



DATE: 26 August 2015

CIVIL APPEALS OFF **A2/2015/2839**

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COURT OF APPEAL NUMBER: 20152839

TITLE: Paris & anr -v- Lewis & ors

ORDER APPEALED: 6 August 2015

Receipt is acknowledged of the following documents relating to this case:

- Appellant's Notice

The appellant's notice will be treated as filed in the Civil Appeals Office on 26 August 2015 and has been allocated the number above. This case number will form part of the full Court of Appeal reference when it has been entered in the Court's records.

The receipt of these documents does not necessarily signify that (a) the court accepts jurisdiction or (b) that they are necessarily in order for the Court. You will be informed of any defects found but it remains your responsibility and not that of the Civil Appeals Office, to ensure any documents lodged comply with the Court's requirements.

A sealed copy of your appellant's notice attached and the attached Form N161B (headed Important notes for respondents) together with a copy of this receipt document, must now be served on all respondents by **2 September 2015**. **You must ensure that the case number is added to the appellant's notice before service.** You are reminded that whenever you are required to serve documents you should either deliver them by hand or send them by First Class post or other similar delivery service. Service by First Class post is deemed to take place 2 working days after posting.

It is permitted to photocopy the sealed appellant's notice for service on the respondent(s), if this is necessary.

If the appellant's notice includes an application for permission to appeal, no other documents should be served at this stage and the respondent need not take any action until such time as notification is given that permission to appeal has been given.

If permission to appeal has already been given or is not required copies of any documents lodged must be sent to each respondent with the appellant's notice. You will be required to confirm to the Court of Appeal that this has been done.

If permission to appeal has already been given or is not required the Respondent may:

- ask for the order to be varied, for which permission to appeal will be required; or
- ask that the order be upheld for different or additional reasons than those given by the lower court;
- or
- ask that the order be upheld for the same reasons relied on by the lower court; or
- do nothing.

CIVIL APPEALS OFFICE REGISTRY  
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**AB-1**

# Appellant's notice

(All appeals except small claims track appeals)

For Court use only	
Appeal Court Ref. No.	2015 / 2839
Date filed	26 August 2015

Notes for guidance are available which will help you complete this form. Please read them carefully before you complete each section.



## Section 1 Details of the claim or case you are appealing against

Claim or Case no.  Fee Account no.

Name(s) of the  Claimant(s)  Applicant(s)  Petitioner(s)

Name(s) of the  Defendant(s)  Respondent(s)

### Details of the party appealing ('The Appellant')

Name

Address (including postcode)

Tel No.

Fax

E-mail

### Details of the Respondent to the appeal

Name

Address (including postcode)

Tel No.

Fax

E-mail

Details of additional parties (if any) are attached

Yes  No

## Section 2 Details of the appeal

From which court is the appeal being brought?

The County Court at

Swansea

The Family Court at

High Court

Queen's Bench Division

Chancery Division

Family Division

Other (please specify)

What is the name of the Judge whose decision you want to appeal?

His Honour Judge Seys Llewellyn QC

What is the status of the Judge whose decision you want to appeal?

District Judge or Deputy

Circuit Judge or Recorder

Tribunal Judge

Master or Deputy

High Court Judge or Deputy

Justice(s) of the Peace

What is the date of the decision you wish to appeal against?

6 August 2015

To which track, if any, was the claim or case allocated?

Fast track

Multi-track

Not allocated to a track

Nature of the decision you wish to appeal

Case management decision

Grant or refusal of interim relief

Final decision

A previous appeal decision

**Section 3 Legal representation**

Are you legally represented?

Yes  No

If 'Yes', please give details of your solicitor below

Name of the firm of solicitors representing you

The address (including postcode) of the firm of solicitors representing you

Tel No.	
Fax	
E-mail	
DX	
Ref.	

Are you, the Appellant, in receipt of a Legal Aid Certificate or a Community Legal Service Fund (CLS F) certificate?

Yes  No

Is the respondent legally represented?

Yes  No

If 'Yes', please give details of the respondent's solicitor below

Name and address (including postcode) of the firm of solicitors representing the respondent

Tel No.	020 3207 1214
Fax	
E-mail	Robert.Dougans@BryanCave.com
DX	
Ref.	

**Section 4 Permission to appeal**

Do you need permission to appeal?

Yes  No

Has permission to appeal been granted?

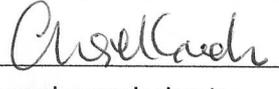
Yes (Complete Box A)

No (Complete Box B)

**Box A**


**Box B**

I *stephane paris* *ANGIE GARDNER*  
   
 the Appellant('s solicitor) seek permission to appeal.

If permission to appeal has been granted **in part** by the lower court, do you seek permission to appeal in respect of the grounds refused by the lower court?

Yes  No

## Section 5 Other information required for the appeal

Please set out the order (or part of the order) you wish to appeal against

The Sealed Order is attached.

Have you lodged this notice with the court in time?  
(There are different types of appeal -  
see Guidance Notes N161A)

Yes  No

If 'No' you must complete  
**Part B of Section 9**

## Section 6 Grounds of appeal

Please state, in numbered paragraphs, **on a separate sheet** attached to this notice and entitled 'Grounds of Appeal' (also in the top right hand corner add your claim or case number and full name), why you are saying that the Judge who made the order you are appealing was wrong.

I confirm that the grounds of appeal are attached to this notice.

## Section 7 Arguments in support of grounds for appeal

I confirm that the arguments (known as a 'Skeleton Argument') in support of the 'Grounds of Appeal' are set out **on a separate sheet** and attached to this notice.

**OR** (in the case of appeals other than to the Court of Appeal)

I confirm that the arguments (known as a 'Skeleton Argument') in support of the 'Grounds of Appeal' will follow within 14 days of filing this Appellant's Notice

## Section 8 What are you asking the Appeal Court to do?

I am asking the appeal court to:-  
(please tick the appropriate box)

- set aside the order which I am appealing
- vary the order which I am appealing and substitute the following order. Set out in the following space the order you are asking for:-

- order a new trial

## Section 9 Other applications

Complete this section **only** if you are making any additional applications.

### Part A

- I apply for a stay of execution. (You must set out in Section 10 your reasons for seeking a stay of execution and evidence in support of your application.)

### Part B

- I apply for an extension of time for filing my appeal notice. (You must set out in Section 10 the reasons for the delay and what steps you have taken since the decision you are appealing.)

### Part C

- I apply for an order that:

(You must set out in Section 10 your reasons and your evidence in support of your application.)

Section 10 Evidence in support

In support of my application(s) in Section 9, I wish to rely upon the following reasons and evidence:

If the application is late it is due to difficulty in getting to London and therefore we have posted it.

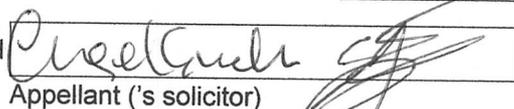
**Statement of Truth** – This must be completed in support of the evidence in Section 10

I believe (The appellant believes) that the facts stated in this section are true.

Full name Stéphane Paris and Angel Garden

Name of appellant's solicitor's firm

signed

  
Appellant ('s solicitor)

position or office held

(if signing on behalf of firm or company)

## Section 11 Supporting documents

To support your appeal you should file with this notice all relevant documents listed below. To show which documents you are filing, please tick the appropriate boxes.

If you do not have a document that you intend to use to support your appeal complete the box over the page.

### In the county court or High Court:

- three copies of the appellant's notice for the appeal court and three copies of the grounds of appeal;
- one additional copy of the appellant's notice and grounds of appeal for each of the respondents;
- one copy of the sealed (stamped by the court) order being appealed;
- a copy of any order giving or refusing permission to appeal; together with a copy of the judge's reasons for allowing or refusing permission to appeal; and
- a copy of the legal aid or CLSF certificate (if legally represented).

### In the Court of Appeal:

- three copies of the appellant's notice and three copies of the grounds of appeal;
- one additional copy of the appellant's notice and one copy of the grounds of appeal for each of the respondent;
- one copy of the grounds of appeal on a separate sheet attached to each of the appellant's notices filed;
- one copy of the sealed (stamped by the court) order or tribunal determination being appealed;
- a copy of any order giving or refusing permission to appeal together with a copy of the judge's reasons for allowing or refusing permission to appeal;
- one copy of any witness statement or affidavit in support of any application included in the appellant's notice;
- where the decision of the lower court was itself made on appeal, a copy of the first order, the reasons given by the judge who made it and the appellant's notice of appeal against that order;
- in a claim for judicial review or a statutory appeal a copy of the original decision which was the subject of the application to the lower court;
- a copy of the order allocating the case to a track (if any)
- one copy of the skeleton arguments in support of the appeal or application for permission to appeal;
- a copy of the approved transcript of judgment; and
- a copy of the legal aid or CLSF certificate (if legally represented)



GROUND OF APPEAL FOR CASE 3SA90091

1. These Grounds Of Appeal relate to a Judgment handed down (and dated) the 14<sup>th</sup> July, 2015, with the order sealed dated the 6<sup>th</sup> of August 2015. It is not proposed to rehearse in detail the history of the case that ultimately was a claim in Defamation by the two Claimants.
2. It is, as part of this Appeal, intended to apply for a stay pending the Appeal.
3. It is pleaded by, and on behalf of, the Claimants in respect of this Appeal that the learned Judge erred in law in the manner more particularly outlined below and materially misunderstood (with respect) some of the salient facts outlined to him at trial, referring to them in the judgment in such a manner that those facts, or some material facts, have been significantly misrepresented.
4. The effect upon the Appellants has been prejudicial in so far as a fair account has not been recorded of the facts as outlined at trial and in disclosure.
5. It is the Claimant's case that the law as to defamation has been incorrectly and/or inappropriately applied and, had it been applied correctly, the learned Judge would have been obliged or bound to reach a wholly different conclusion.
6. In terms of factual inaccuracies, and by way of example only, the learned Judge refers at paragraph 12 (page 3) to the fact that allegedly the Claimants '**protested vigorously**' and, as a result, allegedly the school '**excluded all their children.**' The fact is that the Claimants only protested in this manner following the expulsion of their children from the school. This is a material misrepresentation of the facts putting the Claimants in a bad light without any justification, and contrary to the evidence and the verifiable facts in this case.
7. As a further example of factual inaccuracy, likely to have a material effect upon the judgment of both parties, at paragraph 19 (page 4) the learned Judge uses the phrase '**immediately before he boarded the flight home.**' This was not the case. It was once they had arrived at the airport, but nevertheless in excess of two hours before boarding the aircraft.

8. By way of further example (and these examples should not in any way be regarded as exhaustive), at paragraph 41 (page 9), the Judge suggests that the Appellants had used the term '**mobbing threats**', which misrepresented what they had in fact previously stated. They referred to '**mobbing**' but never at any stage to '**mobbing threats**' that is significantly different use of language.
9. The conclusion at paragraph 47 (page 10) to the effect that early exchanges are nothing more than '**forthright in expression**' disregards both the content of those exchanges and the peripheral circumstances where the Appellants were subject to a barrage of incitement and clear instructions and advice to others to the effect, in these exact terms, that the Appellants could '**not be trusted.**' These actions and statements go to the heart of the Appellants' Appeal and in disregarding them, or devaluing their significance, the Judge has failed to apply the correct law to the correct and relevant facts.
10. Further, in the same paragraph 47, the learned Judge errs in law in suggesting it is not the Court's task to evaluate two different views. To fail to do so is to fail to evaluate the credibility of the respective witnesses generally in order to reach a conclusion as to the credibility of their evidence generally.
11. Though at paragraph 53, the learned Judge concludes that the First Defendant's evidence as to his location and restrictions '**on electronic communication**' means he was unable to reply to the Claimants, this totally and inexplicably disregards the many tweets online, which is conceded were made, and which therefore make the Judge's conclusion on this material point entirely unsustainable.
12. The Judge failed to give credence, or give sufficient weight or indeed any significance, to the phrase describing the Appellants as '**a couple of malevolent trolls.**'
13. At paragraph 93, the Judge suggests that the Appellants were intolerant as to the use of what he himself refers to as a '**private blog.**' But, with respect, the Judge fails to recognize that the Appellants rely upon the fact that they have been collectively and unjustifiably maligned and defamed and it is that to which they object, and upon which basis this Claim was founded.
14. It is accordingly respectfully submitted by the Appellants that the learned Judge has erred in failing to recognize the words spoken by the Defendants, the context in which those words were used, the effect of any other party seeing and/or reading those words, as well as the detrimental effect upon the Appellants or either of them.

15. More particularly, the Judge fails at paragraph 96 to recognize and identify the defamation of the Appellants by the clear (mis) diagnosis of them by the Defendants or either of them to the effect that the Second Appellant, according to the Second Defendant, had a '*borderline personality disorder*'.
16. Further, though the learned Judge concludes to the contrary, he errs in suggesting that there were no examples of statements by Dr Byng referring to the Appellants, or either of them. Even at trial, the Witness himself conceded that he accepts some responsibility for statements referred to above to the effect that the Second Defendant was saying in unequivocal, but entirely misleading and unsubstantiated, terms that the Appellants or either of them had mental health issues. These statements were both untrue and scurrilous and the learned Judge ought to have recognized that this was a clear example of defamation and that the undercurrent of hostility on the part of the Defendants was further corroborative evidence of their malice, an aspect, with due respect, entirely and unjustifiably overlooked by the Judge.
17. The Judge in his judgment has failed to set out in detail, and with sufficient clarity, his conclusion as to the Statements upon which the Appellants rely to support their case. The Judge has erred in law in failing to evaluate these essential pre-requisites of this Claim.
18. Further, at paragraph 128 (page 28) the learned Judge turns his attention to the submissions and more specifically, the issue of publication, and concludes (with no proper or adequate foundation or basis) that it was somehow unlikely that, by way of re-tweet or otherwise, a significant number of other parties would read what was said for the first time.
19. The learned Judge speculates on the number of readers without the benefit of any expert evidence to contradict the Appellants' own evidence on this point. It was wholly unjust as a matter of law and fact to conclude that publication was not provable in the circumstances outlined. The learned Judge was addressing the question as one of mere conjecture rather than by application of legal principles and judicial notice and the proper definition of publication and its application to publication on the internet.
20. These various, malicious, untrue and scurrilous Statements were made in the public domain intended for the public or a part of the public to read and any notion that there was no publication is wholly irrational and forms an essential element of this Appeal. Further, in his judgment the learned Judge claims that his conclusions were

not contested. Court documents will show the extent to which matters are thus misrepresented.

21. The conclusion at paragraph 93 (page 41) to the effect that the First Defendant, during the period of February 27<sup>th</sup> 2012 till 8<sup>th</sup> November, 2012, had not victimized or seriously denigrated the Appellants wholly ignores the fact that there were numerous examples in both parties' disclosure during the course of which such statements had indeed been communicated by the Defendant, including references to further communications by the 1st Defendant to journalistic "**big hitters**", which examples were requested by the learned judge but never supplied.
22. Though the learned Judge considers the Defence of Justification and accepts it is not made out in full (see paragraph 219 at page 46) he then purports to consider the Defence of Qualified Privilege. It is asserted that the learned Judge has wrongly applied the legal definition of Qualified Privilege and the Statements made over a period of time by the Defendants cannot conceivably be defended on that basis.
23. At Paragraph 231, the Judge addresses the question of malice, relying upon the case cited on the Defendants' behalf but incorrectly applying the law in failing to recognize the clear desire of the Defendants to injure the Appellants' reputations. It was never a question of carelessness (see sub paragraph (iv) (at page 50) but a malicious intent to cause loss of good name on the part of the Appellants or either of them.
24. The Appellants fully understand that the learned Judge is entitled to evaluate the evidence of all the witnesses. However, the learned Judge has failed to address matters in such a manner as to recognize and take into account the clear fact that the Defendants have on various occasions, during the trial, committed perjury. This was provable by reference pre-existing disclosure in the case which evidence the Judge failed to take into account. This rendered the decision of the Judge to be contrary to the evidence and therefore, perverse. By way of example only, Dr Richard Byng stated that he had waited for two days in his Witness Statement, whilst at trial he had to admit that events took place on the same day.
25. On another occasion, the same witness made Statements relating to the 2nd Claimant's mother that were then shown to be inconsistent with evidence presented at trial.
26. Despite the Second Defendant claiming that her only desire was to ask others not to discuss her son's stay with the Appellants, disclosure clearly established that the

motive on the part of the Defendants was more sinister and specifically designed to destroy the Claimants and their reputation.

27. By way of yet further example, the First Defendant claimed that he had put the Appellants' names into his spam folder, in order to prove he had not blocked their email addresses. It was proved at trial that this was not the case.

28. The Appellants rely upon the fact that quotations that were online and accessible have been misquoted,

(a) One post, which the judgment states has been read "in full" by the learned judge and has been online since 2011 to date:

'Does Alicia not know then, about how "Thetis Mercurio" has demonstrated what can really only be described as grooming behaviour towards our child? 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.

(b) Quote from Defence (para 37)

'[The Second Defendant] has demonstrated what can really only be described as grooming behaviour towards our child[.] How can we call it otherwise when [the Second Defendant] made so many advances towards her.'

It was demonstrated at trial that the above 'tampered' quote was not the actual quote when counsel for the Defendants asked the 2nd Defendant to read it out in its incorrect form during examination and the First Appellant highlighted the discrepancy.

(c) By tampering with the punctuation to remove that part of the sentence, the use of the word "grooming" has been completely misrepresented, suggestive of sexual grooming. The word grooming cannot in every context be assumed to refer to sexual grooming as against, for instance, brainwashing.

29. The learned judge has not acknowledged, and in fact denied, the cult meaning of the word 'groom', in the context of Steiner education- clearly stated in the same post as follows:

**'The anonymous critic displayed the same seductive grooming types of behaviour that we have had to document at the school and the public mobbing was full of the same xenophobic projections that the school dished out.'**

- 30. This denial of the cult context of the word "grooming", through evidence tampering, has been used as the justification of all the male fides of the Defendants, being referred to in total on eighteen occasions in the judgment.**
- 31. The Appellants submit that there has been a fundamental breach of Article 6 of Human Rights Act – A right to a fair trial. The Hearing was not fair or balanced, and the refusal to re-instate the covert harassment claims was made on the basis that this harassment would be properly looked at in terms of the background for defamation.**
- 32. Further, the Appellants rely upon a breach of Article 10 - a right to freedom of speech and expression. The Appellants' right to protest and free expression, in particular, as publishers, has been seriously undermined by this judgment.**
- 33. The learned judge has erred in leaving defamatory Statements concerning the Claimants, their children, and the Landmark Titirangi Settlement at odds with the public record and which were publicly known before the First Defendant re-published the same on his Quackometer website.**
- 34. The Judge fails to accept and/or recognise that the Appellants were merely and most clearly responding to the vitriolic assertions concerning them made by the Defendants both overtly and covertly. To conclude that there was no malice is to ignore the background, the spreading of rumour, the incitement and the male fides of the Defendants or either of them. It was inappropriate to ignore a history of harassment by the Defendants.**
- 35. In brief, the learned Judge has misdirected himself as to the legal meaning of qualified privilege and in inaccurately stating facts (of which only a few are referred to above by way of example) he has as a result reached a conclusion that is at total variance with the law and these particular facts, effectively turning the case against the Claimants and making them into defendants in a manner completely at odds with Gatley.**
- 36. The Appellants seek permission to Appeal and a stay of execution in respect of the costs.**