reason not to. It is only because Ds know that their misrepresentations cannot be substantiated, that they also cannot risk letting anyone else talk about Cs.

t) D1's refusal to accord right of reply does not prevent him misleading others into thinking that he has. When Tom Armstrong, in trying to understand why Cs were excluded on one of D1's two FaceBook page promoting the Posterous post said "By all means mention your own personal accounts regarding Steiner", D1 said "yes" **[C6-3333 & CX-29]**, implying that this had been allowed but that Cs had done something else necessitating shunning.

u) D1s level of malice towards Cs belies his claim that he would ever have let Cs comment or "seen what happened" as he claimed in court.

v) Deliberate truncation of sentences again leads Ds to claim Cs were going to "publish it", by leaving off "as widely as necessary to make sure it gets to you", was simply notice that Cs knew D1 was deliberately trying to avoid receiving it, which his contemptuous publication of it proves to be true.

w) The potential necessity for further publication to ensure D1 received the defamation notice is also proven by D2's threat to @animalsinsuits the week before, that there is a low tolerance of those even talking to Cs. **[C17-7081 & CX-75]**

x) D1's covert communications just before C's sent their email, show that he was compiling a police file about them, which he would have continued doing whether or not Cs sent their email.

y) Cs submit that D1's covert actions are part of the attacks on Cs that their email was trying to address even though they could not know all the details.

z) D1's claim in the same document that the privilege has not been abused because he is only referring to himself is not true, as he states "myself and others".

Quackometer

39. **publication**

a) **Cs repeat paras 27d, 27e, 27f and 27g above**

b) Contrary to Ds claims (even re-stated in closing at para 18.5.2), and as mentioned during trial, the post will now come up on a search for any combination of Cs' names whether together (even without their surnames) or separately, and in the case of Ms Garden, in front of all those Chinese restaurants D1 was so disparaging of at trial.

c) The extent of and damage caused by this defamation is therefore much further than Ds claim in every respect.

40. **identification/defamation/meaning**

Cs repeat paras 30 and 31, and note that by this time the Settlement had occurred, so it was even more defamatory than before.

41. **Justification**

a) Para 32 a and b regarding level of proof and Ds covert harassment are repeated.

b) All relevant earlier paras on justification of both sentences of the blog post on Posterous apply to Quackometer.

c) Cs note that there was no reason, and certainly no provocation from Cs that can have led D1 to republish what he knew beyond question to be completely inaccurate.

d) Cs last post about D1 had been in response to his first publication of this Posterous article about them, i.e. five months earlier.

e) In fact at second publication, both these statements were, if possible, even *less true* than they were when he first published them and he knew that.

f) **In Flood V Times Newspaper**, the Times was held to have been aware of its obligation to publish updated facts regarding matters it had published on. The Times refusal to 'act responsibly" *invoked the concept of deterrence* as a marker and a warning that such conduct cannot represent responsible journalism."

42. Qualified Privilege/Malice

a) Paragraph 33 a above is repeated regarding Ds campaign and scope of privilege. No claim for reply to attack privilege can succeed by someone in D1's total position relative to Cs.
b) The only possible "provocation" for re-publication was the fact that the Titirangi settlement had been positively featured in the press.
c) Such a pleading could only be a pleading that by being successful and being in the press Cs were, in fact attacking D1. Otherwise that any publication at any time by Cs could be used as justification for retaliation. Any progress or success by Cs is an attack on D1, that would explain why he enjoys occupying a google search for Cs' names.
d) This cannot be seen in any sense as an 'attack' on D1 and his pleading of Qualified Privilege must fail notwithstanding a) above.
e) In 14 June 2013 he told a journalist, seeking to promote himself as an authority on Steiner, "*no one will call them out, it requires too much work to expose them!*" **[C5-2878 & CX-10]**
f) Further, by then, Alicia Hamberg, who Ds had recommend many times as essential to fully understand anthroposophy and its ramifications, had written about the consequences for people, of speaking out: *"there is general smearing and defamation of character — in private and in public you will risk being dragged into the gutter: you are not only ignorant or hateful or bitter or vengeful or a darned materialist, which speak to your lowly character, perhaps you are also some kind of crazed sex maniac or you are debilitated or you are mentally disturbed or you are guilty of criminal acts or you suffer some other moral or mental decrepitude or derangement".* **[C21-10 & CX-85]** Full quote and others in the same vein can be found in [**APPENDIX 3**, page11-15]
g) The high standard of defamation mentioned in para above, was here even more defamatory of the claimants and prejudicial to agency against bullying, and even more malicious, as the Titirangi Settlement [CX-101 TO CX-104] shows *beyond doubt* that they preferred both to settle, and to receive less financial compensation in order to provide some help for others,

THE TWEETS

43. Publication general

a) Cs repeat paras 27d, 27e, 27f and 27g above

b) It is important to note that whereas Ds' block Cs on Twitter and so can *only see Cs' Tweets by looking for them*, which they do, using that same search feature they deny is a normal use of Twitter, C's *don't block D's* but can ***also*** *only specifically see their tweets by searching* for them.
c) *Any attempt* by Cs to participate in the 'open' debate thus risks accusations of 'stalking' and Cs necessarily submit that 'stalking' has a different meaning for Ds than for Cs, in the same way that 'harassment' does.
d) Mr Price's claim that Cs had not sued on the private DMs of @animalsinsuits because he claimed it *was* "Cs", and *therefore it had not been published to a third party,* admits that there is no Head of Claim in this case that has not been published.
e) In fact, Cs had published the DMs almost immediately on learning of them both on their website and on Twitter, because Cs needed the evidence as proof of the campaign which Cs knew to be operating covertly but could not prove and is why they couldn't sue D1 on them, the same confounding issue that led their harassment claims to be amended out.
f) Ds' references to Twitter as "*ephemeral*" are wholly inaccurate as nothing is ever deleted unless by the original publisher of the tweet.
g) Anything tweeted at any time can easily be found through Twitter's own search facility.
h) Twitter is much more liberal and was designed purposefully so anyone can see anyone else's tweets unless the poster made concerted efforts to lock his account, a feature that isn't enabled by default and which hardly anyone uses.
i) Notwithstanding these realities, Cs have compiled a list of followers whose timelines were exposed to the tweets in question (**APPENDIX 6 and 7**)

"Lying threatening bullying…" - sent to 700 followers [see **APPENDIX 6** for an explanation]

44. Publication

a) Cs repeat paras 27d, 27e, 27f and 27g above
b) D2's whole method is to harass covertly and by proxy, D2 would never have tweeted that by herself, and used the original tweeter in order to hide behind a retweet while seeking to publish a blog post, which then refers back to herself by vague inference of "and others".
c) It would be wrong *not* to infer publication simply because of D2's provable habit of hiding behind the actions of others.

45. identification

a) Cs repeat all earlier paragraphs referring to identification, and submit that to insist on that would be abuse of process.

b) At the time of publication her campaign had been running for over a year, and several posts of “public stop” defamation had been published in English by D2’s Swedish friend Alicia Hamberg, since the time Cs had been attacked on her blog by several critics in simultaneous posts, egged on by D2 hiding in the background.
c) **Bowman V MGM [2010]**, cites the obvious percolation effect was a legitimate factor in assessment of damages, and so it must be also in identification.

46. defamation

The tweet, promoting the post which referred back to D2 achieved a strong and multi-pronged defamatory attack on the claimants, seeks to hide the fact that the Claimants are having to defend their reputations as she predicted. **[C7-3550 & CX-35]**

47. Justification

a) Para 32 a and b regarding level of proof and Ds covert harassment are repeated.
b) Mrs Byng knew and knows that she alone began this web of lies and deceit and that she has achieved it by lying, threatening, bullying and harassing the Claimants, by email, by phone, and in person, and causing them to have to bring this lawsuit, all because she decided that it was acceptable, in order to get Cs out of her life, to undemocratically exclude them from the platform by use of covert and proxy mental health smearing, and reputation destruction.
c) D2’s campaign began *before any actions or publications complained of in the defence.*
d) D2 pleads the words in the tweet refer to the blog post and yet in the blogpost D1 refers to “myself and others”, i.e. back to D2.
e) D2 retweeted it as a comment on her and must prove its substantial truth which she knows is impossible.

48. Qualified Privilege

a) Paragraph 33 a above is repeated regarding Ds campaign and scope of privilege.
b) This blog post is in no sense a reply to an attack, the defamation notice Cs sent acknowledged that “forgiveness is always possible”. Far from attacking, Cs distressed email showed a clear intention and will to resolve even very difficult upsetting and really awful issues. Clearly the defamation notice was itself a response to multiple attacks and D2’s tweet was a retort. [a breakdown of the most recent attacks at the time are listed in **APPENDIX 1**, page 5]
c) D2 is deliberately promoting a blog post defaming Cs, with a further defamatory tweet.
d) D1 did consult D1 with regard to the blog post so she was waiting for it.

e) Her conscious promotion of his defamatory publication of Cs' tormented defamation notice beseeching D1 to stop, in knowledge of her own harassment of Cs, how she had fomented the situation using public trust in her husband's status, and loaded onto further accusations, from a proxy, all of which she knew she had been doing to Cs, cannot be seen in any sense as a reply to any kind of attack on her.

f) The blog post mentioned D2 only in relation to D1's statement to third party @animalsinsuits that the claimants had told '*very terrible lies*" about D2, i.e. because of the reality that the origins of the situation lay with her, and stated simple facts of how the Byngs had made and broken contracts and then had said "*Mistakes can always be forgiven, yes probably even people being really vicious to you while your mother is actually dying, because that is pretty low,*"

TWEET **"Angels of Harassment"** - 86 followers [see **APPENDIX 7** for numbers explanation]

49. Publication

a) Paras 27d, 27e, 27f and 27g above are repeated.

b) the immediate third partiy in receipt of the tweet obviously knew who they referred to.

c) When C1 asked Caroline Pub where they got the information leading them to refer to Cs as hecklers, they linked Cs to D2's post on the Quackometer **[B1/43/194 & CX-90]**, so clearly someone had shared it with them that earlier. That is what it is there for, to make people think Cs are mad, bad and dangerous, and to stop them from communicating with others.

50. **Identification**

a) A marked characteristic of the dismissive humiliating defamation with no right of reply is the use of Ms Garden's name "Angelic Disharmony", "Angel Garden", and it is fully to be expected that after a year of covert warning and open abuse, plenty of both Ds' followers were aware of Ds' campaign against Cs, through the fully monsterised characterisations of especially Ms Garden, and Cs repeat earlier comments with regard to class of publishees.

51. Defamation

a) Any case regarding the publishee's previous opinion of Cs would, next to the facts, simply be a statement that it wasn't published to her because she's one of the gang. Cs repeat earlier comments regarding journalistic humiliation.

b) The extent of their 'gang' mentality now being known, Ds should not be allowed to escape the charges against them by claiming that their gang are all on board! This campaign has now been running since sept 2011, thus 18 months, and there were further examples of

substantial 'stop' defamation, including where D1 had commented, as in the "Angelic Disharmony" post.

c) As Bingham LJ observed in Slipper v BBC [1991] " *... the law would part company with the realities of life if it held that the damage caused by publication of a libel began and ended with publication to the original publishee. Defamatory statements are objectionable not least because of their propensity to percolate through underground channels and contaminate hidden springs*."

52. **Justification**

a) Para 32 a and b regarding level of proof and Ds covert harassment are repeated.
b) Use of naming puns to achieve humiliation cannot be said to be true in any sense.
c) D1 was part of a large group stalking and harassing Cs, The defendants' campaign, *into which the D1 recklessly bought straight away and a full month before Cs even knew he would publish on Steiner,* began before any actions or publications complained of in the defence.
d) Framing a legal duty to obey the OO as harassment, shows contempt of legal process.

TWEET **"Odd and disturbing" -** The above numbers exercise is impossible as the user's account is locked.

53. Publication

a) Cs repeat paras 27d, 27e, 27f and 27g above
b) The chances that others will not be looking at the TL of someone with so many thousands of followers is slight.
c) There were also several other people present in Bath and it is reasonable to be inferred that they may follow the Defendant as they turned up at his talk.
d) Disclosure also shows third parties responding privately after having seen tweets from Cs, asking for further information.
e) When a pub you don't know tell you you won't be allowed in but will be treated as "*known hecklers*" **[B1/43/200 & CX-91]** with no public communication between that pub and others, it would not be safe not to infer publication.
f) Cs submit that publication of all these tweets can be and must be inferred and that it is only Ds' own covert methods that obscure both the number and class of publishees.

54. Identification

Cs repeat remarks in this regard for other tweets and add:

a) D1's disclosure of the extent to which his labelling of the claimants themselves as dangerous serial stalkers, etc., uses mentally and criminally smearing language, destroy any argument that the phrase "odd and disturbing people" referred to "behaviour",
b) D1 felt confident enough to do it publicly following the manner in which he has spoken to Cs at the pub.
c) This was a new development to use that language so publicly that he was used to using privately, and there must have been many people in the relevant classes who had received the mental health smear and must have identified Cs.

55. **defamation:**

a) Cs repeat all relevant remarks with regard to all other heads of claim.
b) In view of Ds' obvious smearing of Cs in public as being dangerous people the night before, this tweet was extremely denigrating and deliberately so.

56. justification

a) Para 32 a and b regarding level of proof and Ds covert harassment are repeated.
b) Ds' campaign, into which the D1 bought straight away, began before any actions or publications complained of in the defence,
c) Cs clearly understood D1 wanted nothing *visible* to do with them.
d) D1's tweet insinuates the same smearing of the night before, that Cs were personally dangerous, bent on personally disrupting D1's life
e) D1 misrepresents that he wants nothing *personal* to do with us. In fact he knew Cs' interest in him is confined to the relevant issues, namely Steiner education.
f) It is neither odd nor disturbing to attend a meeting, on a matter of joint interest in which you have both interests and agency, to hand someone a letter before action who has published your last one and then made himself completely unavailable to receive this one by email and who you know to be smearing you.
g) The court witnessed first hand the 1st Defendant blithely claim both that he had not blocked Cs' email addresses *and* that he simply did not receive Cs' email. This is simply a transparent part of the harassment and provocation which are his stock in trade.
h) Cs' urgent attempt, having relocated within statute, to resolve the matter without taking legal action led him to threaten others soon after that he would not speak if Cs were there.
i) The video D1 refers to as "covert", was not at all. The video shows C1 holding his phone out in full view of everyone present.
j) This tweet demonstrates D1's confidence in the joint strategies of covert harassment and defamation.

Concluding remarks

57. Due to Ds constant and aggressive efforts to turn the case, Cs *cannot afford not to assess* the evidence from court regarding the origins of both Ds in the campaign of victimisation of Cs. To the extent that inclusion of this information *at all* may be seen as overly defensive, Cs have attached full details of it at [**APPENDIX 2]**, and Cs can only submit that they have had to get used to being defensive since they encountered Ds and that this is the exact result D2 predicted in 2011, after the mobbing in D2's 'not for publication' comment when she said Cs would from now on only be able to "*defend our reputation*".

58. Cs submit they have proved their case of defamation, and exposed the detailed mechanics of a substantial and extremely damaging campaign of covert and proxy harassment, that has the power to do significant damage to all aspects of their and their children's lives. Cs have also proved that this campaign was *already occurring before Cs published anything about D2*, and that it continued, *and continues regardless of what Cs did or do, including during proceedings.*

59. *Although the mobbing took place in three threads on Alicia Hamberg's blog, the splitting of C2 from the class of "all other parents of Steiner", was begun on the LSN thread (where D2 was contributing covertly) when Ms Hamberg's comment [D2's WS Para 19] "people might live on a location where their children have to be able to move around in the village, have friends, go to school, etc, without feeling that their family has become social pariah"* deliberately omitted the knowledge that this is what had just happened to Cs. Ds persistent denial that it was a mobbing forces Cs to detail each element of the 16 point test mentioned at trial to avoid doubt. **[APPENDIX 4, page 16-18]**

60. Having already been mobbed for six months by the people D1 aggressively recommended along with his provocative "*looking forward to making new enemies, always exciting*" tweet, Cs certainly had to suspend their disbelief to even attempt to participate when he published about Steiner. D1's claim that he did not pre-emptively block Cs' email addresses is just as unlikely to be true as his claim that he will cease to look at Cs' timelines after the case is, given the fact that disclosure shows him to have been doing it for years previously while claiming total disinterest in Cs. That it was the addresses that were blocked was proved to a high standard by his lack of ability to answer C1's questions in court, his admitted exaggerations about Cs response to his prejudicial blocking of them, as well as his parroting of D2s own smears when she warned him. All these add weight to Cs submission that D1 was already fully 'on board'

with D2's campaign before he ever published about Steiner.

61. Cs have proved that they held a good, even exceptional reputation with Steiner critics, prior to Joe's visit. D2 referred to Ms Garden as 'a genius' (Para 18 of Reply), and attempts to prove otherwise must fail on facts.

62. JUSTIFICATION

a) Ds have not proved that the words in any head of claim are "substantially true", and how can they, as they normally say the exact opposite about Steiner parents [**APPENDIX 3**, page 11-15] and have been covertly harassing, bullying, threatening and lying about Cs for years?
b) People who block off right of reply to their defamation, and deliberately ignore their own right of reply, thus deliberately close off communication at both ends in order to covertly harass, should not be believed about the "substantial truth" of what passed between or about parties.
c) Ds' attacks on Cs is to the extent that grown people express frustration at not being able to publicly speak of Cs, or of the Titirangi Settlement at all.
d) Not only has each vague implausible excuse for any such campaign evaporated, but the stark reality has emerged that it only began at all because Ms Garden has a physical impairment.
e) The pleading of justification must fail on the facts, and is itself malicious, since Cs can have no honest belief in it.

63. MALICE

a) Ds cannot have any honest opinion in any statement in any Head of Claim and do not care as to the truth of them.
b) The points of view claimed severally as "honest" by Ds are to a great extent mutually exclusive.
c) At trial both the defendants admitted that they wanted to 'get Cs out of their lives', disclosure shows the extent of that desire and that they will say anything to get it.
d) Any "honest opinion" next to verifiable facts would immediately render the malice impossible not to see.
e) Malice extends to the claimants' own children.
f) D1 admitted that he enjoys the spiteful dismissive humiliating defamation wrecking our livelihood, dominating google search with no honest belief in it whatsoever and no care whether it is true or not simply in service of growing their gang.

g) Both Ds' disclosures are replete with stated ill intention towards Cs, that supply the real reason for the defamation, to destroy Cs.

64. Cs role as publishers

a) Cs adopted policy of exercising free speech, even to the limits of it, in self-defence until Cs could address this legally, has forced Cs to publish in awareness of possible eventual forensic scrutiny by a judge.

b) Cs are professional publishers, and are paid to make videos and write. This necessary diversion from other stories has placed limitations on Amazon News Media and made proper assessment of its otherwise likely success impossible and it is hard to make any estimate of how successful any of Cs outlets, or Cs themselves under their own names, would have been over the last four years if not subject to overt and covert attacks and sabotage by Ds.

c) Two thirds of Cs publishing output, including 95% of video is nevertheless not about any matter connected with Ds.

d) Cs have attempted to maintain journalistic integrity notwithstanding the force of the attacks.

e) Where Cs have made challenging statements of opinion following detailed exposition of facts, in terms of the references to corrupt actions by Ds, Cs have always clearly qualified this and always offered right of reply.

f) In spite of the undeniable evidence of harassment of Cs by these defendants, including by their defamation, in fact the only people who don't like Cs are people connected with Cs, a group Ds are actively trying to grow through defamatory control of google search and covert and proxy harassment.

g) Ds magical thinking extends to that if they don't want Cs to be a media outlet, then Cs won't be one, and that ignoring what they publish will make that so. In fact it is *only* true in the sense that Ds covert and proxy gang-stalking methods may destroy, as Ds have tried to do.

h) D1's provably untrue claim that he only wants to 'be left alone' demonstrates the projection in Mr Price's accusation to C2 at trial, of getting her "personal and journalistic lives confused". D1 occupies a platform that Cs also occupy, D1 publishes lies about Cs both publicly and privately, Cs are therefore rendered unable to leave D1 alone but are forced to 'vex' and 'tire' him with requests to adjust his own unreasonable behaviour by ceasing to control google searches for Cs, D1 then claims to be being 'harassed' and so on.

i) D2's references for example referring to Amazon News Media, as "Amazon Foot Media" in characteristically disablist language, again shows Mr Price's projection.

j) All Cs have requested is that, in hating Cs, Ds nevertheless follow responsible practise and put their excoriating opinion of Cs *next to verifiable facts* and cease to spread lies about Cs.

k) Cs acknowledge that this can evidently only happen by injunction.

65. **Richard Byng's** involvement, acknowledged by him at trial, went further than the use of his credentials to super-charge D2s defamation in smearing Cs, in particular C2. Disclosure shows that D2 to easily able to persuade him into warning others, and into pressurising those who resisted joining in.
    a) Doctor Byng nevertheless took thousands off Cs to get out of this case rather than acknowledge and put right such an obvious abuse of his professional status. Richard Byng has received substantial payment from Cs already, under absolutely false pretences that he had not been involved, as the original PoC stated, colluded, when he admitted at trial that in fact, he had.
    b) C's note the likelihood that further covert harassment would have been discovered upon disclosure if he had remained in the case.
    c) The extent of outrage of Ds at Cs protests about Richard Byng's involvement, when given his actions inactions and omissions, correctly identified by Cs without proof, protest and complaint was fully justified.

66. Cs again note relevance of **Rita Pal v GMC,** also **Cruddas V Adams [2013]** as well as **Johnson V Steel and others [2014]** bears some looking at as Sir David Eady awarded aggravated damages on several bases relevant to this case including:
    - bogus information on a google search for Cs name
    - lack of any attempt on Ds part to justify or in any way defend allegations
    - material sabotage of Cs work, (in that case about hiding of computers).
    - obstructive defence behaviour
    - false allegations made to the police

67. As well as all the above Cs ask the court, in assessing damages, to consider:
    a) The extreme level of malice - Ds have sought to dishonestly oust Cs from a shared platform presented as democratic and 'open', where Cs have both interest and proven agency, simply because they do not like Cs personally and through the use of corrupt, dishonest and unethical means.
    b) The necessity for an injunction from defamation in view of Ds absolute lack of remorse and continuance of their covert campaign including through all proceedings, even causing the blog to rise up google ranking during the trial.
    c) proportionality: matters where police are called to prevent the exercise of democracy are not trivial.

d) The importance of agency for bullying, given the serious consequences it can have, and the respectability of the Titirangi Settlement which was overseen by no less than four HR lawyers.
e) The manner in which the defamation and the covert campaign cross-fertilise one another.
f) The likely extent to which the campaign of defamation and covert and proxy harassment, originated from a lack of understanding or care about disability, or bereavement "Andy Lewis and I both think it's a borderline personality disorder. […] On the other hand, that IS her disablement, not the foot. The foot is real, but it isn't that bad." (10/5/12 at 13.54) [**C9-4129 & C9-4130 & CX-99 & CX-100]** following very many persuasive assurances of understanding of the Claimants' circumstances by D2.
g) The amount and level of mental health smearing and criminal imputation, using Dr Byng's professional credentials to give weight to already extremely stigmatising lies about Cs and in particular C2.
h) The level of mental health smearing being demonstrably higher and more 'official' *when people appear to be unconvinced on visible facts*: D2 used "clinical judgement" when Sam protested that she should have apologised to Cs. D1 did the same with Sid Rodriges: "It is likely that she does indeed suffer from a personality disorder and is paranoid too." **[B1/43/339 & CX-93]**
i) The length of time the defamation has been there, and its deliberate republication after the Titirangi settlement, and the necessity, following Cs' relocation, for them to work in the UK.
j) The many attempts Cs have made to avoid this necessity, having tried absolutely everything they could think of in contrast to the 1st Head of Claim being Ds' contemptuous publication of a defamation notice!
k) Deliberately forcing Cs to spend their energies defending either themselves, their media outlets, their family or the Titirangi Settlement, which is a landmark piece of agency which Ds know should enhance Cs' reputation, and would without their harassment of Cs.
l) The fact that it is proven that D2 began to foment her campaign with no provocation and without Cs having done anything at all.
m) The deliberate and repeated humiliation Ds have sought to heap onto Cs.
n) The level of covert and proxy activity
o) Ds' huge influence compared to Cs
p) The number of people involved against Cs as two individuals, who are also parents.
q) The fledgling status of Cs' media outlets compared to the size of D1's platform.
r) That Ds are two families where Cs are one.
s) That these imbalances are what has allowed and encouraged Ds to attempt to game the system with dishonesty as there simply is very little financial risk for them.

t) The tens of thousands Cs have had to pay in order to get to this point including relocation, without which this defensive action would not have been possible.
u) The costs of application to re-amend at the PTR, given the level of covert harassment and the fact that those claims were only amended out in the first place because it is covert.
v) The manner in which Ds dismiss differences in treatment of Cs' children as irrelevant, whilst publicly claiming Steiner to be an insidious cult, so Ds know that it must be significant that one child was admitted to have been expelled following bullying, and the other child was admittedly expelled because, the school having done nothing about the bullying, the parents were forced to advocate.
w) The damage to Cs' children caused by forcing Cs to fight their defamation legally instead of Ds simply responsibly factually correcting it.
x) The stifling effect of Ds' defamation which make it impossible for Cs to promote themselves in any way and which if unchecked, would force them from the field, and from any field.
y) The £14,000+ Amendment costs demanded by Ds and Richard Byng, for removal of elements which Ds knew full well, if they couldn't intimidate Cs into giving up, would be proven (Richard Byng's admitted involvement in mental health smearing and Ds' covert and proxy harassment, and that their defence would be wiped out by their own disclosure).
z) Cs seek recovery of those costs and recognition of the substantial damage and harm in smearing effective whistle-blowers while seeking to profit from a platform of championing such people, and how this can and does frighten others from standing up, which in this case relating to parents advocating for bullied kids, could cause harm to children.

68. Although it is proven that Ds have done everything Cs said they were doing and more, it is certainly cold comfort: how cold now depends in no small measure on the court.

69. To any possible extent that Ds have succeeded in disguising the fact or extent of their harassment of Cs as facts and context to their substantial defamation (or due to any constraints caused by cause of action in this case or for any other reason), Cs implore the court to release the confidentiality on the covert and proxy harassment revealed and contained in Ds' disclosure for examination by the CPS. Cs submit that it does and will be found to contain gang-stalking and harassment reaching a criminal threshold, tormenting Cs by causing material interference with their lives and livelihood, with significant ability to harm Cs and their family, and from which Cs and their children need protection.

Stephane Paris & Angel Garden
The Claimants