



JUDICIARY OF
ENGLAND AND WALES

30 July 2015

PRESS SUMMARY

**Lachaux v AOL (UK) Ltd, Independent Print Ltd & Evening Standard Ltd
[2015] EWHC 2242 (QB)**

Mr Justice Warby

1. The claimant in these libel actions, Bruno Lachaux, is an aerospace engineer. He is French. He lives and works in Abu Dhabi. He has sued the English companies which publish the *Huffington Post*, *The Independent*, *i*, and the *Evening Standard*. His complaint relates to the publication by them in England and Wales and in Dubai of articles containing allegations which can be summarised in this way: that the claimant is a wife-beater who caused his ex-wife to flee with their son, after which he unjustifiably snatched his son back from her custody, and falsely accused her of kidnapping the boy, causing her unjust prosecution in the UAE for abduction. For the exact allegations see [91-93], [96], [98], [99].
2. The judgment deals with preliminary issues in the claims. It decides some disputes about whether the articles complained of referred to the claimant and what they meant about him. The main issues are, however, whether any of the publications complained of ‘has caused or is likely to cause serious harm to the reputation of the claimant’ within the meaning of section 1(1) of the Defamation Act 2013; and whether the claims against the *Huffington Post* are an abuse of process on the grounds that too little is at stake to justify a libel action (‘*Jameel* abuse’). [8-10] As part of their case on these issues the defendants relied on the fact that others whom the claimant had not sued had published extensively the same or similar allegations about the claimant. [10], [69-70].
3. The court reached the following main conclusions as to the law:
 - (1) Contrary to the claimant’s argument, on its true interpretation s 1(1) requires a claimant to do more than prove that a publication bears a meaning with an inherent tendency to affect, in a seriously adverse way, the attitude of other people to the claimant. It must be proved on the balance of probabilities that the publication has in fact caused serious harm to the claimant’s reputation, or will probably do so in the future. [65]
 - (2) It may be possible to prove this by inference. However, the court rejected the claimant’s argument that the only evidence relevant to and admissible on the issue is the words and their meaning. The intention of Parliament was that the court should consider all the relevant circumstances, including what has actually happened after publication.[65]

- (3) If a claimant already has a bad reputation in the relevant sector of his life that is a relevant circumstance. But House of Lords authority establishes that as a rule a defendant may not prove bad reputation by showing that the same allegations about the claimant have been published on other occasions, by other people, or by the defendant. [74]. That rule prohibits these defendants from relying on publications by others whom the claimant has not sued. [190].
 - (4) The general rule is modified by statute: the Defamation Act 1952, s 12. Section 12 has the effect, among others, that where the claimant has sued for libel in respect of another publication of the same allegations, that fact is admissible in mitigation of damages.
4. Applying these principles to the facts of these five claims the court found as follows:
- (1) In four of the five claims the claimant has proved that the publication complained of has caused serious harm to his reputation. He has done so by inference from the facts that each involved the publication of imputations with a seriously defamatory tendency, in a serious article, in a serious news publication, to a large or at least substantial number of people; from the fact that he is known by or to a substantial number of people who, it can be inferred, read the publication complained of in one of the relevant places; and from the fact that his reputation amongst those readers in those places to whom he is not yet known is a matter of real significance to him. [144-150], [153]
 - (2) The claimant has failed to prove that publication of the second *Huffington Post* article caused serious harm, or that it is likely to. That article merely repeated, at the end of a long piece, some of the allegations that had featured in an earlier, more prominent, *Huffington Post* article. That earlier article is the subject of one of the present claims, so that section 12 of the 1952 Act is applicable. The second article had a very small readership. It cannot be inferred that it caused serious reputational harm. It has now been taken down. [151-152]
 - (3) The four claims in respect of publication causing serious harm to reputation are not a *Jameel* abuse. That issue does not arise in respect of the second *Huffington Post* article, because it fails to cross the threshold of seriousness laid down by s 1(1). [155]
5. The court noted that this was not a dispute about jurisdiction. There was no dispute that the court had and was bound to exercise jurisdiction over the defendants if the claims crossed the threshold of seriousness. Nor does the judgment deal with the truth or falsity of what was published or whether it was in the public interest to publish it. [11]. Those issues will remain for trial later.

References in square brackets are to paragraphs in the judgment

NOTE: This summary is provided to help in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: www.bailii.org.uk and www.judiciary.gov.uk