

1 **IN THE HIGH COURT OF JUSTICE**
2 **QUEEN'S BENCH DIVISION**
3 **SWANSEA DISTRICT REGISTRY**

Case No: 3SA90091

Swansea Civil Justice Centre,
Caravella House, Quay West,
Quay Parade, Swansea SA1 1SP

Friday, 20th March, 2015

Before:

HIS HONOUR JUDGE SEYS-LLEWELLYN QC

8
9 B E T W E E N:

(1) **STEPHANE (A.K.A. STEVE) PARIS**
(2) **ANGEL GARDEN**

Claimants

- and -

(1) **DR. ANDREW LEWIS**
(2) **MRS. MELANIE BYNG**

Defendants

15
16 (Digital Transcription by Marten Walsh Cherer Limited,
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21 **THE CLAIMANTS** appeared **In Person**

22 **MR. JONATHAN PRICE** appeared on behalf of the **Defendants**

23 **EXTRACT OF EVIDENCE**
24 **OF**

MELANIE BYNG

[Prepared without access to documents]

1
2 **MRS. MELANIE BYNG, recalled**

3 **CROSS-EXAMINED BY CLAIMANTS, continued**

4 MS. GARDEN: This is a bundle, your Honour, taken from disclosure
5 of examples where the same kinds of experience that we
6 documented are reported in Steiner schools, of which there are
7 many more than we can include here I have to say.

8 JUDGE SEYS-LLEWELLYN: In other words, if you go online you do a
9 search you can find a number of experiences being recounted
10 which are similar to yours and these are ----

11 MS. GARDEN: These are some of them.

12 JUDGE SEYS-LLEWELLYN: Some of them. All right.

13 MS. GARDEN: They are all in different places. Some of them are
14 on some of the websites that we have been discussing here,
15 Waldorf Critics website. Other websites, where people go and
16 make comments like Alicia Hamberg, she has removed a huge
17 amount of material off her website though. This one here is
18 from Carol's Couch(?) on page 2 at the top on ----

19 JUDGE SEYS-LLEWELLYN: Just to give you guidance. What I am
20 interested in, of course, is what Mrs. Byng has said or not
21 said, how she has reacted. I am not here to try whether
22 world-wide or in particular locations, experiences such as
23 yours are due to the philosophy underlying Steiner schools.

24 MS. GARDEN: Obviously what we are about here, your Honour, is to
25 try and illustrate how in this case, having said in the

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2 beginning it was all the same, because of something that
3 happened which, you know, we are not really going into, then
4 it was all turned around. In fact, these, if it ----

5 JUDGE SEYS-LLEWELLYN: Just give me an idea what you want to ask
6 Mrs. Byng.

7 MS. GARDEN: I want to ask Mrs. Byng to confirm that in order to
8 be able to mount her campaign against us, including in this
9 trial, in these proceedings, she has had to run into the arms
10 of the cult that she has spent so many years trying to expose
11 in order to do that to put their point of view, to quote from
12 their side. These are people who she thinks of as a cult. I
13 would like her to acknowledge that that is in fact what she
14 has done.

15 MR. PRICE: That would be totally irrelevant and somewhat
16 belligerent.

17 MS. GARDEN: It is relevant to malice.

18 JUDGE SEYS-LLEWELLYN: I am way outside anything to do with this
19 case. I am not here to deal with proving or not proving that
20 Steiner philosophy leads to an unchecked bullying. I am here
21 to determine a case in defamation which you are bringing, in
22 particular by adoption of Dr. Lewis' blog and republishing it
23 and a particular re-tweet of 9th November 2012 by somebody
24 whom you have not sued, but whom you are suing in respect of
25 Mrs. Byng where you are suing her for re-tweeting:

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2 "Lying, bullying, threatening ... How do Angel Garden
3 AKA@Amazon NewsMedia and @sjparis sleep at night?"

4 That is what I am here to try.

5 MS. GARDEN: I understand but this goes to malice.

6 JUDGE SEYS-LLEWELLYN: I need to get back to it.

7 MS. GARDEN: Your Honour, the reason this is on the table at all
8 is because of malice.

9 JUDGE SEYS-LLEWELLYN: So your question is?

10 MS. GARDEN: Mrs. Byng has no honest belief in the statements that
11 she has made about what happened as far as we are concerned in
12 the Titirangi Steiner school and cannot have any reason to use
13 that to try and get us off any platform whatsoever and that to
14 do so she has had to, as I say, use the words of what she
15 describes as the cult and that is malicious.

16 JUDGE SEYS-LLEWELLYN: I am going to translate that, I hope
17 accurately.

18 MS. GARDEN: Thank you.

19 JUDGE SEYS-LLEWELLYN: Originally you were accepting that the
20 claimants had had a dreadful experience at the Titirangi
21 School where they were putting that forward as strong evidence
22 against the Steiner philosophy. Initially you were
23 supportive, then you stopped contact with them and on
24 occasion, such as the occasion which has just been referred
25 to, you were willing to contemplate the possibility or

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2 probability that it was the claimant's behaviour which led to
3 expulsion rather than the Steiner philosophy of the school.

4 What is being said is that you did this volte-face of
5 being willing to accept the Steiner account for improper
6 motives springing from your feelings about the claimants. Do
7 I have it sort of right?

8 MS. GARDEN: Yes.

9 JUDGE SEYS-LLEWELLYN: I got a thumbs up from Ms. Garden.

10 A. I think that it is certainly the case, as I said yesterday
11 about bullying in Steiner schools, that it can happen. There
12 is no evidence that I have ever seen provided that the
13 bullying in this case, if it happened -- and as I say I do not
14 want to criticise the child involved -- had anything to do
15 with the Steiner philosophy. Therefore, the way that I have
16 seen the claimants behave in the last few years is so extreme
17 that it led me to believe that there was a distinct
18 possibility that in this case the school was correct.

19 I have experienced Steiner schools where parents have
20 behaved very badly and have been asked to leave as well. So,
21 I have experienced different scenarios and I do not see it in
22 black and white terms in which in every case a Steiner school
23 has behaved badly or in every case parents have behaved badly.
24 I think it is immensely complex and it is likely to vary in
25 many different cases.

1
2 That does not mean that I am siding with Steiner
3 education in some way. I am not saying it in some way
4 maliciously in order to destroy a case. I am reflecting
5 simply on the claimant's behaviour towards me and towards my
6 friends over a long period of time and expressing that in a
7 private email to a very dear, close friend of mine.

8 MS. GARDEN: So on page 7 of the little bundle entitled: Is it
9 the parents' fault? There is something that you wrote about
10 Steiner schools in 2010. This is your own writing. What you
11 said here is:

12 "More and more I am convinced that not only should the
13 UK tax payer not fund Steiner/Waldorf schools, these schools
14 must and will be exposed. The inevitable and desirable
15 consequence of this will be that they cease to exist. Choice
16 is not an issue. This is a farce, not a viable educational
17 alternative."

18 That completely contradicts what you have just said,
19 does it not?

20 A. I don't believe so.

21 Q. It is not black and white. This is very black and white, is
22 it not, they should cease to exist?

23 A. Sometimes I was, unfortunately, a bit more black and white
24 than I should have been but that is nothing to do with what I
25 have just been discussing. I could explain to his Lordship

1
2 more about that if you would like me to but I think it is not
3 entirely relevant.

4 Q. Do you not believe that they should cease to exist?

5 A. I believe that the role of anthroposophy within
6 Steiner/Waldorf education should be transparent and that
7 therefore in their current form in which that is not
8 transparent, it is not viable that that continues. I do not
9 believe that the taxpayer should be asked to fund an education
10 system where that philosophy is not transparent.

11 Q. Do you or not believe that they should cease to exist?

12 A. I believe that they should, whether or not I wrote this, if
13 you are asking me, if I feel this now, are you asking me
14 whether I feel this now, whether I think this now or whether I
15 thought that in 2010?

16 Q. I am not asking you whether you are changing it because you
17 are sitting here. I am asking you whether you stand by what
18 you wrote then?

19 A. Ms. Garden, over a period of time, especially philosophically
20 speaking, I do change my mind about things. So, things that I
21 might have written in 2010 I might have a slightly different
22 view on in 2015.

23 Q. That is what I am asking you. Do you now believe they should
24 cease to exist?

25 A. I believe that anthroposophy, the use of anthroposophy within

1
2 Steiner schools should be more transparent than it is. It
3 should be better understood and that in their current form
4 they are not viable and they should not be funded by the UK
5 taxpayer. However, that does not mean that I feel that all
6 Steiner schools should suddenly disappear.

7 Q. A final thing on this, please, on page 6. This is not a
8 comment by you but it is a comment that Mr. Paris is asking me
9 to put in front of you, Diana Winter said to you. This is
10 when we were in mediation. She said:

11 "Sadly it occurs to me that the stories of what happened
12 to her children are probably not exaggerated."

13 This is someone who absolutely hates us. She has
14 written the most horrible things, almost more horrible than
15 things you have written about me. Yet she still, because she
16 knows, she is Steiner critic, she is the one who said to me,
17 "oh, some of us have been doing this for decades, do not come
18 in here with your silly ideas", but even she had to admit that
19 what's reported is just standard within that problem of
20 Steiner. Isn't that right?

21 A. I am sorry you are saying that Diana Winters wrote that. I do
22 agree that Diana ----

23 Q. Yes, I am sorry, again because this is for the benefit of ----
24 JUDGE SEYS-LLEWELLYN: I am not making a note of that because I am
25 fascinated in one sense that Diana Winters has written that,

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2 but it has nothing to do with this case.

3 MS. GARDEN: Thank you, your Honour. The last bit we want to deal
4 with is the mental health smearing, please. Your Honour, I am
5 going to ask Mr. Paris to take over again because I find it
6 hard to discuss mental health smearing of myself?

7 JUDGE SEYS-LLEWELLYN: Yes.

8 A. I have two of these, do you want one back?

9 MR. PARIS: Your Honour, this is again a compilation but we are
10 not going to look at it all because we want to finish this as
11 well as everybody else. I want to focus on what I believe to
12 be the worst one.

13 Q. Mrs. Byng, how did you come about a clinical judgment of Angel
14 having a borderline personality disorder?

15 A. This is from my reading, my understanding of what is called
16 the DSM-IV which is the diagnostic and statistical manual of
17 mental disorders. It is an American publication. It has been
18 superseded by DSM-V which was published a little while ago,
19 but at this time the criteria that I was very interested in
20 and had been reading about and in lots of different forms for
21 several years is what I was thinking about. It is my
22 reflection, this particular statement is made in an email to
23 my friend, Sam, I am not going to say her surname because she
24 is anonymous.

25 The email thread is very interesting in itself and if we

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2 would like to go into this in more detail I would like to have
3 the entire thread in front of us, but, if not, I am happy to
4 proceed without that.

5 JUDGE SEYS-LLEWELLYN: For the moment proceed without it.

6 A. Okay. In order for me to come to terms with Ms. Garden's
7 behaviour, because I am interested in certain personality
8 traits and in personality disorder I have my own thoughts
9 about this which are not to do with my husband. My husband's
10 diagnosis, if such a thing had existed, which it certainly did
11 not, would have been immensely complex. He himself is not so
12 keen on the DSM criteria, this is not for him quite as
13 interesting as it would be for some other people. It is much
14 more complex.

15 I have always found it very interesting and for me it is
16 a way of understanding certainly personality trait which I
17 believe existed before I met Ms. Garden. They were patterns
18 of behaviour which were pervasive and well established and it
19 led me to believe that actually this behaviour was not in a
20 way really aimed at me but was a pre-established pattern of
21 behaviour which was played out before and probably would be
22 again.

23 Q. So it is not a clinical judgment, it is just an opinion then?

24 A. Yes, in fact that phrase is a very odd one which I probably,
25 had I been writing it thinking that I was going to read it out

1
2 in court I would have said, "Sam, according to my reading of
3 DSM-IV I believe that this is my judgment, that this is the
4 case". It is clearly not a doctor who is writing that because
5 a doctor would understand that regardless of who was making
6 that diagnosis or opinion it would be an opinion.

7 Q. So when you wrote to Sam you said Angel has a borderline
8 important disorder, this is a clinical judgment not a personal
9 opinion.

10 A. I think I said it the other way around.

11 Q. No, you did not.

12 A. Okay.

13 Q. That is the whole point. We can look at the original then if
14 you want.

15 JUDGE SEYS-LLEWELLYN: Just look have a look at the second of
16 these entries, I think it is an important point.

17 A. Yes, it is very clumsily written.

18 MR. PARIS: I think it is very clearly written.

19 A. My friend Sam knows Richard very, very well. If what you are
20 saying is that I am pretending that Richard has made a
21 diagnosis of Ms. Garden, it is completely untrue. Had I
22 wished to say that my husband had made a diagnosis -- which is
23 impossible because she is not his patient -- then I would have
24 said so to Sam. There would be absolutely no reason for me
25 not to say so.

1
2 Q. But it does seem that is what you are saying. This is a
3 clinical judgment not a personal opinion.

4 A. It may seem as if that is what I am saying, but that is not
5 what I meant.

6 Q. Okay, the very next one down the line then, you said:

7 "At the end of this there is his clinical judgment which
8 she seems to have forgotten."

9 A. Yes, you are going to have to discuss that with my husband.
10 It would be very difficult for my husband to completely ignore
11 behaviour towards his family but he did not make any kind of
12 clinical judgment.

13 Q. Despite the fact that it looked as if he had in that email
14 then?

15 A. You would have to speak to Sam. I have spoken to Sam about it
16 and if his Lordship would like me to tell him what she has
17 told me about her reaction to that I am happy to do so.

18 JUDGE SEYS-LLEWELLYN: I think the focus, we are now on the third
19 entry, you are writing to Alicia: "At the end of this is his
20 clinical judgment which she seems to have forgotten". Now,
21 taking that on face value that looks as though it is his
22 clinical judgment of ----

23 A. Yes, but they are in very different places. They are not in
24 the same email.

25 Q. If you do not remember you must tell me but at least to start

1
2 off with do I correctly understand, first, that you are happy
3 to accept that you wrote this?

4 A. Mm-mh.

5 Q. It may be in longer email, but secondly that "his" refers to
6 your husband; is that right?

7 A. Yes, "his" does refer.

8 Q. Right. Well, on the face of it that does look like a
9 reference to a clinical judgment ----

10 A. I realise, but they are in two ----

11 Q. ---- by your husband?

12 A. They are in completely different places.

13 Q. Completely different places?

14 MR. PARIS: They are in two different places. I have extracted
15 them from two places, but chronologically one happened in
16 January 2012, the other one happened in October 2011. So,
17 October 11 is the first one, at the end of this is his
18 clinical judgment which she seems to have forgotten.

19 Then in January 2012 you say:

20 "Angel has a borderline personality disorder, this is a
21 clinical judgment not a personal opinion."

22 A. Mr. Paris, I can see what you are getting at and I would like
23 to reaffirm that my husband has never made a diagnosis. His
24 ----

25 Q. So you were making it up then?

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1
2 A. No, I was not making it up and I was not implying that he had
3 made a diagnosis. A formal diagnosis is only made in a
4 particular way. Your wife is not my husband's patient and,
5 therefore, he could not have made a formal diagnosis. That
6 does not mean that he does not make judgments about
7 behavioural traits.

8 In many other places in my emails, well, not in many
9 other, in other places in my emails when I talk about my
10 husband I say, "this is not my husband". I say that in
11 several other places.

12 Q. I agree, you do say that in other places but you say that
13 later on. In here you were quite emphatic that there was a
14 judgment and that is actually quite serious?

15 A. It is my judgment. It is my judgment.

16 Q. You are not a doctor, you can't have a clinical judgment, can
17 you?

18 A. Yes, I can.

19 Q. Okay.

20 A. Perhaps you would like to discuss that with my husband.

21 Q. No, I am just saying that as a civilian you can't have a
22 clinical judgment ----

23 A. Yes, you can.

24 Q. Anyway, there are quite a few emails where you say that Angel
25 is unstable, that she is definitely borderline. I will not go

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2 into any more, I just want to point out that there have been
3 mental health smears done.

4 Excuse me, on the sixth one, the one that says tab 47,
5 C7/3617 where you write to Alicia Hamberg, you explain that
6 borderline, they threaten suicide too and she may have
7 threatened other things which is why Steve may not want to
8 risk leaving the children with her if she has ever thought of
9 escaping. "He", sorry.

10 You were using the insinuation that there was a clinical
11 judgment against my wife in order to further defame her.

12 A. Mr. Paris, these a private emails between me and my friend
13 Alicia Hamberg in which I discuss many things.

14 Q. They were published to a third party about my wife, were they
15 not? That is defamation, isn't it?

16 JUDGE SEYS-LLEWELLYN: They are not the subject of this
17 defamation.

18 MS. GARDEN: No, I agree.

19 JUDGE SEYS-LLEWELLYN: What is being said to you is, at the
20 kindest, this is a wilder surmise on your part; is that fair?

21 A. A wilder surmise? It is, I don't believe it is ... I don't
22 know how to answer that. What is being said is it is a wilder
23 surmise. I think that it is quite a, it is a very considered
24 idea. It is not just said out of nowhere. What I am talking
25 about with suicide is the links between borderline and the

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2 tendency to suicidal thoughts. This is not, this is saying
3 "people with borderline personality disorders threaten suicide
4 too" and then it says it "may". So I am simply debating with
5 myself, thinking about it. I am not saying this is the case.
6 I am saying it may be the case.

7 MR. PARIS: So when you say in tab 19, C89/3905 yes, deffo
8 borderline with a sprig of narcissism, there is no "may", there
9 at all; is there?

10 A. No, but that is in a different case.

11 Q. It is still about my wife. Actually it is about us, both of
12 us, a folie à deux under assumed names. So, now I have got a
13 borderline personality disorder as well.

14 A. No, I was not implying that folie à deux is something quite
15 different.

16 Q. Actually, yes, that is right, I seem to remember that I would
17 have had to be more entertaining. Actually it is on the other
18 page, tab 144, C9/4231, said "if he wants one from my husband"
19 a clinical diagnosis, "an informal diagnosis he will have to
20 be a lot more entertaining?

21 A. Mr. Paris, I know this is very unpleasant for you to be
22 reading these things but a lot of my emails are humorous, they
23 are satirical, they are jokes, they are banter, they are not
24 serious analysis. They are ----

25 Q. Mrs. Byng we have seen through all these points that I pointed

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2 out, you have tried to warn a lot of people about us, have you
3 not? You have smeared our names. You have even said to
4 Francis Gilbert that Angel is unstable and to a few others.
5 Essentially our point is you have attacked us and what we have
6 done was defend ourselves to the best our ability.

7 A. I do not agree with that supposition.

8 Q. I know you do not but the facts are all there. I think we
9 have one more question, your Honour?

10 JUDGE SEYS-LLEWELLYN: Okay.

11 MR. PARIS: Let me find the file we are looking for.

12 JUDGE SEYS-LLEWELLYN: Of course.

13 MR. PARIS: It is C4/2504, your Honour we have to go to
14 bundle C4/2504. **(Pause)**

15 MS. GARDEN: I will do this bit. Can you confirm, please, that
16 this is a copy of a post off Ms. Hamberg's blog?

17 A. Yes, it is The Ethereal Kiosk, yes.

18 Q. This is the first time we can find a mention of somebody
19 talking to you about us on the internet?

20 A. Yes.

21 Q. I just want to point out that you had found us, had you not,
22 because it says h/t your Honour on the first page, that is a
23 phraseology that means hat tip. Which means, **(unclear)** is
24 responsible for bringing this information into everybody's
25 awareness. None of them had known anything about us before.

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1
2 A. Actually, that is not, it is not correct that it is first of
3 all me. There is another person who found your posts and your
4 sites before me. I can tell you who that is if you want.

5 Q. All I want to look at is that in June this Alpha Omega person
6 who is commenting at the bottom here is talking to you. She
7 said on the top of page 2505, she is quoting how we felt about
8 the unchecked bullying where I put:

9 "As parents we were asked to watch our daughter being
10 hit and accept it. Now the whole school community have all
11 been asked to watch us being hit and accept it."

12 That was felt to be worth quoting with the question
13 underneath to you:

14 "Can you find some way to get this into the ongoing
15 discussion in the UK?"

16 You have spent the last three years trying to make sure
17 that did not happen, have you not, Mrs. Byng?

18 A. I do not agree with your argument in the sense that you have
19 had a huge opportunity to publish things on your own sites and
20 I have never ever attempted to stop you doing so. All I have
21 done as far as, for example, Dr. Lewis' site, is to ask that
22 you did not write about my family on his site.

23 Q. You have just said that we have had every opportunity to write
24 on our own site?

25 A. Yes, you have.

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1
2 Q. But you are calling that harassment, are you not? There is
3 not an opportunity, what that has done is give you the
4 opportunity to say it is harassment. You have never asked us
5 not to and yet, because you did not think we were going to
6 come back and sue you, did you?

7 A. Actually, I did think you might sue me ----

8 Q. You knew that were libelling us but you thought you knew ----

9 A. I thought you were assuming because you are litigious
10 Ms. Garden, that anything I said, anything I said to you might
11 be used against me.

12 Q. You never said anything to us but what we hear about is the
13 fact that untruths, defamatory untruths have been published
14 about us. You never said anything that was written about you
15 was defamatory. It is not even in your defence that any of it
16 is defamatory. It is my free speech that you are objecting
17 to.

18 MR. PRICE: That is unhelpful.

19 MS. GARDEN: We have no further questions.

20 JUDGE SEYS-LLEWELLYN: There is a choice either to cross sue in
21 defamation or to choose not to do it. The choice has been
22 made on the part of Mrs. Byng, if she considers that this is
23 defamation, not to sue you. Doubtless at the end there can be
24 submissions that either that is revealing to the discredit of
25 Mrs. Byng's case or that she may have thought that to do so

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2 would be to throw fuel on the fire.

3 MS. GARDEN: Which she has been happy to do.

4 JUDGE SEYS-LLEWELLYN: And I will need to take a view as between
5 those. That is it?

6 MS. GARDEN: No further questions, thank you.

7 JUDGE SEYS-LLEWELLYN: Mr. Price?

8 MR. PRICE: My Lord, I have nothing by way of re-examination.

9 JUDGE SEYS-LLEWELLYN: I have been going back through my notes.

10 Thank you both, I do not have any questions.

11 Mrs. Byng you are free to return to your own seat.

12 THE WITNESS: Thank you, your Honour.

13 *(The witness withdrew)*

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