Neutral Citation Number: [2022] EWHC 3017 (KB)

Case No: QB-2022-000547

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
MEDIA & COMMUNICATIONS LIST

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 28/11/2022

Before :

THE HONOURABLE MRS JUSTICE COLLINS RICE

- -

Between :

RICHARD ALAN PARSONS	**Claimant**
- and –	
(1) ELIZABETH GARNETT **(2) ALLAN GARNETT** **(3) KATIE ARMISTEAD**	**Defendants**

- -
- -

Mr William McCormick KC (instructed by **Carter-Ruck Solicitors**) for the **Claimant**
Mr John Stables (instructed by **Harrison Drury Solicitors**) for the **Defendants**

Hearing date: 14th November 2022

- -

Approved Judgment

This judgment was handed down remotely at 10.30am on 28 November 2022 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

.....

THE HONOURABLE MRS JUSTICE COLLINS RICE

Mrs Justice Collins Rice :

Introduction

1. Mr Parsons is a businessman and country landowner in Cumbria. Mr and Mrs Garnett are long-standing tenant farmers of his. Ms Armistead, their daughter, works on the family farm. There is a history of friction and grievance between Mr Parsons and the family ('the Garnetts').

2. Mr Parsons issued proceedings in harassment and libel over some anonymous poison-pen letters that surfaced in the local village between 2018 and 2020. He holds the Garnetts responsible for their origins and circulation.

3. He now asks for a default judgment on his claim, without a trial, under the provisions of Part 12 of the Civil Procedure Rules.

Procedural history

4. Pre-action correspondence was initiated by Mr Parsons in August 2021. The Garnetts' solicitors responded in October 2021. They denied originating the material complained of, made limited admissions of small-scale onward publication, and said they would 'vigorously defend' any action brought against them. Mr Parsons issued his claim on 18th February 2022.

5. The Garnetts had de-instructed their solicitors, and participated as litigants in person in the ensuing correspondence. Mr Parsons served his particulars of claim on 15th June 2022. Mrs Garnett responded with a substantial email on 26th June on behalf of all three defendants, combative in tone, which denigrated Mr Parsons' claim, impugned his motives and integrity in bringing it, positioned the Garnetts as the victims of Mr Parsons' harassment rather than the other way around, and finished with 'we look forward to our day in court'. But the Garnetts made no formal acknowledgment of service of Mr Parsons' claim, and did not enter any defence to it.

6. Mr Parsons applied on 10th August 2022 for judgment in default, and for remedies under the summary disposal procedure set out in sections 8 and 9 of the Defamation Act 1996. The Garnetts did not respond. By Order of 26th September 2022, Nicklin J gave directions to bring the application to trial, including timetabling any evidence the Garnetts wished to rely on in response to the application, and the exchange of skeleton arguments.

7. The Garnetts then re-instructed their solicitors and all three defendants filed and served witness statements on 24th October 2022. Nicklin J, reviewing these on receipt, noted that that they appeared to indicate an intention to defend the claim, but that the defendants had still filed no formal pleadings, so it might be necessary for them to seek relief from sanction for late filing. The witness statements repeated the Garnetts' denial of originating the anonymous letters. Mrs Garnett's said they had not understood that they needed to respond formally to the claim, but attached a draft defence and indicated they would be asking for an opportunity from the Court to file it late.

8. A letter of 31st October from the Garnetts' solicitors confirmed their intention to defend the claim and to file acknowledgments of service and the draft defence. A letter of 3rd November from Mr Parsons' solicitors took issue with the account in the witness statements that the Garnetts had not understood the nature of the claim and the need to respond.

9. A hearing of the default judgment application was listed for 14th November 2022. On 9th November, the Garnetts' solicitors wrote to say there had been a change of plan. They would not now be filing acknowledgments of service, or applying for relief from sanctions or an opportunity to defend the claim. But nor were they conceding the claim or the application for default judgment. Instead, they indicated they wished the proceedings 'brought to an end' at the hearing and would be instructing Counsel to address the Court. A skeleton argument was filed on 11th November.

10. The situation at the hearing of the application for default judgment, therefore, was that the Garnetts had placed some evidence, but no pleadings or applications of their own, before the Court.

Default judgment

(i) The legal framework

11. According to CPR 12.3, the basic conditions to be satisfied for entering default judgment are that a defendant has not filed acknowledgment of service or defence to a claim, and the time for doing so has expired. These basic conditions were fulfilled in this case.

12. CPR 12.12(1) directs a court considering a default judgment application to '*give such judgment as the claimant is entitled to on the statement of case*': here, that means Mr Parsons' particulars of claim.

13. The approach to be taken to applications for default judgments in defamation cases was considered by Warby J (as he then was) in *Sloutsker v Romanova* [2015] EWHC 2053 (QB) at [84]-[86]. He said CPR 12.12

> enables the court to proceed on the basis of the claimant's unchallenged particulars of claim. There is no need to adduce evidence or for findings of fact to be made in cases where the defendant has not disputed the claimant's allegations. That in my judgment will normally be the right approach for the court to take. Examination of the merits will usually involve unnecessary expenditure of time and resources and hence contrary to the overriding objective. It also runs the risk of needlessly complicating matters if an application is later made to set aside the default judgment…

14. However, Warby J recorded a number of further points.

> The first is that not only has the defendant put in no defence, she has never specified the respects in which she disagrees with the claimant's case. The second is that I recognise that the general

> approach outlined above could need modification in an appropriate case, for instance if the court concluded that the claimant's interpretation of the words complained of was wildly extravagant and impossible, or that the words were clearly not defamatory in their tendency.

15. Again, in *Charakida v Jackson* [2019] EWHC 858 (QB) Warby J noted:

> Although the court addressing an application for default judgment will normally proceed on the basis that the facts are as alleged in the particulars of claim, questions as to what defamatory meaning(s) are borne by a publication, and whether they have caused or are likely to cause serious harm to reputation, are special kinds of factual issue which ought not to be determined against a defendant without at least some consideration of the merits. It would be wrong to grant a default judgment if the meanings complained of were wholly extravagant and unreal interpretations of the offending words or could not reasonably be considered defamatory.

16. HHJ Lewis in *Rafique & anor v ACORN Ltd & anor* [2022] EWHC 414 (QB) took an equivalent approach to a harassment claim at [28]:

> An equivalent approach needs to be taken in respect of the harassment claim. Examples of situations where the general approach might need modification include where there is no obvious course of conduct, or where it would be unreal to characterise the events relied upon as unreasonable and oppressive conduct, likely to cause the recipient alarm, fear and distress.

(ii) The parties' positions

17. Mr McCormick KC, for Mr Parsons, says his application for default judgment is straightforward. His claim and his application are 'unchallenged', since they have never been responded to with any formal pleadings. The fact that disputatious witness statements have been filed does not alter that fact. Indeed, it would be wrong and unfair to give them any weight, since by virtue of the Garnetts' disengagement from litigation procedure the statements are untested and untestable. Mr Parsons has been given no formal articulated defensive position to which they could be relevant, and no opportunity to put in evidence of his own in response to such a position. On the authorities, the court's task is simply to satisfy itself that his pleaded claim properly sets out all the components of the torts in question and is not 'unreal' or 'extravagant'. Mr Parsons is entitled to judgment on that basis.

18. Mr Stables, for the Garnetts, says that is an oversimplification. First, he says, even on the 'general approach' set out in the authorities, Mr Parsons' pleadings do not properly and sufficiently set out a case on which he is entitled to judgment against all three

defendants. In respect of Mr Garnett in particular, there is no properly articulated case for implicating him in events he says he had nothing to do with.

19. But secondly, Mr Stables points to the indication in the authorities that in an appropriate case some modification of the general rule may be needed so that 'at least some consideration of the merits' is called for. Unlike some default judgment cases, I *do* have an indication of the defendants' position, and I *do* have evidence verified by a statement of truth testifying to it. The Garnetts say they did not originate the material complained of, and Mr Garnett says he did not publish it at all. That is a fundamental point, capable even of being jurisdictional (*Pirtek v Jackson* [2017] EWHC 2834 (QB) at [27]-[38]). It would, he says, be improper and unfair to fix Mr Garnett with default liability on the basis of an unparticularised bare assertion of implication. So 'at least some consideration' of the merits of the publication issue is needed.

20. Mr Stables also says the authorities (*Charakida v Jackson*) are clear that 'at least some consideration of the merits' is called for on the question of the causation of serious harm (Defamation Act 2013 section 1). He says this is a case where the pleading of serious harm is problematic in its own right, where 'some consideration' of its merits is needed, and where I should in all the circumstances decline to give default judgment.

(iii) Consideration

(a) General

21. The parties agree the situation before me is unusual. I have no pleaded case from the Garnetts, in response to either the claim or the application for default judgment. They have not acknowledged the claim or conceded the application. Nor have they applied to strike out Mr Parsons' case, in whole or in part. They are not asking to be allowed to defend the claim – and that is an important point of distinction from some of the authorities we looked at. They simply wish the litigation with its attendant stresses to be over (Mr Stables suggested that could be achieved by the Court refusing default judgment and striking out the claim of its own motion). So instead, I had submissions challenging the application for default judgment (setting out a position of which neither the claimant nor the Court had notice before Mr Stables filed his skeleton argument, in accordance with Nicklin J's order, one working day before the hearing of the application). And I have the witness statements.

22. Mr McCormick KC advises me to be alert in these circumstances to the risk of the court's processes being misused, and of unfairness to Mr Parsons. The defendants are not, he says, to be permitted to shelter behind their procedural passivity while attacking Mr Parsons' entitlements on a deliberately undefended claim, trying to make impermissible headway on a substantive merits challenge with evidence he is not in a position to test or meet. I bear these risks in mind.

23. The starting point on any application for a default judgment is that a defendant who does not wish to concede a claim is expected to challenge it by defending it and/or applying for a terminating ruling. Failure to defend triggers the Part 12 procedure, and the role of a court being asked to give judgment on a *deliberately* undefended case is on any basis limited. It is a fully judicial not a merely administrative exercise; default judgment is not automatic. But it is not an exercise in evaluating the full merits or strength of a case, with or without the assistance of unfiled draft defences or evidence

unanchored to pleadings. A court's principal job is to test whether the claim is in full working order, and can properly be given effect to, on its own terms.

24. Whether a claim is in proper working order is a matter in the first place of checking that all the constituent parts of the torts are properly set out and the corresponding claimed facts identified. At the same time, the authorities we looked at do confirm that the exercise is not mechanical or uncritical. The obligatory and/or permissible degree of critique is, however, to some extent in dispute in the present case.

25. The defamation authorities give helpful examples of the correct approach. The natural and ordinary meaning of the words complained of should not be pleaded 'extravagantly' and the allegation of defamatory tendency should not be 'unreal'. Both of these components of the tort would be determined by a trial court *without* evidence, so a court on a default application is relatively well-placed to look at pleadings and form a general view, without making findings, about whether the relationship between the words complained of and the pleading of these components is properly functional rather than fanciful.

26. But two observations of Warby J in the defamation cases raise more difficult matters. The first is the observation in *Charakida v Jackson* that 'serious harm' is another *special kind of factual issue which ought not to be determined against a defendant without at least some consideration of the merits*. Serious harm is a different kind of component of defamation from meaning and defamatory tendency: it is a matter of actual fact and therefore of *evidence* (*Lachaux v Independent Print Ltd; Lachaux v Evening Standard Ltd [2019] UKSC 27*). In defamation proceedings, serious harm may in an appropriate case be established largely inferentially, but it remains a matter of factual cause and effect. So the quality that makes it 'special' and the nature and extent of the critique envisaged by 'at least some consideration of the merits' do not necessarily speak for themselves.

27. The second is the treatment of the issue of publication in *Pirtek*. Section 10(1) of the Defamation Act 2013 provides that:

> A court does not have jurisdiction to hear and determine an action for defamation brought against a person who was not the author, editor or published of the statement complained of unless the court is satisfied that it is not reasonably practicable for an action to be brought against the author, editor or publisher.

On the face of it, this provision is directed to cases in which a defamation action is brought against a defendant *on the basis that* the defendant is not an author, editor or publisher – that is to say, without necessarily alleging that he is; it permits actions to be brought against such defendants only in limited circumstances, in substitution for principal defendants. Mr Stables, however, sought to persuade me that it applies also to cases in which it *is* alleged that a defendant is a publisher; or at any rate that publication is another factual matter which requires 'at least some consideration of the merits'. Indeed, at one point he seemed to go further, and suggest that this may *inherently* be a 'jurisdictional' matter, so that a court *cannot* give default judgment against someone who is not (in fact) a publisher etc. That would logically require the court to *determine* the facts and merits of the matter. I do not understand him ultimately to have pressed this point to that logical conclusion; but he did point out that, unlike in

Pirtek, I *do* have evidence about responsibility for publication, to which I should have regard.

28. There was also some more general discussion at the hearing about what assistance may be provided, on the question of the proper nature and extent of critique of pleadings on a default application, by the familiar tests for terminating claims by striking out pleadings and/or summary judgment. A court in those cases may also be required to test whether a claim is in full working order. But it is doing so for a distinct purpose – namely to see how far it would be fair to expect a defendant to defend the claim to trial in the terms pleaded. On a default application, a court is considering whether an undefended claim can properly be given effect to in its own terms. Mr McCormick KC also pointed out that I have no application for a terminating ruling before me from the defendants, and that no question properly arises on a default application about whether a claimant can amend his case to meet any apparent deficiencies. So there are important differences as well as some similarities.

(b) The claimant's pleaded case on liability

29. The starting point on a default application, on any basis, is consideration of the claimant's pleadings. Mr Parsons' particulars of claim allege (a) a course of conduct by Mr and Mrs Garnett between August 2018 and 24th November 2020 comprising a series of acts of publication said to constitute harassment; (b) libel against Mr and Mrs Garnett by publishing a single anonymous letter on 24th November 2020 said to have gained currency and caused him serious reputational harm and (c) libel against Ms Armistead by publishing the same letter on the same date to a different audience.

30. For the harassment claim, the underlying factual particulars include allegations of a protracted course of conduct, comprising publication by Mr and Mrs Garnett of a series of unpleasant and abusive anonymous communications, which among other things impugn Mr Parsons' business practices and ethics and their impact on the community, attack his family, and allege him to be an adulterer, sexual exploiter and predatory abuser of a vulnerable woman. The full content is set out and alleged publishees are identified, being persons who would recognise they were about Mr Parsons. Mr and Mrs Garnett are alleged to have intended thereby to cause Mr Parsons alarm and distress, or alternatively that the course of conduct particularised would appear to a reasonable person to amount to harassment. Reasons are set out, relating to the parties' antecedent history, to explain Mr and Mrs Garnett's alleged engagement in this course of conduct to this effect.

31. For the libel claim, joint publication by Mr and Mrs Garnett is alleged, and separate publication by Ms Armistead. Reference to the claimant is dealt with, as well as natural and ordinary meaning and defamatory tendency. Serious harm is particularised by reference to the gravity of the allegations, the identity of the immediate publishees and alleged extent of actual and likely onward percolation to identified indirect publishees and more generally.

32. On the face of it, therefore, the principal technical components of both torts are correctly identified in the particulars of claim, and the bare bones of an underlying factual basis particularised in each case. Nothing obvious is completely missing and no obvious defect appears. So I am satisfied it is at least proper to start from the basis that Mr Parsons' pleadings read on the face of it as being in working order.

(c) The defendants' critique

Serious harm

33. Taking the detail of the libel claim first, I am satisfied – and it is not materially disputed – that the matters which are well-established as being within the purview of 'some consideration of the merits' are soundly pleaded for the purposes of attracting default judgment. The pleaded 'natural and ordinary' meaning of the letter complained of perhaps contains more heightened language than would necessarily have made its way into a finding at trial, but, bearing in mind the nature and content of the letter, it is far from extravagant; and the pleaded defamatory tendency is, correspondingly, not unreal.

34. The defendants take issue however, encouraged by *Charakida v Jackson*, with the pleaded case on serious harm. The case against Mr and Mrs Garnett relies on a *combination* of (a) the gravity of the pleaded (and not extravagant) meanings, (b) the anonymous poison-pen format and the village context, calculated to, and likely to, fuel gossip, (c) the salacious and tendentious content, including a reference to a well-known public figure to whom rumours of links to a convicted child-abuser have persistently attached – also calculated to fuel gossip and (d) specified cases of onward publication, including to a local community Facebook group of around 2,000 members.

35. In my view, this is a soundly pleaded case of serious harm, properly particularised in accordance with the decided authorities. It is heavily inferential, but the facts from which inference is invited are set out, and an inference of the causation or likely causation of serious reputational harm in the local community based on those facts is not on the face of it unreal. It is classically what anonymous poison pen letters have a propensity to do, in a village context. It is their whole point.

36. The case against Ms Armistead differs only in relation to the much more limited category of immediate publishees. But again, anonymous letters are purpose-built engines of local gossip. That, and the content of this letter, gets a case of serious harm off to a sound start, even where the initial publishees are few ('it is not a numbers game'). The *strength* of the ultimate case against Ms Armistead might well have depended on the evidence of those immediate publishees, their personal propensity for onward dissemination of the allegations, and/or the claimant's ability to establish causation of serious harm by means of *this particular* act of publication rather than any of the other acts also sued upon. But I am not persuaded that 'at least some consideration of the merits' requires or enables me to speculate about that.

37. So I am satisfied this is a claim which, as pleaded, sets out a functioning case of serious harm which it not 'unreal' and is capable of sustaining default judgment.

Gravity of harassment

38. To found liability in tort, harassment has to be of a gravity equivalent to that with which the criminal law is concerned: a criminal offence. What is pleaded here is harassment by speech comprising explicit and serious moral denunciation across a range of conduct issues, together with intrusion into home and family life, destabilisation of personal, business and community relationships, and the overt threat of wider publicity. It covers a period of time, and has the aggravating feature of anonymity. I am satisfied this is

pleaded as at least capable of amounting to a course of conduct of the necessary level of gravity which is not 'unreal'.

Publication

39. The defendants' principal critique of the pleadings – in relation to both torts – rests on the issue of publication. All the defendants deny authorship of the letters, but of course neither tort necessarily relies on original authorship. The particulars of claim plead *publication* in each case: against Mr and Mrs Garnett jointly in relation to both harassment and libel, and against Ms Armistead separately in relation to libel. Mrs Garnett and Ms Armistead do not dispute limited publication, but Mr Garnett denies publication altogether.

40. Mr Stables says I should regard that, supported by his witness statement, as fatal to the case for default judgment against Mr Garnett. He says the pleadings do no more than casually name him in connection with alleged acts of publication by his wife, on no particularised basis whatever. He says that is a wholly unsatisfactory basis for a default judgment against him. I have thought hard about what Mr Stables said. But I disagree with him for the following reasons.

41. First, this is a case which is all about anonymous letters, a genre distinguished by disguise and evasion as to their origins, whether primary or secondary. Deniability is of the essence. I note that no factual basis for denial of publication appears from any of the materials before me, capable of suggesting that the allegations of publication are *inherently* 'unreal'. That is not surprising (it would of course have been for Mr Parsons to establish publication at trial, not for Mr Garnett to disprove it). But it is at least not irrelevant.

42. Then, the particulars make a clear allegation of joint publication against Mr and Mrs Garnett, first as part of a protracted course of conduct, and then in relation to particular acts of publication. That is at least technically sound; it is *possible* to plead these torts on a basis of joint liability. They also particularise why it is Mr Parsons says they were both in this together, namely the entire antecedent and parallel history of the disputatious landlord/tenant relations between the parties, in which it is said Mr Garnett has been a full participant, together with synchronicities between events in the wider dispute and the emergence of particular publications. On the face of it, that is at least a sound articulation of a pleaded case of joint liability with underlying factual allegations capable of supporting it, which cannot be described as fanciful or 'unreal'.

43. Next, I am not persuaded that this case, on its facts, raises a jurisdictional issue within the terms of s.10 of the 2013 Act. It is not, as *Pirtek* was, a case about whether a defendant *who may not have been a publisher* could nevertheless be sued as an 'author' or 'editor' of an online platform. The pleadings here are squarely put on the basis that Mr and Mrs Garnett are alleged joint publishers. That is the jurisdiction invoked. There is no possible doubt, dispute or issue between the parties about the *basis* on which Mr Garnett is sued. I was shown no authority in which a simple factual dispute about establishing liability for publication was accorded *a priori* jurisdictional status, and I do not recognise it as apt on the facts of the present case. Publication in this case is a question of fact going to liability not jurisdiction.

44. But even if I am wrong about that, I note that Warby J in *Pirtek* treated the 'jurisdictional' issue before him on the same basis as a liability issue – namely by considering '*the pleaded allegations, uncontradicted by any statement of case*'. The pleaded allegations in the present case are also uncontradicted by any statement of case. Leaving aside consideration of the evidence, I can be satisfied in this case that publication is pleaded against all the defendants on a basis which is not 'unreal' or fanciful, and for which a factual basis is alleged. That factual basis is contextual rather than direct, but an indirect or inferential basis for alleging publication is almost inevitable in relation to anonymous letters.

45. Warby J in *Pirtek* did however go on to consider the question of publication on an alternative basis, namely that it *was* a matter requiring investigation of the evidence. There was no evidence from the defendant in that case. But there is in the present case. So I have to consider what difference that makes.

46. I have read the defendants' witness statements and see that they support each other in denying authorship of the anonymous material and contesting publication in whole or in part. Mr Garnett says he seems to have been dragged into this litigation solely as a collateral or retaliatory move by Mr Parsons because of other disputes between them.

47. I begin by saying I see force in Mr McCormick KC's submissions that there is limited weight which could properly be placed on this evidence, in the context of a *deliberately* undefended case. And I repeat that bare denial of publication of anonymous letters is of limited evidential weight in any event. But if 'at least some consideration of the merits' is taken to apply to the wholly factual issue of publication, and I am to venture further into the evidence, then I note two of the defendants have made partial admissions of liability for publication, and Mr Garnett accepts he at least knew of and read a copy of the letter in the family home. That suggests they all at least had the opportunity to make the publications alleged. There is agreed to be grievance and animus between the parties. This is not therefore a case in which the possibility of the Garnetts' responsibility for this material, or Mr Garnett's joint participation in the matters alleged, is a bizarre or unreal theory, even on their own account.

48. They protest that the anonymous material came to them from somewhere else and they gave it little or no further currency. Mr Parsons' case is that *someone* is behind the circulation of the anonymous material, it is inherently improbable that anyone will own up to it, and he has reason to believe the Garnetts are the likely culprits. That is *what* he alleged and he said *why* he alleged it. He pleaded that soundly, and faced taking on the consequent burden of proving his allegations in court. The Garnetts were equally entitled to deny them and to put him to that proof at a trial. But they have not done so, and do not seek to do so. Their denial of publication, however vehement, does not substitute for a defence and does not make the case against them unreal.

(d) Conclusions

49. I am satisfied, for the reasons given, that Mr Parsons' particulars of claim are adequately pleaded, both in technical legal terms and by sufficient identification of the facts alleged to found liability. Following the guidance of the authorities, I have made 'at least some' inquiry into the merits of the case he pleads and have concluded it not to be 'unreal'.

50. I emphasise again: this is a deliberately undefended case. I am not in the position of reflecting on the merits of an application to defend. It is the defendants' prerogative not to try to defend, but that decision has consequences. I have been assisted by Mr Stables in testing the soundness of the pleaded case on its own terms, and doing so in the context of what the defendants want to tell me about their side of the story. I have gone as far as I can, and have no clear basis for going further, in considering the merits of this claim. I did not understand Mr Stables, in the end, to be asking me to do more than make appropriate consideration of the merits and evidence in order to apply a test of 'unreal' to the critique he makes of the pleadings. That is indeed what the authorities suggest, and more than that they do not unambiguously permit.

51. I am conscious of the warnings given in *Sloutsker v Romanova* of the risks to the proper administration of justice of trying go further. I have endeavoured to ensure the Garnetts are treated with scrupulous fairness in the matter of this application, but there are limits, including in fairness to Mr Parsons, to the extent to which I can go behind their decision not to try to defend. In these circumstances, and for the reasons given, I am satisfied that Mr Parsons is entitled to judgment against the defendants on the liability bases set out in his particulars of claim.

Remedy

52. Although reserving judgment on liability, I received written and oral submissions at the hearing on a provisional basis as to remedy. What follows responds to those. There did not appear to me to be a large gap between the parties' positions on remedy. But if the parties, or either of them, consider there is more to be said on the subject in the light of my conclusions on liability, then I will receive further written submissions along with any written submissions on costs if not agreed.

(a) Defamation

53. In relation to the defamation claims, Mr Parsons asks for summary relief, further to section 9 of the Defamation Act 1996. I have read what Warby J says at [73]-[74] of *Pirtek* about s.9 procedure consequent to entry of a default judgment on liability. I have taken account of Mr Parsons' witness statement on the questions of remedy.

54. Mr Parsons asks for a total of £10,000 in damages (the statutory cap under s.9(1)(c)) for libel against all of the defendants. I do not understand the total quantum to be materially disputed. I agree that the gravity of the allegations in itself requires a vindicatory award of substance, and that the statutory maximum is in all the circumstances modest by current quantum standards. I would be minded to award £2,000 against Ms Armistead and £8,000 jointly and severally against Mr and Mrs Garnett.

55. I understand the parties to be in agreement in principle as to a declaration under s.9(1)(a) that the statement complained of was false and defamatory of Mr Parsons. I am satisfied in any event that I have been given no basis for inferring that the allegations are, or are claimed to be, true.

56. Mr Parsons originally asked also for an order for the publication of a suitable correction and apology under s.9(1)(b). This was strongly resisted by the defendants, and I am clear that they are unlikely to agree any terms as being suitable. I do not understand

Mr Parsons to be pressing for this remedy now. In any event, I bear in mind that Mr Parsons has the vindication of this public judgment, an award of damages, and a declaration of falsity. I bear in mind that a requirement to publish an apology is itself an interference with the defendants' freedom of expression, and that as such it would be required to be proportionate. I also bear in mind that there are similar limits to the extent to which the defendant could be constrained to the terms of such an apology indefinitely in practice on the facts of this case. So I would have been persuaded in these circumstances that there was insufficient additional vindication to be obtained by virtue of a mandatory apology to make it proportionate to order one.

57. Mr Parsons seeks injunctive relief against Mr and Mrs Garnett, restraining them from publishing the same or similar allegations to those in the defamatory letter complained of. I accept that Mr Parsons is in principle entitled by virtue of the default judgment to restraint of such publications. I note that the allegations have not in fact been repeated while these proceedings have been on foot. But I also note the defendants' resistance to full engagement with this litigation and their unpredictable positions in relation to it, the disputatious relationship between the parties, the inherent subterfuge associated with rumour mongering by anonymous letter, and that the defendants have not been willing to provide any undertakings on this matter. I consider there to be sufficient risk in these circumstances that the defendants will repeat the allegations unless restrained, to warrant the granting of injunctive relief against Mr and Mrs Garnett. Injunctive relief is not as I understand it sought against Ms Armistead.

(b) Harassment

58. On the harassment claim, which relates to the conduct of Mr and Mrs Garnett preceding the publication complained of in the libel claim, I have been directed to *Suttle v Walker* [2019] EWHC 396 (QB) at [54]-[59]. I would place the course of conduct alleged here in the medium '*Vento*' band, taking into account that the harassment lasted over a period of years, was persistent if intermittent, involved unpleasant and humiliating allegations published to those close to Mr Parsons, involved his wife and children, threatened further publication and, especially, that in classic anonymous poison-pen style it left him wondering and worrying about its origins and extent, and about the future turns the campaign might take. But I also take into account that I have limited evidence of acute or long-term consequences for Mr Parsons beyond that, and that, while reflecting the gravity of the allegations made, I must take care to avoid double-compensation where the factual basis of the claims overlap. I would assess the damages to be paid jointly and severally by Mr and Mrs Garnett on the harassment claim on that basis at £12,000.

59. Mr Parsons seeks injunctive relief in relation to the harassment claim, to prevent repetition of the same or similar allegations as those complained of. To the extent that that simply widens the defamation injunction to include publication to Mr Parsons himself, as well as to third parties, then I would extend the injunction accordingly, on the same basis and for that additional reason.