APPENDIX A - INTRODUCTION

Steve Paris and Angel Garden are a couple with three young children. They campaigned against a Steiner school who suddenly and without explanation expelled all their children when their eldest (8 year old at the time) was threatened by an older boy, wielding an axe.

They did this through publications and protests, and later got help from the Human Rights Commission. This lead them to achieve a landmark Human Rights settlement which described the worldwide tendency for these schools to not deal with serious cases of bullying despite them being aware of them, preferring to protect the bullies instead.

Melanie Byng and Andy Lewis are highly influential UK-based writers and researchers with a very large online following, who write about Steiner schools, referring to them as an insidious cult and saying things like:

> *"More and more I am convinced that not only should the UK tax payer not fund Steiner/Waldorf schools, these schools must and will be exposed. The inevitable and desirable consequence of this will be that they cease to exist. Choice is not an issue. This is a farce, not a viable educational alternative."* (Melanie Byng)
>
> *"My own research on Steiner suggests *nothing* should be taken at face value when looking at Anthroposophical institutions."* (Andy Lewis)

Since August 2011 Melanie Byng and later Andy Lewis have engaged in a years-long campaign of covert harassment and smearing against Steve Paris and Angel Garden, convincing others that their experience with the Steiner school is false, that their work ethics and research are unethical, and even went as far as serious mental health smearing, disability abuse (Angel is walking impaired), and threats to life and liberty. They even tried to sabotage the Human Rights mediation Steve Paris and Angel Garden were doing with the Steiner school on behalf of their children, as it was happening.

Steve Paris and Angel Garden encountered Melanie Byng in early 2011, when Angel's mother was dying of cancer (Angel's mum died in October 2011). Melanie made numerous and overwhelming offers to help, citing her husband Richard Byng's understanding of stress through his credentials as a doctor specialising in mental health. He also gave unsolicited advice about Angel's mother's treatment.

APPENDIX B - PRE-TRIAL REVIEW

B1 (An observed and potentially criminal course of conduct)
He refused to re-include evidenced claims of covert harassment and stalking fitting the description of stalking causing alarm and distress in PHA Section 4 A 1 b i & ii. A main characteristic of these sections of the PHA is that, as indictment offences, they can deal with targeting behaviour which is cumulative, and. Networked.

B2 (Examining the effects of harassment)
In citing his duty to help the Claimants, he contradicted his own statement that *"the essence of the tort is the tormenting of and the direct effect upon a Claimant"* (para 38 of the PTR judgement), by not examining those effects at all at any time.

Having first recognised the course of conduct, then not asked this 'essential' question, he nonetheless stated in his PTR judgement his 'serious doubt' that it was a criminal course of conduct:

> *"it is open to the severest doubt whether the matters of which the Claimants complained, and which may quite properly be the subject of a claim in defamation, would amount to conduct on the part of the Defendants which meets the criminal standard for a charge of harassment as a criminal offence."* (Para 45 of the PTR judgement)

B3 (Treating harassment as defamation)
Despite the fact he could *"pick out a number of obvious candidates"* of the defendants

> *"Covertly inciting organisations and individuals to shun the Claimants by portraying them as dangerous and mentally unstable."* (Para 45 (v) of the PTR judgement)

He used the sheer volume of the harassment as a reason to exclude the claims:

> *"I would not be sure, if I were a Defendant, which of those incidents in the appendices were relied upon and which were not."* (Para 43 (v) of the PTR judgement)

He also cited the other party's costs as a reason to exclude them:

> *"I am satisfied that one would have to vacate this trial with a loss of precious court resources and very great extra expense, in terms of effort, to both parties and in terms of legally represented costs of preparation to the Defendants."* (Para 46 of the PTR judgement)

This means that Instead of properly examining the "essence" of harassment, the Judge ignored his duty not to treat harassment as defamation, and he confused the civil tort of defamation with both the civil tort and criminal offence of harassment by stating that if the harassment claims were included, that the defendants would not know which of the alleged instances of harassment to focus on.

He created further inequality between the parties by citing the Respondents' represented court costs as a reason for not including evidenced claims of their harassment of the claimants.

He ignored his duty to foresee that given the extent of harassment so great that the inclusion of it would greatly extend the trial time, his promise to deal with it as "background to defamation" was untenable and would lead to injustice:

> *"if this is simply an exploration of whether qualified privilege exists or is undone by malice then I am satisfied that that can be done in a focused way. […] I am satisfied that that such can be done, with appropriate focus, and controlled by a trial judge, and managed within the present time estimate."* (Para 35 of the PTR judgement).

Later at trial, he used this decision to refuse to examine the covert course of conduct, again never asking about the effects of it. See Appendix C4.

He forced claimants who had transglobally relocated their whole family due to the extent of stalking and harassment, to seek relief from that by means of a trial in defamation only, while preventing them from seeking help from the police by refusing to allow them to take the evidence to the CPS.

APPENDIX C - TRIAL

C1 (Not enforcing a court order)
The same presiding Judge had ordered the disclosure of further harassing communications "warning" others about the claimants to highly influential people in the UK, including journalists. These people were referred to as "the big-hitters" in an email communication which referred to this:

> *"Andy Lewis of the Quackometer […] knows most of the big-hitters so he has put out a warning."*

He did not enforce that order during the trial, however, allowing the defendants to breach the order with no ill consequence, allowing potentially very damning evidence to remain hidden from view and unexamined, even within the confines of defamation.

C2 (Defining a large campaign as "very limited")
During the trial, Barrister Jonathan Price stated the following:

> *"There were behind the scenes - it is in a very limited way and they do not accept it is limited but there were behind the scenes – both defendants occasionally emailing each other and/or third parties about the claimants."*

Which HHJ Says Llewellyn corroborated:

> *"there was discussion, yes, there was communication with the Byngs, Mrs. Byng and friends on certain subjects. I think actually it is common ground just looking at the disclosure; but, it might help you, as it were, to have it written out and then you can make sure yourself. It is accepted that there was this degree of communication".*

However, this degree of communication was far from "very limited" and disclosure is replete with examples such as:

> *"everyone who needed to know has been informed"*

> *"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…"*

> *"There was a big Guardian open festival last weekend, with lots of journos meeting and discussing and debating. So who knows what got about."*

These warnings span years. Of course there is also this unreleased email warning to the "big-hitters" (Appendix C1), and in addition to that, Melanie Byng admitted in court that she also warned people about us in person and on the phone.

None of this can be reasonably said to be "very limited" and also matches Slipper v BBC (1991), following similar comments made many years before by Lord Atkin in Ley v Hamilton (1935

> *"…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."*

As Melanie Byng said herself:

> *"Just remember - 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."*

These warnings were also accompanied by threat to life and liberty such as:

> *"I am happy to give her a hole in the head anytime"*

> *"The people affected are considering what to do. There are children involved too - directly. The police is an option […] 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."*

The Gaslighting (trivialising the effects of harassment and mental health smearing) extended to stating that Ms Garden may need to "have it written out" when opposing Barrister admitted some "very limited communications. In making these comments the Judge knew that she was an unrepresented litigant facing a defendant who would be "happy to give her a hole in the head anytime."

C3 (Ignoring proven perjury)
The perjury allowed in court is described below in Appendix D2 point 3.e, f & g. When the defendants, Andy Lewis and Melanie Byng, and their witness, Richard Byng, were shown through cross examination to be lying. Thus it was clearly demonstrated in court that their belief was not "honest" in these particulars. Nevertheless the perjury went unchallenged (during the trial and in the judgement).

C4 (Going back on a promise)
Although HHJ Seys Llewellyn refused to allow the Harassment Claims back in at the PTR, he did state that:

> *"having considered with care those pages, if this is simply an exploration of whether qualified privilege exists or is undone by malice then I am satisfied that that can be done in a focused way. […] I am satisfied that that such can be done, with appropriate focus, and controlled by a trial judge, and managed within the present time estimate."* (Para 35 of PTR Judgement)

But when we focussed on proving malice during the trial, the judge went back on his promise:

> *"My ruling is that we are dealing with the defamation case. We are not dealing with a case in harassment, namely, below the surface there was this campaign and participation, collusion in setting out an array of comments which might make people less fully pay attention to us. So that is not the case that I am trying."*

C5 (Leading the witness)
At the point at trial that the witness was being pressed to admit that she had used her husband's credentials to smear a bereaved person, (which she had already admitted to us in mediation but which we were therefore forbidden to mention), she tried to separate her statements from one another. The Judge suggested to her that she may not remember.

> Judge: *"I think the focus, we are now on the third entry, you are writing to Alicia: "At the end of this is his clinical judgment which she seems to have forgotten". Now, taking that on face value that looks as though it is his clinical judgment of ——"*
>
> Melanie Byng: *"Yes, but they are in very different places. They are not in the same email."*
>
> Judge: *"If you do not remember you must tell me but at least to start off with do I correctly understand, first, that you are happy to accept that you wrote this?"*
>
> Melanie Byng: *"Mm-mh."*

APPENDIX D - JUDGEMENT

D1 (Evidence tampering)
Barrister Jonathan Price fraudulently altered a sentence we had written *about cultic abuse*, removing half of it and its context to make it look as if we were insinuating that Melanie Byng had, or was planning to, sexually abuse our child. Despite showing the fraud of this, in the actual quote which has remained unchanged online since 2011, HJJ Seys Llewellyn was deceived into allowing this tampering and used it as justification of most of his judgement, going totally against the judgement of BCA v Singh as a result:

Context (from same article):

> *"It has been a shocking experience, to say the least, and resembles nothing more strikingly than the behaviour of the Steiner School our kids went to. 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, not caring how weak the logic and only intending to eject the "irritant" who wouldn't simply toe the line. It has been a devastating combination."*

Actual Quote:

> *"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."*

Tampered Quote with sentence altered:

> *"[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."*

In his judgement, HHJ Seys Llewellyn claimed to have read the article in full yet misquoted it exactly as Jonathan Price did:

> *[She] has demonstrated what can really only be described as grooming behaviour towards our child. How can we call it otherwise when [she] made so many advances towards her"* (emphasis supplied). (Para 200)

Later in his judgement, HHJ Seys Llewellyn claimed the part of the sentence that was cut out by Jonathan Price and himself was only written by us in our closing submission as opposed to it having been part of the original sentence all along, as was clearly demonstrated in court:

> "In closing submissions, the Claimants likewise say "How can we call it otherwise when "ThetisMercurio" 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*". (Para 202)

D2 (Misrepresenting facts and evidence)

1. Ignoring clear evidence of Dr Byng's involvement
   this was shown at the hearing but despite this HHJ Seys Llewellyn wrote at para 96:

   > *"None of the relevant e-mails relied upon or identified is a general communication (or e-mail) from Dr Byng to any other person."*

   As a judge should have been fully aware, this was because Dr Byng was not a party to the case and therefore was not bound to reveal anything in disclosure. However his wife's disclosure shows his involvement, as for instance:

   a) *"the hospital will be in Guilford Home | The Royal Surrey County Hospital - NHS Trust. One call from [Richard Byng] to this team... Palliative Care"* [about finding out where Angel's mother was]
   b) *"Richard is going to write to Dan [Dugan]"*

c) *“At the end of this is his clinical judgement, which she seems to have forgotten.”*
d) *“[Roger Rawlings] doesn’t know to trust Richard [Byng]’s clinical opinion.”*
e) *“Angel has a borderline personality disorder. This is a clinical judgement, not a personal opinion. It isn’t simply depression. It makes her very dangerous, but luckily for us and sadly for others the danger is to those close to her.”*
f) *“A couple of incidents (which had little to do with their project) convinced us that she is unstable”*
g) *“While Joe was away my husband Richard had had a long phone conversation with Angel about her mother’s cancer treatment, from which he’d drawn a few conclusions. Richard is a GP & academic & an expert in primary care mental health, including personality disorder.”*
h) “*Richard is happy to write to this org inclosing their email to the Dean of the Peninsula School, and so on.”*
i) *“[Richard] says she certainly has contracted her own reality.”*
j) *“I think he made that analysis in his spare time.”*
k) *“exactly our thoughts. [Richard] is going to write (with his uni email) asking this very question.”*

2. Constructing a strawman argument
a straw man argument is defined by wikipedia as ““giving the impression of refuting an opponent's argument, while actually refuting an argument that was not advanced by that opponent.” HHJ Seys Llewellyn did exactly that:

a) at the PTR, he described the actions complained of clearly as:
“Covertly inciting organisations and individuals to shun the Claimants by portraying them as dangerous and mentally unstable.” He goes on, *“I could, by going through the 24 pages of appendices, pick out a number of obvious candidates for this”*

b) in his final judgment, this course of conduct was changed to:
“The Claimants assert and believe that the Second Defendant has, and has from the outset, been engaged in a campaign encouraging others to publish remarks critical or defamatory of the Claimants, […] but I find the material placed before me unpersuasive of this.” (Para 227)
“Neither of these communications is an incitement to others to take to online or public attack” (para 240)
“I cannot find that they are an invitation or encouragement to others to publish anything in respect of the Second Claimant” (para 242)

In his judgement, HHJ Seys Llewellyn made false assertions which he could easily defeat, which were not what was stated by us. These assertions were are totally different to what he had so clearly identified at the PTR, which he had already recognised as being present, and therefore would not have easily been defeated**.**

3. Misrepresenting facts
The facts in this case were severely misrepresented and are actually too numerous to be listed here but a handful of examples are highlighted below:

a) Jonathan Price deliberately altered the chronology of events. One such occurrence is when he tried to explain why the school expelled our children. He stated in court that it was because we published online our email correspondence with the school and protested outside the school, whereas the actual chronology and easily provable facts are that publication and protest followed the unjust and summary expulsion of our children. This deliberate alteration of the facts was done to give the false impression that we were to blame for what happened to our children, as opposed to the reality of us being shocked parents who argued strongly against a terrible injustice. Despite showing the correct chronology in court, which is part of the public record, the judge was mislead into believing Jonathan Price’s lies.

b) Jonathan Price stated in the defence that by promoting a video we had made about Steiner Education, and which had nothing to do with Andy Lewis, but which someone else had tried to post onto his site as being relevant to a posting of his, that was part of an escalation of a campaign by us against him (para 64 of the defence). This false statement was repeated by the judge in his judgement, thereby implying that anything we did, wether related to Andy Lewis or not, was part of a campaign against him!

c) one of the heads of claim in defamation, written by Andy Lewis, was posted in two places. One was

very highly advertised and promoted, the other was not. The number of visitors to the highly publicised page could not be retrieved as that platform had since shut down. Nevertheless Judge Seys Llewellyn stated that the number of visitors listed in the page that was not promoted was in fact those for the page that was promoted, and therefore falsely concluded that hardly anyone saw it (para 108).

d) quoting lies in the judgement: at para 79, Judge Seys Llewellyn quotes an email from Melanie Byng to Andy Lewis. This email is riddled with lies about us and our work ethics. All of these lies were debunked in court with the defendants unable to locate any evidence to back up any of their claims. Despite this, the judge quotes the long email without stating that fact, leading any reader to believe these false statements are therefore true.

e) In cross examination, Andy Lewis perjured himself in response to questioning by Steve Paris. Lewis stated that he had placed a specific word in his spam folder to stop Angel Garden from publishing a comment on his site. However, Steve showed the evidence that a comment with that very word written by someone else was published automatically. Had that word been blocked, that comment could not have been published. This clearly showed the lie of Andy Lewis' statement and should have discredited him. However, despite this, HHJ Seys Llewellyn wrote in his judgement that he was honest (para 256).

f) In cross examination Steve Paris also showed Melanie Byng to have lied numerous times in her disclosure, and to be unable to account for her statements, but again this was ignored by Judge Seys Llewellyn.

g) In cross examination Steve Paris showed Dr Richard Byng to have lied in his Witness Statement: even when he was offered the chance to change what he said, he declined, and when it was proved false, the Judge made no comment whatsoever, and again, this did nothing to damage the supposed veracity of his account.

h) Judge Seys Llewellyn quoted a publication of ours stating that Lewis had victimised us through actions that were *"provably fomented by [him]" [8 November 2012], […] The Claimants, it has become clear, had no such objective "proof" as to this"* (para 219)
Yet the proof was explored at length at trial, specifically regarding the private communication Lewis had with Animalsinsuits. This person is a stranger to Lewis yet he had no problem telling him that we were *"deeply unpleasant people"*, had *"malice at heart"*, and that *"there is very low tolerance with some people for anyone who is engaged with sjparis or amazonnewsmedia".* This clearly showed Lewis threatening an unknown other that if they carry on engaging with us, they themselves will be ostracised by his group of influential people.

i) Judge Seys Llewellyn stated at para 226 vii that *"in my judgment the consistent thread of communications by the Second Defendant is to encourage people not to engage publicly with the Claimants in relation to allegations of what did or did not transpire in relation to the ill-fated holiday in France."*
This is totally untrue. Please see appendix C4 for examples of communication by Melanie Byng that have nothing to do with that event, but everything to do with excluding us from the field of Steiner criticism through smears.

D3 (Changing the dictionary definition of words)
At paragraph 168, HHJ Seys Llewellyn states:

> *"If, for instance, the First Defendant had italicised or underlined the word "claim", then I consider that such might have implied doubt as to the claim or in certain circumstances the honesty of the claim; but he did not."*

This goes against the very definition of the word "claim", whose very purpose is to imply doubt as to the veracity of said claim. As per the dictionary definition:

> *"state or assert that something is the case, typically without providing evidence or proof."*

Our experience at a Steiner school, which Andy Lewis encouraged his large readership to doubt, despite him saying that these schools cannot be trusted, is still the only case of its kind backed up by a wealth of evidence and mediated through extensive Human Rights process. All other stories he relies on in his

publications on the matter, are merely anecdotal (yet he refers to these as “reports”). We are the only ones who documented our experience, and yet, ours is not to be believed and the school, which is part of a system he says cannot be trusted about anything, is portrayed by him as the more honest party.

Further, a cursory look at Lewis’ website shows that he always uses the word ‘claims’ exactly as the dictionary definition defines it. And so does the court.

D4 (Stalking and harassment)
Judge Seys Llewellyn states that

> *“there is no significant or credible evidence to support the assertion […] of stalking physical or otherwise.”* (Para 226 iii)

Yet this ignores the stalking Melanie Byng, Andy Lewis and their accomplices did. For example:

> *“Btw, now — this morning — they’re in Paris”*
> *“I know their children had new iPads. They were in Bristol.”*
> *“Our friends are not just on a jaunt to Venice. Angel is speaking at a conference on cults . Jeebus”*
> *“the hospital will be in Guilford Home | The Royal Surrey County Hospital – NHS Trust. One call from R [that’s Dr Richard Byng, her husband] to this team… Palliative Care”*

This is further proved by all the emails either sent to people we contacted regarding Steiner education, but spread doubt about our experience, research and work ethics; they could not have been alerted to contact these people if they were not stalking us in the first place to see who we were talking to:

> *“it’s best not to give them any attention or RT their work. I’m occasionally forced into warning others if they’re being prolific (as they are today).”*
> *“It's not a good idea in our view to encourage Steiner parents to view their sites or get involved with any possible (but frankly unlikely) documentary.”*
> *“You’re doing the right thing advising people not to trust them and I’m grateful you’ve done so, it’s really good that critics know too.”*
> *“their working methods are unethical and they are untrustworthy, and that anything else is a distraction.”*
> *"I advise you to steer clear of Angel Garden and Steve Paris, presently of NZ whose videos appear on the web. They’re unreliable witnesses, to put it mildly”*
> *"Ben - a researcher for this programme is now in touch with an individual called Steve Paris via twitter. A warning that he is unreliable (and that they have in no way conducted ‘years of research’).”*

These statements demonstrate the lie of Jonathan Price’s admission in court that there was a “very limited” communication about us between the two defendants (Melanie Byng and Andy Lewis). The quotes in Appendix C2 show how far these smears spread and their propensity to contaminate hidden springs.

D5 (Mental Health Smears and Disability Abuse)
Judge Allowed Melanie Byng “honest belief” in order to be *“satisfied that the Second Defendant did believe that the Second Claimant had a personality disorder.”* (Para 254)

However this ignores the dangerous fudging of the encapsulation of normal stress of bereavement into a “risk” diagnosis in conversations where she used her husband and his medical credentials to make others believe the notion didn’t come from her, but from her “mental health expert” husband:

> *“my husband Richard [drew] a few conclusions. Richard is a GP and academic and an expert in primary care mental health, including personality disorder.”*
>
> *“At the end of this is [my husband’s]] clinical judgement, which she seems to have forgotten.”*
>
> *"he has to support her. Otherwise he would lose his children. If the diagnosis is accurate she might even have made threats to hurt them. Or herself. Or him.”*

> *"Angel has a borderline personality disorder.* ***This is a clinical judgement, not a personal opinion****. It isn't simply depression. It makes her very dangerous, but luckily for us and sadly for others the danger is to those close to her."* (emphasis added)

The judge's ruling that this was not malicious, is gas-lighting and perverse. Had the claimant had the mental condition allowed to be "honestly believed", the Defendants' course of conduct could only have been designed to lead the claimant to commit suicide and/or murder. They openly admitted in court to have knowledge of personality disorders, so it is impossible to admit this and claim ignorance of the dangerous effects of networked and coordinated ostracisation on a grieving person they "honestly believe" to be suffering from Borderline Personality Disorder.

There is no logical way out of this, either they were knowingly spreading a lie, or they were deliberately seeking to incite a person to commit suicide or murder, i.e. being reckless as to the truth. Both cases are clearly malicious.

The Judge's acceptance of this perversion, and his failure to follow mental health legislation and legal process for diagnosing mental illness, is a serious breach of the Human Rights of the Claimants, and a dangerous precedent to set for the whole country.

NB: "honest belief" is actually relevant to the 2013 Defamation Act, not the one from 2008, which this case was supposed to have been tried under.

On top of which, the judge completely ignored the disability abuse perpetrated by Melanie Byng against Angel, convincing others that Angel is only pretending to be physically disabled:

> *"[my son]] says she's not walking impaired, she's just fat."*
>
> *"her 'disability' is annoying but not that bad - in fact she told me she had to ham it up to get her disability parking permit"*
>
> *"On the other hand, that IS her disablement [the accusation that she suffers from Borderline Personality Disorder], not the foot. The foot is real, but it isn't that bad."*

This had the desired effect:

One of the people she communicated said this (there are other examples):

> *"I'll say it if no one else will… I doubt her claim to have a "mobility impairment""*

D6 (Threats to life and liberty and to the Claimants' family integrity)
Just three examples for this one:

> *"I am happy to give her a hole in the head anytime"* Melanie Byng
>
> "She's really ill y'know. The children are in deep shit." Melanie Byng
>
> *"The only person I have discussed this with is a psychiatrist friend in face to face situation. […] The people affected are considering what to do. There are children involved too - directly. The police is an option, but Angel, at the moment is in New Zealand. […] 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."* Andy Lewis

The only contact we had ever had with Melanie Byng was when she made offer to us on the basis of her and her husbands' superior understanding of stress and bereavement. Our only contact with Andy Lewis was in, first of all testing his untrue claims to "publish every comment without moderation", and then publishing about his refusal to do that, on our own sites, and always offering him right of reply.

D7 (Ignoring course of conduct and allowing the Defendants to "benefit from their own wrong")
The Judge's misdirection in characterising the Defendants' actions as a reply to attack, allows them to *"gain benefit from their own wrong"*.

As per Gatley (p598):

> *"A publishes words which B considers defame him. B publishes a response in self defence. A then publishes further defamatory material, purportedly by way of rejoinder to B's response. It has been held in Australia that A's second publication is not protected by qualified privilege because (1) it would inhibit B's right of self-defence, since by exercising it he would be laying himself open to further privileged attacks; and (2) assuming the original attack to be unjustified, A would be gaining benefit from his own wrong."*

By removing all the covert harassment by the Defendants, which began before we published about it, (the covert harassment referred to in Appendices A3, B2 and C4), a gross injustice was set up as it altered the chronology, facts and context of what actually happened. The Judge was thus able to classify our responses as attacks, and their retorts as defences.

D8 (Allowing a court order to be breached)
This is also referred to above in Appendices B1 and B2.

During the PTR it was discussed that there were missing communications which were referred to in other emails. One of these is from this email:

> *"Andy Lewis of the Quackometer […] knows most of the big-hitters so he has put out a warning."*

These big-hitters referred to as top UK journalists and other influential people

The Judge made his judgement of the whole case without even requiring the evidence he himself had ordered to be produced, evidence he even said at the PTR he was interested in seeing himself.

We requested these documents multiple times to no avail, including just before they broke into our home to take it from us: they had no problem obeying a court order if it benefited them, but never revealed those emails, and they were never penalised for this. In fact they won the case and gained the house by breaching a court order while the presiding judge who made the order did nothing at all.

D9 (Gross intrusion into grief - Disregarding Human Rights Article 8)
The lack of proper attention to Dr and Mrs Byng's many offers to the family during a time of bereavement causing/exacerbating a gross intrusion into grief. Ignoring hate-crime.

D10 (Failing to uphold freedom of speech - Disregarding Human Rights Article10)
Even under defamation alone (discounting the background stalking and harassment), the Court failed in its obligation to ensure a reasonable opportunity to exercise a right of reply, including horizontally.

<u>For example:</u>
"the State must ensure that a denial of access to the media is not an arbitrary and disproportionate interference with an individual's freedom of expression, and that any such denial can be challenged before the competent domestic authorities." Melnychuk v. Ukraine (dec.), no. 28743/03, ECHR 2005-IX:

No protection was accorded to the freedom of speech of the claimants, neither ordinarily as parents seeking to correct personal facts about their family, nor any enhancement of these rights as publishers. Indeed words were put into their mouths with no regard whatsoever for the public record.

D11 (Ignoring the chilling effect of defamation, covert smearing and harassment, on free speech)
Operating a course of conduct of subverting democratic exchange to exclude people by interfering in their free association, leads inevitably to people not being able to discuss anything publicly concerning what

happened to our children at the school. One of them expressed frustration at this in a email to Melanie Byng:

> *"It's truly bugging me that we can't write up our thoughts on their so-called mediation."*

But due to this injustice, this effect has gone much further than the large group of people they communicated to, as this email to us clearly shows:

> *"I have just left a comment re the recent mob rule article, yet after reading your previous article on the skeptics who took that family to court and seized their home, I have lost my balls. I don't wish to have any ill energy towards me or my family, and although I only left my footprint as my organisation, I am sure I can be tracked down. […] I am politely asking you to remove my comment. Thank you"*

D12 (Dismissing the effects of harassment and ostracisation - ignoring hate-crime)
The effects of ostracisation of a human being can be devastating and there is scientific research on the matter. Research that was totally ignored by the judge who failed to understand the reaction to being ostracised

Some info about ostracisation:
"Like bullying, ostracism causes pain and distress. Its targets either attempt compensatory behavior, aimed at being likeable and included, or they retaliate, provoke, and aggress. Qualitative interviews suggest that frequent exposures to ostracism make targets become depressed, exhibit helplessness, and engage in suicidal ideation and/or attempts. Unlike bullying, ostracism need not be persistent or unwanted, is difficult to monitor and penalize, and negatively affects basic human needs for acknowledgment and meaning."

"Even trivial episodes of ostracism can shatter your sense of self"

"Social exclusion crushes self-esteem, because it suggests that you did something wrong. You feel powerless: whatever you do, you will be met with silence. You are invisible, irrelevant-- and, studies show, in physical pain."

"Being ignored and left out activates the dorsal anterior cingulate cortex, a region linked with the emotional aspects of physical agony, and the insula, which judges pain severity."

<u>According to HHJ Seys Llewellyn in his judgement</u>

> *"The assertion by the Claimants that silence on the part of the Second Defendant amounts to aggression, or indeed "the height of aggression", is remarkable, and perhaps speaks for itself as to whether the Claimants have any reliable evidence of what is asserted against the Second Defendant as malice." (Para 228)*

Not only does this ignore the evidence of the damage of ostracisation, but it overlooks R V Ireland (1997) in which a criminal conviction was upheld on the basis that silence can amount to an assault, and psychiatric injury can amount to bodily harm.

Courts have a stated duty to notice and prosecute hate-crime.

D13 (The difference in status of the parties)
The Claimants, Steve Paris and Angel Garden, are a family, working on their own and on behalf of their children, who achieved a landmark human rights settlement about a controversial form of bullying take regularly takes place in an alternative education system, namely, Steiner-Waldorf education. Their online influence was and still is very limited, both on social media and by the fact that they have no links with the mainstream media and other influential bodies.

The Defendants are well-connected professionals, based in the UK, who have contacts with many influential groups and individuals, both in the UK and worldwide. They also have a large reach online and are viewed as reliable due to their advertised belief in only believing in evidence. Their followers have no idea what these people do behind the scenes to attempt manipulate events, as we experienced.

The Defendants have a reach of tens to hundreds of thousands.
The Claimants have a reach of dozens to hundreds.

APPENDIX E - APPLICATION TO APPEAL

Rt. Hon. Lord Justice Floyd said the following when he refused our permission to appeal:

> *"The careful and detailed judgment of HHJ Seys-Llewellyn QC discloses no arguable error of principle (1). The […] grounds of appeal and skeleton are in substance an attempt to re-argue the case on the facts (2). It is not realistic to suppose that this court, which has not had the advantage of seeing the witnesses who gave oral evidence, or the benefit of a lengthy trial, could interfere with the judge's detailed findings (3)."*

(1) a "careful and detailed judgement" which misrepresents so many facts as clearly highlighted in all the Appendices above.

(2) Dismissing an appeal because it attempts "to re-argue the case on the facts" flies in the face of what a spokesman for the judiciary said on 21 June 2016 about another case:

> *"if a judge errs in law or one the facts, the remedy is to appeal."*

(3) Yet the appendices above and also the skeleton and grounds for this appeal showed clearly how the judge was mislead during this trial and how his "detailed findings" are riddled with misrepresentations.

APPENDIX F - PERMISSION TO APPEAL HEARING (A2/2015/2839)

F1 - (Disallowing the applicants to get legal representation)
When a publicly funded service organised by the Court of Appeal, had spent weeks seeking a lawyer to represent us, and when the court had already moved the hearing once due to their own scheduling conflict, Lord Justice Simon refused another short delay to allow us to talk to these solicitors, and we had to go into the appeal unrepresented:

Steve Paris: *"Just yesterday we had an opportunity to get legal representation but he could not come today and we asked for an adjournment but ——"*

Justice Simon: *"I am afraid I refused the adjournment. Your application was put on urgently and the court has made this date available so we must stick with that I am afraid."*

F2 (Intimidating the respondents, making one of them who was having difficulty breathing speak and forcing the other one to be silent.)

Angel Garden: "Can I just say ——"
Justice Simon: "No, I think I have heard from you enough. I will hear from your husband now."

F3 (Misrepresenting the grounds of appeal)
Lord Justice Simon claimed that evidence tampering *"is not a ground of appeal that you have raised"* and refused to hear arguments about it in court.

Yet it most certainly was:
a. at para 28 (page AB14) of the grounds, and;
b. pages AB-38-40 of the skeleton argument).

F4 (the original judge's supposed advantage in seeing the witnesses' demeanour)
The Judge again relied heavily on the original Judge's perception of the demeanour of the parties:

> *"Fifthly, there is criticism of the judge's reliance on the demeanour of the respondents, particularly the first respondent; see for example paragraph 15 of the claimants' submissions. There is nothing in this point. When assessing the issue of malice, a judge is fully entitled to take into account his view of a witness giving evidence and being subjected to cross-examination, including demeanour. The case relied on, Southwark v Nursing and Midwifery Council, is no support for the contrary proposition. The judge's view of a witness is relevant. Nor is there any proper basis for saying that the judge placed too much weight on the witness's demeanour." (Para 37 of Judgement)*

Where the evidence is misrepresented, and the judge has been allowed to be deceived by the alteration to the facts as presented by opposing barrister Jonathan Price, a witness' demeanour becomes more of a liability than an advantage. Which may explain why, although each defendant and their witness were caught lying on the stand, such revelations bared no weight in HHJ Seys Llewellyn's judgement.

Further, Southwark v Nursing and Midwifery Council was extremely relevant for the appeal hearing, since it illustrated a very similar situation, where once it had been discovered that someone had been deceiving the court and had been engaged in a campaign of lies against the Claimant, the case turned around in favour of Southwark.

F5 (Misusing words e.g. "dispute" and "exchange")

The injustice caused by the foreseeable error in excluding an observed course of covert harassment from trial, can be seen in the Judge's mistaken use of language, e.g. at para 39 of the Judgement:

> *"In my judgment, these submissions reveal an underlying difficulty for the claimants. That difficulty is that they allowed a relatively confined dispute to escalate into unpleasant exchanges."*

As the Appendices above show, there was no dispute. The Defendants modus operandi was and is precisely to refuse to discuss anything whatsoever openly with the Claimants, and to widely smear them covertly instead, A dispute, and unpleasant exchanges, would involve a dialogue. There was none.

There were no exchanges, but an attempt by the Defendants to publish facts to counteract the smears they knew were being spread behind their backs. Smears which were later totally corroborated by the Defendants' disclosure.

F6 (Belittling the effect of spreading of a fake clinical judgement)
The Judge said it was a 'submission' only that spreading lies about a false diagnosis is a harassing course of conduct:

> Steve Paris: *"Except that [Judge Seys Llewellyn] said it was her belief, that because it was her belief it was okay for her to say that to others.*
>
> Justice Simon: *"No, it is not a question of whether it is okay. Its relevance is whether it shows malice."*
>
> Steve Paris: *"Surely if she tells somebody that somebody has a clinical judgment that makes her a dangerous person and therefore must be avoided, when it is completely untrue, that has to be malicious?"*
>
> Justice Simon: *"That is your submission."*

Appendix D5 explores this and the fact Melanie Byng used her husband's credentials to give more weight to this fictitious "clinical judgement" she was spreading in greater detail.

As with previous Judges, this Judge had a solemn duty to recognise that, whether or not the smear was 'honestly believed', it was reckless as to the truth as a person suffering from BPD would be likely to commit suicide and/or murder as a consequence of the Defendants' actions.

F7 (Refusing appeal notwithstanding restating the original finding that we had not lied)

> **"***In relation to the allegation of lying, the judge took a view of the matter which favoured the claimants, since he concluded that the defendants had not proved that the claimants had lied."*

How can people who have not lied lose their case?

F8 (Dismissing precedent - Discrimination)
Lord Justice Simon allowed opposing counsel to dismiss precedent, named Flood v Times (2013) which (also featuring a (different) barrister named Price) clearly states:

> *"§13. Mr Price submits that the reader of the website publication who read it after 5 September 2007 would reasonably understand it to be making a statement not only about events as they were on 2 June 2006, the date at the head of the article, but also about events up to the date at which it was being read. Were that not so, there would be no need for a responsible journalist to update the article by including a reference to events subsequent to the original publication. But the Court of Appeal had held that the journalist or publisher was under an obligation to do that."*

HHJ Seys Llewellyn had stated that a blog post in the heads of claim was not defamatory when published for the first time, citing the lack of issue from the Human Rights mediation at the time. He therefore claimed there was no evidence to back up what we were saying, namely that the school expelled our children because our eldest was being bullied and the school refused to do anything about it (this actually goes against the very evidence Barrister Jonathan Price had distorted at trial - as described in Appendix D2 3.a)

Even if that were true (which it wasn't), Seys Llewellyn then stated that it still wasn't defamatory to say that the school said it was our behaviour that had caused them to expel the children, even after the second publication, just after the school had admitted in a Human Rights settlement that our child's reports of bullying were honest, that they cancelled a meeting with us designed to deal with said bullying and that they had expelled all of the children, including the ones not being bullied, instead.

When Justice Simon asked Jonathan Price about it, his response included the following:

> *"I think that that is dealt with at 235 and 236, I found it was not defamatory and he also finds it did not become defamatory simply because there may have been a change in circumstances. Even if it was rendered inaccurate by a change in circumstances that does not bring into play the principle in Flood and Loutchansky, to which I think reference is made, because it does not matter for the purposes of defamation if something is simply wrong, unless it is also defamatory."*

But the defamation was that Andy Lewis claimed we had no evidence for what had happened to our children and that the school was justified in its actions, even though the evidence we had published about it at the time he first wrote that was comprehensive and thorough, unlike all other available evidence he published. Another survivor of similar treatment had earlier said *"there is nothing in your story that I have not heard many times before from parents of children at Steiner schools […] The one big difference is that you have documented it so well."*

It was and remains clear Andy Lewis was not interested in the facts but simply had a desire to remove us, our family's experience, and our family's achievement out of the field of Steiner criticism:

> *"I am happy to be convinced that no bullying took place beyond the usual moderate rough and tumble of any playground."*

Even if the evidence we had published about it at the time he first wrote that was not deemed sufficient for the Judge to see how defamatory his statement was, and how obviously he has singled our family alone out for this denial, (Appendix A), the joint statement with the school about this, signed in front of the Director of the Human Rights Tribunal of New Zealand, corroborating our experience, should have been more than sufficient.

The Judges have severally failed in their duty to uphold Human Rights, which itself is a breach of the Act, and the court has discriminated against the claimants and their children by allowing this. The fact of the Human Rights settlement and statement should definitely have invoked Flood v Times and a publisher's responsibility to remain accurate and update a publication that is still online, especially since this landmark settlement was, and remains, unique.

A substantial part of our current appeal in asking the court to acknowledge the foreseeability of injustice in deliberately leaving out severe harassment, is the effects on our children, both the one who was threatened with the axe, and the other two, in spite of their having gained useful Human Rights advocacy against admitted bullying after their expulsion. False statements, very obviously contradicting the public record, including tv and newspaper reports, remain online. Although prevented by their age from addressing these lies legally now, further waste of resources is guaranteed down the line as they are forced to seek redress from the intransigent and intimidating influential publishers, now further emboldened by having been rewarded for attacking and smearing their parents and who have already taken away their family home.

Meanwhile, the boy who threatened our 8 year old with an axe, who was 10 at the time, which was the action which led to her and her sisters' expulsion, never received any sanctions for his behaviour. It has very sadly recently been revealed that this boy has now been prosecuted for the rape of three minors.

APPENDIX G - CASE C00SA374 ORDER for SALE ON Claimants' family home.

G1 - Contradicting Statement
In 2016 the Defendants served a case seeking order for sale of the family's home. Their application documents contained a statement contradictory to those made at trial. It was from an earlier draft settlement agreement.

That statement included an admission by Melanie Byng, one which we would not have been allowed to use at all to counter her fake diagnosis. After the mediation failed we were informed by the defendants' lawyers, and our own, that we were not allowed to ever mention this admission and to do so would result in being in contempt of court.

The admission was revealed by the opposing lawyers in their submission for case C00SA374 on page 102 of their bundle, and was then referred to in open court, finally making it public knowledge:

> *"I want to make clear that there has been no clinical assessment of Angel Garden's mental health by my husband, Ms Garden is not his patient and he has never diagnosed her with any mental health issue. Any comments I have made which might suggest otherwise are untrue and understandably distressing to Ms Garden."*

G2 - Falsehoods of Robert Dougans
Robert Dougans submitted a Witness Statement in conjunction with the Order for Sale application. This statement was finalised on 24th of July 2016 wherein he mentions being hired on a CFA basis. However, during his communication with us prior to this, it was clear that he was trying to alter the chronology again to his advantage:

On the 24 of March 2016, he wrote to us:

> *"you instructed Douglas-Jones & Mercer on a CFA basis. […] Had you won this case it is likely that the Defendants would have had to have sold their homes to pay the sums due to you. You must have appreciated this when entering into the CFA"*

Then later, on the 8th of April 2016,

> *"Given you sought an interim injunction, then engaged lawyers on a "no win no fee" basis, the Defendants had no option but to seek legal representation."*

This goes against the actual chronology of events, namely:

16 August 2013 (prior to issue of our claim, while we were trying to mediate to avoid legal action), he wrote to us - *"As we are acting for Dr. Lewis, please do correspond with us on this matter rather than with Dr. Lewis directly"*
5 February 2014 - *"we have agreed to represent the First Defendant on a Conditional Fee Agreement"*
7 February 2014 - *"we confirm we now act for all three Defendants: Dr Andrew Lewis, Mrs Melanie Byng and Professor Richard Byng*"
Early March 2014 - DJM agree to represent us and fund our case on a CFA

Since Robert Dougans had no problem stating these lies to us, who have the evidence to refute them, it is highly likely that he intended on using them in his Witness Statement, stating that he had to accept the case as a CFA because we already were represented on a CFA, thereby making his huge cost seem reasonable. Had we not stated the actual facts to him, this may well have happened.

But a lie did slip through: in his Witness Statement, Robert Dougans wrote at para 14:

> *"Dr. Lewis and Mrs. Byng were sued for libel. It should be noted that Mr. Paris and Ms Garden's initial claim included an application for a mandatory injunction. It was therefore reasonable - indeed imperative - for them to instruct lawyers."*

The above chronology clearly shows he had been instructed since August 2013, months before the case was actually brought (this was done in November 2013).

APPENDIX H - PERMISSION TO APPEAL ON FRESH EVIDENCE

H1 (Misrepresenting Facts and Evidence)
Judge Simon misrepresented facts in his judgement when he refused our application to seek permission to reopen the appeal.

The appeal centred around an admission, revealed during case C00SA374 (see Appendix G1 above):

> *"I want to make clear that there had been no clinical assessment of Angel Garden's mental health by my husband, Ms Garden is not his patient and he has never diagnoses her with any mental health issue. Any comment I have made which might suggest otherwise are untrue and understandably distressing to Ms Garden"*

Justice Simon ruled that this admission was the same as what Melanie Byng had said on the stand that, namely:

> *"If what you are saying is that I am pretending that Richard has made a diagnosis of Ms Garden, it is completely untrue. Had I wished to say that my husband had made a diagnosis - which is impossible because she is not his patient - then I would have said so"*

His ruling obviously ignores the crucial second sentence of her admission, namely:

> *"Any comment I have made which might suggest otherwise are untrue and understandably distressing to Ms Garden"*

This admission was also clearly illustrated through examples from disclosure of her using her husband's credentials, some of which can be seen at Appendix D5.

This fresh evidence again demonstrates the exact harassment that HHJ Seys Llewellyn had unreasonably excluded from the case, including that the defendant knew it was harassment as she said it was "understandably distressing".

This shows the reliance on the original judge's "advantage" in seeing the witnesses was misplaced as he had been roundly deceived.

Nevertheless, Justice Simon refused the permission to appeal stating:

> *"The extract relied on by the applicants is consistent with the evidence given by the 2nd defendant at trial"*

H2 (Refusal to recuse himself on the ground of bias, despite ample evidence)
Due to Justice Simon's attitude towards us, his refusal to allow us legal representation, his distortion of the facts and of our grounds of appeal, and other examples such as those described in Appendix F, we requested that he recuse himself on the grounds of bias.

This was before he ruled that Melanie Byng's private admission of having lied was the same has her going on the stand and insisting she hadn't lied.

Nevertheless he refused this request stating that it was "without merit".

However, no one else saw this request or the evidence it contained. Only the judge accused of being biased decided on the merit of the evidence presented…

APPENDIX I - CURRENT APPEALS

Two “interrelated appeals” have been applied for on yet further fresh evidence of the fraud and error in this case. These applications have now been sealed and served.

1. **Appeal in Defamation (A2/2015/2839B)**

-It includes fresh video evidence proving that Andy Lewis did slander the Claimants at a public meeting, as originally claimed, inferring they were a danger to children and were stalking his family. He then misrepresented events at that public meeting, and shortly afterwards himself monitored the Claimants in a networked and coordinated manner with the other defendant and several others to a conference in Italy, trying to prevent them speaking at it. This was again done with the involvement of Dr Richard Byng. Andy Lewis even stated that:

> *“if they get anything published in any proceedings We might want to think about seeing if that might be worth stopping.”*

As alleged, and now proven, *he* was the one who was stalking *us*, in order to prevent our freedom of speech and free association, whilst:

> *“Covertly inciting organisations and individuals to shun the Claimants by portraying them as dangerous and mentally unstable.” (See Appendix D2-2)*

The recent case of Munroe and Hopkins is further fresh evidence of the overwhelming anomalies in this case, and how far from both procedure and precedent in defamation law, matters have strayed, and that the foreseeable consequence of excluding the evidenced covert harassment claims has been a trivialisation and the actual rewarding of networked coordinated stalking and harassment, including defamation as part of the course of conduct, causing severe and oppressive injustice to the targets of that harassment.

2. **Appeal in Harassment (A2/2017/1648)**

This interrelated Appeal concerns the decision to exclude the covert harassment claims shortly before trial, a decision which lead to the foreseeable injustice.

On the basis of the same fresh video evidence, and including the earlier admission of harassment by Melanie Byng (see Appendix H1). This evidence proves the original alleged course of conduct and demonstrates beyond any doubt the injustice that has foreseeably arisen from the unreasonable exclusion from the case, of an acknowledged course of conduct, including covert harassment, stalking, malicious communications and disability hate-crime.

The injustice towards this family breaches their Human Rights at least under Articles, 2,6,8,9,10,11,14 and 17