**Appeal Refs A2/2015/2839(B), A2/2017/1648**

**Claim No. 3SA90091**

**IN THE COURT OF APPEAL**

**CIVIL DIVISION**

**BETWEEN**

**(1) STEPHANE PARIS**

**(2) ANGEL GARDEN**

**Applicants/Claimants**

**-and-**

**(1) ANDREW LEWIS**

**(2) MELANIE BYNG**

**Respondents/Defendants**

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**RESPONSE TO RESPONDENTS' SUBMISSION**

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1. The Applicants make the following points in response to the Respondents' Submission, in the public interest, the interests of their children and children everywhere, and their own.

2. Re their paragraph 4,

   *"Appeal ref. 1648, filed by Appellant's Notice dated 17 May 2017 and seeking to appeal an order dated 2 February 2015, is over two years out of time."*

   The Applicants have not ceased trying to appeal this decision since the original final judgement in the case, which included judicial statements directly contradicting those made at the PTR by the same judge.

3. Where a judge had easily been able to *"pick out a number of obvious candidates for" "Covertly inciting organisations and individuals to shun the Claimants by portraying them as dangerous and mentally unstable"* at the PTR, the court had an unarguable duty to interrogate the effects of such a psychologically violent course of conduct on the integrity of the target. This duty cannot be said to disappear the longer it is avoided. We submit that Mr Price knows just as well as the court does, that it had and still has no jurisdiction to dispose of such a stated case, of an acknowledged course of conduct without interrogating those effects. He knows that this will remain true, and the injustice can only become keener, the longer it takes the court to correct the error.

4. As also continually pleaded, this unlawful failure to interrogate the stated "essence" of harassment at this hearing, or any subsequent hearing to date, fatally distorted the proper

treatment of “malice” in defamation. This resulted in the Respondents being awarded qualified privilege as “reply to attack”, for what were clearly “retorts”. This was *solely because their first attacks had been covert and not allowed to be explored in court, despite a promise by the judge to the contrary.* The victims have thus been blamed and they and their children heavily punished for the harassment perpetrated upon them, while the Respondents have massively benefitted from their own wrong.

5. By citing the length of time this is taking, Mr Price is seeking to unlawfully persuade the court to continue acting outside its jurisdiction, with the sole aim of continuing to deny the targets any effective remedy for the severe effects caused by his clients’ harassment.

6. In addition, the Respondents’ course of conduct fits very completely the two either-way offences of Section 4 A i b i and ii of the PHA. This section was produced to overcome the difficulties inherent in prosecuting cases of relentless targeting over time, with the characteristics of stalking, like this one. The Court’s refusal to even discover the extent of it was compounded when it allowed the Respondents to breach its own order to reveal even more evidence of this. This is again manifestly unreasonable per se, does not fulfil the legal obligation to the public to prevent harassment, and fully engages the Applicants’ and their children’s Human Rights.

7. Therefore, in deciding whether the conditions for reopening/appeal are met, now that the artificial separation of the causes of action at the PTR has been removed, and they are rightly again seen as “related”, the Court’s duty to prevent harassment, must override Mr Price’s attempts to persuade the court towards further dereliction of that duty. To continue in this failure is to not only continue the effects, but to continually amplify them as well.

8. The chilling of free speech **[see AK-10]** is an foreseeable effect of the court having given carte blanche to a networked and co-ordinated group to continue psychologically assaulting targets. It is therefore not surprising that the harassment and stalking of the Applicants by the Respondents and all the many they have persuaded “onside”, continues to this day. It happened during the case **[AK-11-17]**, which was ignored, and most recently, it happened on Twitter on the 27th of October 2017 when one of Ms Garden’s tweets was brought to the attention of members of that group *within one minute* of having posted it **[AK-18]**. That tweet by @Blue_Wode was then deleted within minutes.

9. Re their paragraph 8,

   *“the Judge’s decision was not made because there was insufficient evidence to support Cs’ proposed amendments […]”*

   We are pleased to see Barrister Jonathan Price finally admit the ample evidence of the Respondents’ harassing and stalking course of conduct. However it amplifies the dereliction

of duty in seeking to dismiss those claims without ever interrogating the essence of them.

10. *"[…] but rather because the application was very late and would imperil the trial date […]",* Mr Price omits that the judge cited his clients' costs and their effort [paragraph 46 of PTR judgement] as reasons to deny the re-inclusion of the un-interrogated harassment claims. Mr Price's submission is hiding that the Judge put their represented costs, and administrative wrinkles caused precisely by their deceitful course of conduct, over their own criminality, and over justice itself.

11. *"[…] and because the proposed re-amendments were not sufficiently cogently pleaded."* We implore you to re-read the course of conduct described in paragraph 4 above, and admit what is obvious to all reasonable people: it 100% accurately describes exactly the course of conduct disclosed by the Respondents. Further, the Applicants stated at the PTR hearing that they would agree to adopt this one charge, if that was all that was possible, even this was refused. This dishonest objection by Mr Price only seeks to exploit the serious and prejudicial, not to say Orwellian error, of forcing targets of harassment to attempt to deal with it by the word-play of defamation alone, in spite of the judge clearly seeing the course of conduct.

12. Mr Price knows very well that at the PTR, the Applicants' amendments themselves were wrongly framed by the Judge in the language of defamation, where a very focussed amount of words and sentences have to be analysed in great detail. Harassment, on the other hand, concerns an observable course of conduct, which the judge had already observed! This anomaly, of certain public interest, is made abundantly clear at paragraph 43 (v) of the Judge's PTR Judgement:

    *"I would not be sure, if I were a Defendant, which of those incidents in the appendices were relied upon and which were not."*

    The answer is obvious: all of them. The huge number of examples all contribute to the clear course of conduct of networked and coordinated monitoring and targeting over time, matching Section 4 A 1 b i and ii, malicious communications, disability abuse and mental health smearing: a concerted, years-long campaign of stalking, harassment and malicious smearing, by both Respondents and their associates, including doctors.

13. The Applicants' positions as LiPs and the un-interrogated effects upon them as targets have been used continuously to hide the lack of jurisdiction to improperly dismiss observed, acknowledged, and now admitted claims of harassment.

14. From their paragraph 10,

    *"the extract from without prejudice correspondence – is the same piece of "fresh evidence" upon which Cs sought to re-open their appeal against the Trial Order. The reasons of Simon LJ on 28 November 2016 in dismissing that application are referred to and*

*adopted."*

This is incorrect: the Applicants sought to overturn not only the order but the gas-lighting judgement. The irrational, logic-defying reason why Simon LJ dismissed this evidence - that admitting having lied in a private document is the same as going on the stand and denying having told that lie - was only achievable through cutting up the statement and leaving half of it out. It can be no surprise this is 'adopted' by Mr Price, firstly because it was he himself who had actually suggested it, and secondly because it is the same trick he pulled during the case, of cutting up sentences to change the public record and alter the context of what was written. It was largely Simon LJ's blatant and deliberate obfuscation in open court of Mr Price's bald evidence tampering that led to the recusal request.

15. Further, stating that this extract was from a "without prejudice correspondence" is disingenuous: Barrister Jonathan Price knows full well that this extract is now in the public domain, following their own deployment of it and the Applicants' subsequent reference to it in open court in September 2016. To purposefully omit that fact yet again, as he did in his response to our re-open application in November 2016, is another attempt at deception.

16. Going back to their Paragraph 4,

    *"a recusal application in relation to the Lord Justice who has latterly dealt with the appeal and application to reopen, has been dismissed."*

    What Barrister Jonathan Price fails to mention is that the recusal request was dismissed out of hand by the very judge accused of bias. The subsequent formal application, was never dealt with. To not even allow another judge to view the evidence against Simon LJ is perverse, and the decision to ignore yet more evidence tampering, especially in the face of paragraph 14 above, is also irrational. This also brings into serious doubt the reasons behind Simon LJ's initial refusal to grant permission to appeal, as well as his misrepresentation of their grounds.

17. A note about their Paragraph 11:

    *"(Giving rise to the revelation that when Cs attended the meeting they made use of not one secret camera, but two.)"*

    This is another deliberate misrepresentation by Barrister Jonathan Price: the Appellants did not have "two secret cameras", and Dr Lewis knew full well he was being recorded; he even later mentioned this to Jo Torres when he convinced her to prejudicially deny the Applicants access to yet another "open" public meeting, by lying that they had "*tried to serve papers*" on him in Bath:

    *"they may try to film or record"* **[AK-19]**

    The definition of secret is "not known or seen or not meant to be known or seen by others". This is an attempt by Mr Price to cast aspersions on the Applicants through dubious insinuations, and deceive the judiciary, as he has done throughout these proceedings. Irrespective of the above, covert recordings are an acceptable tool of investigation by

journalists trying to gather evidence of corruption they would not be able to get otherwise (see Yeo v Times where covert recordings are not even questioned).

18. The Applicants submit that it was only the open recording of their request on a mobile phone held by Mr Paris, and then put away, that persuaded Dr Lewis of the subsequent safety of slandering the Applicants, believing that the videoing had ceased.

19. Regarding their paragraph 13, 16c and 17

    *"It is reasonable to infer that Cs were advised not to rely upon the remark by D2, both in framing their cause of action, and in settling their Reply (where it does not feature)."*

    The Applicants were advised to withdraw their claim of slander for the same reason they were advised to amend out the covert harassment claims, because they did not have the evidence of Dr Lewis' gratuitous smearing of them as criminals in the pub. This was solely because of the covert and deceitful nature of the Respondents' course of conduct, which allowed them to hide the evidence of what the judge referred to so clearly at the PTR (para 4 above). It remained hidden until Disclosure.

20. Prior to service of the case, when Mr Dougans misled the Applicants to draw them into litigation, he sought to dismiss Dr Lewis' slander by saying that such a claim could not proceed without evidence of special damage as there was no imputation of actual criminality: a statement only made possible by the lack of evidence. The fresh footage extending on from the openly recorded footage previously submitted to the court, shows the claimed slander, portraying both Applicants as stalkers of children, an offence carrying a custodial sentence.

21. Mr Dougans also dishonestly referred to Dr Lewis' response as being *"in the context of what could be no more than a low level public order matter"* **[AK-20]** another lie clearly exposed by this footage. It shows clearly that there was nothing whatsoever to prompt Dr Lewis' gratuitous slander of the Applicants as a criminal danger to children. On the contrary it powerfully shows the truth of all the Applicants' arguments, that all attempts and appeals to meet and resolve the situation were twisted by Dr Lewis into a further attempt to destroy the Applicants' reputation, not only on Steiner education - a field of interest both parties share - but also to portray them as a danger to anyone around them, to achieve their ostracisation.

22. We invite the court, in the public interest, to decide if paying to attend an advertised public meeting, politely requesting a reasonable discussion, quietly placing an envelope upon a desk, and then quietly sitting down, as shown, amounts to a *"low level public order matter"*. There are places where polite challenge of ideas or actions are treated as such, but the public urgently needs to know if the UK has become one of them.

23. All the many references, in the Respondents' disclosure, to the Applicants *"causing problems"* were prompted solely by the Applicants' willingness to engage, and their practise of robust open publication with right of reply offered. This is what the courts, CPS and police are supposed to uphold in the public interest, according to Article 10 of the Human Rights Act.

24. The Applicants' publications and social media activities are still constantly monitored by the Respondents and their associates: the direct result of judges' compounded errors of acting out of jurisdiction to dismiss the harassment claims without interrogating their 'essence'.

25. It also puts the threats to life and liberty disclosed in the Respondents' private communications into a terrifying perspective, another un-interrogated 'effect' that cannot now be corrected except by allowing these appeals. For those driven to prevent the free speech of others, there are usually no limits on what they will do, and as Mrs Byng has stated: *"I am happy to give her a hole in the head anytime"* **[AK-23]**

26. Regarding their paragraph 18,

    *"The innovative aspect of Monroe v Hopkins (if any) was Warby J's application of section 1(1) of the Defamation Act 2013, however that section was not in force in relation to Cs' claims, which were based on publications pre-dating 1 January 2014, the relevant date in the 2013 Act's commencement provisions."*

    Mr Price knows that compared to this one, that case looks not merely innovative, but contradictory, featuring the judicial opinion that a tweet removed within two hours, but un-apologised for, deserved both damages and costs.

27. This particular obfuscation of Barrister Jonathan Price raises an interesting point regarding the mismanagement of Case 3SA90091. It should have been dealt with under the old defamation rules, except it wasn't: once Justification wasn't fully made out, HHJ Seys Llewellyn perversely used "honest opinion" to alleviate the Respondents of the clear responsibility of having knowingly and maliciously used the medical credentials of a doctor to spread a fictitious clinical judgement against Ms Garden in order to have her and Mr Paris portrayed as "very dangerous" and needing to be ostracised. Even if these smears were "honestly believed" to be true, they could only have been designed to cause suicide or murder, as this is known to be the outcome of ostracising people with the diagnosis the Respondents falsely told others Ms Garden had. And yet Mrs Byng has admitted herself in the private document that she knew full well that this was a lie. We submit that to rule that a wilful malicious and admitted lie is an "honest opinion" is perverse in the extreme.

28. If "honest opinion" was allowed to be used in a case which shouldn't have had it, then other "innovative aspects" of the updated Defamation Act should be available too, and Monroe v Hopkins certainly becomes highly relevant. Conversely, if no part of the new Defamation Act

should have been used in this case, then this is yet further evidence of how unsafe the original judgement is, and it must therefore be dismissed.

29. However, it must be noted that the relevance and importance of Monroe v Hopkins is actually not dependent on it having been trialled using the new Defamation Act. Instead, it is abundantly clear from the Judgement that great care was made to ascertain meaning by looking at all available facts, including the actual context, as fully explained in the Applicants' submission, i.e., the exact opposite of how case 3SA90091 was handled.

30. A note for the Judiciary:
Right now, as it stands, in the context of the public's growing disgust at abuses "hiding in plain sight" and contrary to everything the media reports about the British judiciary, CPS, police and government, about how harassment and stalking should be treated, this case clearly shows that:
    - facts can be misrepresented and tampered with, including in judgements;
    - chronology can be changed;
    - lying in witness statements and perjury in court are both acceptable;
    - breaching court orders is acceptable;
    - disability abuse and mental health smears are acceptable;
    - using the credentials of a doctor to spread a made up clinical judgement is acceptable;
    - judges breaking their promise is acceptable;
    - ignoring precedent is acceptable;
    - altering the natural and ordinary meaning of common words is acceptable, even when they contradict the courts' own "claim" forms;
    - breaching Human Rights is acceptable;
    - quoting lies in a judgement without informing readers those are lies is acceptable;
    - exposing children's names in a judgement is acceptable.
    - judges showing clear bias is acceptable;
    - judges accused of bias can acceptably be the sole person to determine that bias;
    - barristers are allowed to deceive;
    - stalking is acceptable and will be rewarded;
    - harassment is acceptable and will be rewarded.

31. The Applicants submit that all of the anomalies in para 30 are direct and foreseeable consequences of the court's failure to uphold its jurisdiction to interrogate the essence of harassment, before dismissing covert harassment claims.

32. For the avoidance of doubt these are not convoluted and easily argued against facts, but incontrovertible ones akin to, *"in any given week, Tuesday comes before Wednesday", o*r *"2 + 2 = 4".*

33. If this interrelated appeal is turned down, contrary to the Courts' obligation not to promulgate harassment, the Judiciary's stamp of approval will again be on para 30, and the Court will yet again fail in its jurisdiction by compounding its earlier failures.

34. It must be observed that the covert nature of the massive hate campaign against the Applicants works very much in favour of the Court's fact-confounding judgements, not least through the allowance of a breached court order ensuring that the level of blacklisting of the Applicants among "big-hitters" in the UK press, and other 'influencers', remains unknown. Thus the errors of an independent judiciary have actually helped the perpetrators to cover up the scale of harassment in the case. This is, again, very much of public interest.

35. Is it extremely clear that the judgements against the Applicants are so outrageous in their defiance of logic and morals, that no sensible person could have arrived at their conclusions on proper application of their mind, and must therefore be seen to be irrational and wholly unreasonable, in accordance, and to the extent of, the Wednesbury Principle.

36. No case of such manifest unreasonableness can ever actually achieve the dutiful objective of being finished, to the actual detriment of all parties, as new fresh evidence showing the obvious perversity of the judgements is bound to keep coming to the fore.

37. Having seen the evidence, other people including Geraint Davies, MP for Swansea West, and Rebecca Evans AM/AC, have expressed strong concern at several obvious anomalies with potential serious dangers for the public. **[AK-24-46]**

38. Mr Price himself said at the PTR that this case could change the law if the Applicants won - as if eventually being relieved from severe networked psychological abuse can be said to be a "win". The real win, i.e. the necessary positive effect of protecting the public from coordinated and networked subversion of democratic exchange, is timely and necessary, but it cannot occur until the court properly honours its jurisdiction and obligation to prevent harassment.

39. The Appeals must be allowed, and cost protection must be granted to the Applicants. The Appeals must also remain interrelated, Dr Byng re-included, and all the misrepresented evidence, both from disclosure and exposed during the original 5-day hearing and beyond should be meticulously analysed, preferably by more than one judge/person, in order for the truth to finally come to the fore, as opposed to it being covered up beneath convenient layers of procedural pedantry.

Steve Paris & Angel Garden
15 November 2017