



Neutral Citation Number: [2023] EWHC 794 (KB)

Case No: QB-2020-003528

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 4 April 2023

Before :

THE HONOURABLE MR JUSTICE MURRAY

Between :

SIMON BARD PARKES

Claimant

- and -

(1) TOBY HALL

(2) STEPHEN JOHN EARNSHAW

(also known as AMORA STEVE MELCHIZADEK)

Defendants

Mr Jake Rudman, Ms Andrea Barnes, and Ms Chelsea Sparkes (direct access) for the
Claimant

The Defendants did not appear and were not represented.

Hearing date: 5 October 2022

Approved Judgment

This judgment was handed down remotely by circulation to the parties' representatives by email and release to The National Archives. The date and time for hand-down are deemed to be 4 April 2023 at 10:30 am.

Mr Justice Murray :

1. This claim, which was issued on 30 September 2020, is for damages and other relief for defamation, harassment, breach of data protection, and misuse of private information. The claim was brought by Mr Simon Parkes against the Mr Toby Hall, the first defendant, and Mr Stephen Earnshaw (also known as Amora Steve Melchizadek), the second defendant. The claim concerns defamatory publications in the form of 9 videos published on-line on YouTube and on Brighteon and 4 emails sent to a variety of recipients, possibly numbering in the thousands. Each publication complained of was made during the period 19 July 2020 to 17 September 2020.
2. By order of Sir Andrew Nicol, sitting as a Judge of the High Court, dated 22 October 2021 (“the Nicol Order”), the defence filed by each defendant was struck out and judgment was ordered for the claimant, with the defendants ordered to pay the claimant’s costs. The neutral citation for Sir Andrew Nicol’s judgment setting out his reasons for making the Nicol Order is [2021] EWHC 2824 (QB) (“the Nicol Judgment”).
3. This is the disposal hearing to determine remedies, including damages and costs, ordered under paragraph 6 of the Nicol Order.
4. Under paragraph 9 of the Nicol Order, Sir Andrew Nicol ordered the defendants to pay the claimant’s costs, to be the subject of a detailed assessment, if not agreed. Under paragraph 10 of the Nicol Order, costs in the case other than those ordered under paragraph 9 are to be considered at this disposal hearing.

Settlement with the first defendant

5. Prior to this disposal hearing, the claimant and Mr Hall reached an agreement with Mr Parkes in full and final settlement of the claim against Mr Hall, which is set out in Schedule 1 to a Tomlin Order dated 8 June 2022 (sealed on 15 June 2022) (“the Tomlin Order”). Under the settlement, Mr Hall agreed to:
 - i) pay a global settlement amount of £132,050, inclusive of the claimant’s costs, VAT, and interest payable;
 - ii) make an apology, in terms set out in Schedule 2 to the Tomlin Order, which accepts that the allegations complained of were highly defamatory, untrue, seriously harmful, and included some intrusive speculation into the claimant’s private life.
 - iii) give undertakings set out in Schedule 3 to the Tomlin Order, namely:
 - a) to refrain from making any further publications about the claimant, whether by himself or his servants, agents, associates, or otherwise; and
 - b) to remove any online publications (including by not limited to videos, blog posts, and website pages) about the claimant which are in his control or in the control of his agents or servants.
6. The global settlement amount agreed by Mr Hall includes £105,000 (inclusive of VAT) in respect of the claimant’s costs of the claim as against Mr Hall. The agreed

amount of damages is therefore £27,050. Payment in full was due by 1 June 2022, and the settlement provided for interest to accrue at 8 per cent per annum on any amount owing in respect of the global settlement amount after that date.

7. In light of that settlement, there is no reason why Mr Hall should have attended or been represented at this hearing, and he has not attended or been represented.

The issues for this disposal hearing

8. This disposal hearing was therefore solely to determine the following matters outstanding as between Mr Parkes and the second defendant, Mr Earnshaw:
 - i) the amount of damages and/or compensation to be paid by Mr Earnshaw to Mr Parkes under the claim following the entry of judgment against Mr Earnshaw under paragraph 5 of the Nicol Order;
 - ii) whether aggravated damages should be paid by Mr Earnshaw to Mr Parkes and, if so, in what amount;
 - iii) whether further injunctive relief should be granted to Mr Parkes; and
 - iv) costs to be paid by Mr Earnshaw to Mr Parkes.

Proceeding in the absence of the second defendant

9. I am satisfied that Mr Earnshaw had proper notice of this hearing and the matters to be considered at this hearing. Mr Parkes has attempted to engage with Mr Earnshaw, but has had not contact with him since 2 November 2021.
10. On 22 October 2021, after his Defence was struck out, Mr Earnshaw sent an email to all parties and the court with comments on the draft order that the court had circulated, indicating an intention to appeal. There is no evidence that he has taken any steps to seek permission to appeal. Mr Earnshaw sent a further email on 2 November 2021 to the other parties and the court, raising complaints about Mr Parkes's conduct and about the conduct of the proceedings. Since then, there has been no further engagement from Mr Earnshaw.
11. Mr Parkes attempted to contact Mr Earnshaw by email on various dates in 2022 prior to this hearing, including for the purpose of agreeing costs and procedural matters. Mr Parkes has also attempted to ascertain Mr Earnshaw's whereabouts by engaging tracing agents on two separate occasions, without success.
12. Paragraph 7(a) of the Nicol Order directed the parties to file with the court their availability for this disposal hearing, but Mr Earnshaw never complied with that direction. The court has received no communication from Mr Earnshaw seeking to adjourn this hearing or otherwise offering any reason why he was not able to attend.
13. I have had regard to the judgment of Warby J in *Pirtek (UK) Ltd v Jackson* [2017] EWHC 2834 (QB) at [19]-[20] and followed the approach indicated there. I have had regard to section 12(2) of the Human Rights Act 1998. Section 12(2)(b) does not apply, but section 12(2)(a) does apply. I am satisfied that Mr Parkes has taken all practicable steps to notify the response of the relief he is seeking. There is nothing

before me that indicates that it would be unfair to Mr Earnshaw to proceed in his absence. It appears that he has simply decided to cease to engage with Mr Parkes and with the court regarding these matters. Accordingly, I consider that it is just and proper to proceed in his absence, bearing in mind the protection available to Mr Earnshaw under CPR r 39.3.

Hearing bundle and evidence

14. In the bundle for this disposal hearing, I have witness statements from Mr Parkes dated 10 February 2021, 21 May 2021, 26 July 2021, 4 October 2021, and 28 September 2022. Various documents are exhibited to the first, second and fifth of these witness statements. Mr Parkes' fifth witness statement, together with the witness statement dated 28 September 2022 of Mrs Rebecca Parkes, Mr Parkes's wife, were specifically prepared to deal with issues to be resolved at this disposal hearing.
15. The bundle also includes the pleadings that were before Sir Andrew Nicol, the publications complained of (including links to Dropbox to view various videos that are among the publications complained of), the various orders that have been made in these proceedings to date, including the Tomlin Order, the various applications that have been made in these proceedings to date, the various documents filed by Mr Hall and Mr Earnshaw in these proceedings, transcripts of statements made by the defendants in various settings, Mr Parkes's letter before action and subsequent correspondence between the parties and with the court, and other miscellaneous documents.

Factual background

16. Mr Parkes is the founder of a spiritual group called Connecting Consciousness, which he set up in 2015. In paragraph 1 of the Particulars of Claim, which are dated 7 October 2020, the membership of Connecting Consciousness was estimated to be about 13,500, approximately 2,000 of whom were said to live "in this jurisdiction" (although I take this to mean the United Kingdom, rather than simply England and Wales) and 5,000 of whom were said to live in the European Union. At the time of the hearing before Sir Andrew Nicol in October 2021, Mr Parkes estimated the membership of Connecting Consciousness to be 50,500. In his witness statement dated 28 September 2022 given for purposes of this disposal hearing, Mr Parkes estimated the global membership of Connecting Consciousness to be 105,000.
17. Mr Parkes describes Mr Hall as a former close friend of his, who was a member of Connecting Consciousness from 2015 to 2020.
18. Mr Earnshaw is also a former member of Connecting Consciousness. According to Mr Parkes, he and Mr Earnshaw have only met on one occasion.
19. Each of the parties has acted as a litigant in person for the purposes of conducting this litigation, although Mr Parkes and Mr Hall have instructed direct access counsel to represent them at certain hearings. For example, both Mr Parkes and Mr Hall were represented by counsel at the hearing before Sir Andrew Nicol on 11-12 October 2021, while Mr Earnshaw appeared in person at that hearing.

20. Mr Parkes does not hold Mr Earnshaw responsible for the first two of the 13 publications complained of. Mr Parkes considers that Mr Hall was solely responsible for those. Accordingly, for present purposes, the court has been invited to focus on the third to thirteenth publications complained of, for the publication of which Mr Parkes holds both of the defendants responsible.
21. The general nature, mode of publication, and other contextual information about each of the defamatory publications relevant to Mr Earnshaw's liability may be summarised as follows:

- i) The Third Publication (as defined in paragraph 14 of the Particulars of Claim) consisted of:
- a) an email sent by Mr Earnshaw on 10 September 2020 to an unspecified and uncertain number of recipients (but which Mr Hall submits may be presumed to be numerous, for reasons set out in the Particulars of Claim), including a hyperlink to a video on YouTube, which is the Tenth Publication (as defined in paragraph 30 of the Particulars of Claim – see below); and
- b) as an attachment to the email, a lengthy written statement by Mr Earnshaw dated 8 September 2020 (“the Solemn Statement”), which begins:

“This is the solemn statement of Amora Steve Melchizadek.

Everything included herein is an account of my own personal experience, or of what [has] been related directly to me, to the best of my knowledge all contents of this statement are true, and I would give evidence to that effect under oath.

Between 1st February 1982 and 28th February 1998 I was a serving police officer in the Leeds and Bradford area of West Yorkshire Metropolitan Police Force, I served the latter part of my career as a detective, both working on numerous murder inquiries, and as an undercover drug squad operative.

...”

The full text of the Solemn Statement set out at paragraph 14 of the Particulars of Claim is comprised of seven and a half pages of single-spaced text. I note, in passing, that there appears to be no evidence that Mr Earnshaw is a former police officer.

- ii) The Fourth Publication (as defined in paragraph 19 of the Particulars of Claim) is a video published on YouTube on 29 August 2020.

- iii) The Fifth Publication (as defined in paragraph 21 of the Particulars of Claim) is a video published on YouTube on 29 August 2020.
 - iv) The Sixth Publication (as defined in paragraph 23 of the Particulars of Claim) is a video published on YouTube on 29 August 2020.
 - v) The Seventh Publication (as defined in paragraph 25 of the Particulars of Claim) is a video published on YouTube on 2 September 2020.
 - vi) The Eighth Publication (as defined in paragraph 27 of the Particulars of Claim) is a video published on YouTube on 1 September 2020.
 - vii) The Ninth Publication (as defined in paragraph 29 of the Particulars of Claim) is a video published on YouTube on 4 September 2020.
 - viii) The Tenth Publication (as defined in paragraph 31 of the Particulars of Claim) is a video published on YouTube 6 September 2020. It is a compilation of the Fourth, Fifth, Sixth, Seventh, Eighth, and Ninth Publications.
 - ix) Each of the Eleventh Publication and the Twelfth Publication (each as defined in paragraph 32 of the Particulars of Claim) is a video published on Brighteon, a video platform, together comprising the same video that is the Tenth Publication, but divided into two parts.
 - x) The Thirteenth Publication (as defined in paragraph 34 of the Particulars of Claim) is an email sent to a Connecting Consciousness mailing list with hyperlinks to the Eleventh Publication and the Twelfth Publication.
22. The Fourth, Fifth, Sixth, Seventh, Eighth, and Ninth Publications were each removed by YouTube from its platform on 15 September 2020. The Eleventh and Twelfth Publications were removed from the Brighteon platform on 19 November 2020.
23. On both YouTube, where seven of the videos appeared, and Brighteon, where two of the videos appeared, the videos were posted on channels called “Dancing Sun”. Most of the publications referred to the Solemn Statement, in which Mr Earnshaw made a variety of defamatory and unsubstantiated allegations about Mr Parkes and his private life.
24. In relation to the two publications by email (the Third and Thirteenth Publications), Mr Parkes believes, but cannot be sure, that they were sent to thousands of members of Connecting Consciousness and to a BBC journalist.
25. I have reminded myself of the proper approach of the court to the granting of relief following a default judgment by reference to the summary of the relevant law set out by Nicklin J in *Suttle v Walker* [2019] EWHC 396 (QB) at [35]-[37]. The key points are that I should proceed to determine the remedies to which the claimant is entitled on the basis of the claimant’s unchallenged pleaded case. There is no reason in this case why I should depart from the general rule. In any event, I have a good deal of evidence, including the defamatory publications in textual and, where relevant, video form, as well as the witness evidence of Mr Parkes and his wife, which leave me in no material doubt regarding the factual basis for the key issues I must determine.

Procedural history

26. The procedural history of this matter prior to the Nicol Order is set out in some detail in the Nicol Judgment at [6]-[26]. For present purposes, I simply note the following:
- i) On 18 August 2020, Mr Jake Rudman, acting as direct access counsel for Mr Parkes, sent a letter before action to Mr Hall and a couple of other persons (the identity of whom is not relevant for present purposes). The letter before action was not addressed to Mr Earnshaw, as none of the publications for which he is liable had yet been published. Mr Rudman represented Mr Parkes at the disposal hearing before me.
 - ii) Mr Parkes issued this claim on 30 September 2020 and filed his Particulars of Claim on or about 7 October 2020.
 - iii) Mr Parkes filed the Particulars of Claim on or about 7 October 2020.
 - iv) On 10 February 2021, Mr Parkes applied to strike out the Defences of Mr Hall and Mr Earnshaw and/or for summary judgment on the bases that their pleadings were defective and that the defendants had no real prospect of successfully defending the claim (“the First Strike-Out Application”).
 - v) On 8 June 2021, the assigned Master, Master Dagnall, who had been case managing the claim, ordered the First Strike-Out Application to be heard by a High Court Judge in the Media and Communications List. On the same occasion, he also made unless orders requiring the defendants:
 - a) to comply with previous case management orders he had made that were intended to ensure that the Defences of each defendant were amended so that they were properly pleaded; and
 - b) to make certain undertakings to refrain from making further publications about Mr Parkes and to remove any online publications about Mr Parkes that were within their control,failing which their Defences would be struck out and judgment entered for Mr Parkes.
 - vi) On 1 October 2021, Mr Parkes made an application for the Defence of each defendant to be struck out and for judgment to be entered for Mr Parkes due to the failure of each defendant to comply with the unless orders made by Master Dagnall on 8 June 2021 (“the Second Strike-Out Application”).
 - vii) On 11-12 October 2021, Sir Andrew Nicol heard the First and Second Strike-Out Applications and related matters. On 22 October 2021, he made the Nicol Order, setting out his reasons for doing so in the Nicol Judgment handed down that day. In brief, he found that the defendants had each failed to comply with the unless orders, with the automatic consequence that their Defences were struck out and that judgment should therefore be entered for Mr Parkes.
27. On 28 June 2022 Master Dagnall made an order giving directions for a disposal hearing.

28. As previously noted, the Tomlin Order was agreed on 8 June 2022 and sealed by the court on 15 June 2022.

Legal principles

29. Mr Parkes seeks general compensatory and aggravated damages for defamation, general damages in privacy, and damages for harassment.
30. In *Barron v Vines* [2016] EWHC 1226 (QB) at [20], Warby J set out the key principles governing the determination of general compensatory damages that a successful claimant in a defamation action is entitled to recover, by quotation from and comment on the judgment of Sir Thomas Bingham MR in the Court of Appeal in *John v MGN Ltd* [1997] QB 586 (CA) at 607-608. In *Barron v Vines* at [21], Warby J added some further general considerations of relevance to that case, most of which have some relevance to this case. I have had regard to these principles, relevant factors, and general considerations, to the extent relevant to this case.
31. In *Culla Park Ltd v Richards* [2007] EWHC 1850 (QB) at [23], Eady J made clear that, in a case involving more than one defamatory publication, it is not necessary to award separate damages for each publication. The court may take a global view and make a single award of damages. At [22], Eady J noted the desirability of making a single award of damages as straightforward and straightforward as established principle permits. I will attempt to do just that.
32. Mr Rudman noted during his submissions that a point that Mr Earnshaw could have taken, had he appeared or been represented at the disposal hearing, is that Mr Parkes has received damages from Mr Hall, and that this is something that Mr Earnshaw could have urged on the court to mitigate the amount of damages to be paid by him: see *Ronaldo v Telegraph Media Group Limited* [2010] EWHC 2710 (QB) at
33. I note that section 12 of the Defamation Act 1952 provides that a defendant in an action for libel or slander may give evidence in mitigation of damages that the claimant has recovered damages in respect of publication of words to the same effect as the words on which the action is founded or has received compensation in respect of such publication. This applies, *a fortiori*, if the words are in the same publication, for which two defendants are jointly liable, where the other defendant has paid compensation to the claimant. Mr Earnshaw has not appeared, and he therefore has presented no such evidence, but it is clear from the evidence before me that at least a portion of the global settlement figure agreed between Mr Parkes and Mr Hall will relate to the eleven publications for which Mr Earnshaw is jointly liable with Mr Hall. I do not have information before me as to how the global settlement figure agreed between Mr Parkes and Mr Hall should be analysed in terms of its constituent elements. In *Ronaldo v Telegraph Media Group Limited* [2010] EWHC 2710 (QB), Sharp J observed at [39] that, applying well established principles, compensatory damages must be gauged and awarded bearing in mind the common elements of damage caused by similar (or, in this case, overlapping) publications by different tortfeasors. I bear this in mind.

34. In relation to aggravated damages, in *John v MGN Ltd*, Sir Thomas Bingham MR noted at 607-608 that:
- “It is well established that compensatory damages may and should compensate for additional injury caused to the plaintiff’s feelings by the defendant’s conduct of the action, as when he persists in an unfounded assertion that the publication was true, or refuses to apologise, or cross-examines the plaintiff in a wounding or insulting way.”
35. Where a claimant has properly pleaded their case on damages and relevant aggravating factors, the defendant should give notice of matters relied on in mitigation in their Defence under CPR r 16.5; *Duncan and Neill on Defamation* (5th edition) at paragraph 25.19.e
36. In relation to general damages for misuse of private information, Mann J in *Richard v The British Broadcasting Corporation* [2018] EWHC 1837 (Ch) noted at [350] various factors relevant to that case, which are also relevant to this case, namely:
- i) the distress caused to Mr Parkes by the invasion of his privacy, the deprivation of Mr Parkes’s control over the use of his private information, the damage to his dignity, status, and reputation, and the general adverse effect on Mr Parkes’s lifestyle;
 - ii) the nature and content of the private information revealed by the defamatory publications;
 - iii) the scope of the publications (in this case, viewed collectively, bearing in mind overlaps); and
 - iv) the presentation of each publication.
37. I take into account that there is an overlap between damages in defamation and in privacy: *Richard v BBC* [2018] EWHC 1837 (Ch), [2019] Ch 169 at [345]. I need to be careful, therefore, to avoid double-counting.
38. In relation to damages for harassment under the Protection from Harassment Act 1997, I note that these are to compensate a claimant for distress and injury to feelings: *ZAM v CFW* [2013] EWHC 662 (QB) at [59] (Tugendhat J). This also overlaps with that element of compensation that is a constituent part of an award for libel damages: *Suttle v Walker* at [54]. Again, in determining an overall damages award, I need to be careful to avoid double-counting.
39. As noted in *ZAM v CFW* at [60], the Court of Appeal in *Vento v Chief Constable of West Yorkshire Police* [2002] EWCA Civ 1871, [2003] ICR 318 (CA) at [65] set out guidelines for damages in harassment in employment discrimination cases, identifying three broad bands of compensation for injury to feelings, according to level of seriousness, the top band for various serious cases, the middle band for moderately serious cases, and the bottom band for less serious cases, such as isolated or one-off occurrences. These have come to be known as the “*Vento* bands”, and are now accepted as appropriate guidelines for use in harassment by publication cases: see, for

example, *Barkhuysen v Hamilton* [2016] EWHC 2858 (QB), [2018] QB 1015 at [160], where Warby J also noted that guideline figures associated with each band had since increased due to inflation and that a *Simmons v Castle* adjustment was also required.

40. In *Simmons v Castle* [2012] EWCA Civ 1039 [and 1288], [2013] 1 WLR 1239, the Court of Appeal declared that with effect from 1 April 2013 the proper level of general damages in all civil claims for pain and suffering, loss of amenity, physical inconvenience and discomfort, social discredit, or mental distress would be 10% higher than previously, following upon changes to the rules governing the recovery of costs in personal injury litigation in the civil courts of England and Wales.
41. The *Vento* bands were increased in 2017 in Presidential Guidance issued on 5 September 2017 by the President of the Employment Tribunals (England and Wales) and the President of the Employment Tribunals (Scotland), with further increases in six subsequent Addenda to the Presidential Guidance issued, respectively, on 23 March 2018, 25 March 2019, 27 March 2020, 26 March 2021, 28 March 2022, and 24 March 2023. The figures set in each Addendum take into account the *Simmons v Castle* adjustment.
42. The Addendum relevant to these claims is the Third Addendum issued on 27 March 2020, which provides at paragraph 2:

“In respect of claims presented on or after 6 April 2020, the *Vento* bands shall be as follows: a **lower band of £900 to £9,000** (less serious cases); a **middle band of £9,000 to £27,000** (cases that do not merit an award in the upper band); and an **upper band of £27,000 to £45,000** (the most serious cases), with the most **exceptional cases capable of exceeding £45,000**. ...” (emphasis in original)

Decision on damages

43. In terms of the seriousness of the allegations, the unchallenged pleaded meaning of the various publications includes the following allegations:
 - i) the claimant started a “cult”, Connecting Consciousness, in order to prey on women sexually and has abused and raped more than a dozen vulnerable women, falsely blaming this conduct on paranormal activity;
 - ii) the claimant has had numerous extra-marital partners;
 - iii) the claimant has defrauded and exploited his “followers” by selling various devices to them for \$300 that are only worth \$10;
 - iv) the claimant, despite claiming to do good for the world, is part of a cult of the “Illuminati” who practise paedophilia and satanic rituals;
 - v) the claimant has conducted illicit surveillance of members of Connecting Consciousness and avoids attack or legal reprisal for his misdeeds by being part of the “controlled opposition”;

- vi) the claimant leads a pernicious gang, namely, Connecting Consciousness, which abuses and exploits its members; and
 - vii) the claimant orchestrated at least two physical attacks on the defendants and their children in order to prevent the creation and publication of the YouTube videos (the Fourth to Ninth Publications).
44. Commenting on the various allegations made against Mr Parkes in the eleven publications for which Mr Earnshaw is liable under the Nicol Order, including the detailed allegations in the Solemn Statement, the skeleton argument for Mr Parkes says at paragraph 5.2:
- “As to the seriousness of the allegations, they are some of the gravest allegations which could be made and include [allegations of] serious criminal behaviour for which a person could be imprisoned for life if guilty. They are also the type of allegations which are likely to have a severe impact on the reputation of the claimant in every sphere of his life.”
45. Having carefully reviewed the publications, I find that there is no hyperbole in the statement from the claimant’s skeleton argument that I have just quoted. The allegations are of the utmost seriousness. I also note that Mr Hall, further to the Tomlin Order, has publicly apologised to Mr Parkes, accepting in his public apology that the allegations were untrue, seriously harmful, and included some intrusive speculation into Mr Parkes’s private life.
46. The level of damages for defamation of this degree of seriousness, in relation to which there is no apology from Mr Earnshaw and, it appears, no prospect of an apology, should reflect the baselessness of the allegations made in the defamatory publications and therefore serve to vindicate Mr Parkes.
47. In terms of potential comparators, Mr Rudman acknowledged during this submissions that these can only be used with caution, given that each case of defamation is unique and heavily turns on its own facts, but he urged me to have regard to the awards made in the following cases: *Triad Group plc v Makar* [2020] EWHC 306 (QB); *Turley v Unite the Union* [2019] EWHC 3547 (QB); *Richard v BBC*; *Monir v Wood* [2018] EWHC 3525 (QB); and *ZAM v CFW*. Each of those cases involved awards considerably in excess of the award now sought by Mr Parkes in this case, namely, £25,000. Mr Parkes states that he seeks an award at this level (which he considers to be conservative in light of the facts of, and evidence supporting, the claim), because it is unlikely that he will be able to recover the award against Mr Earnshaw in any event, not only because of Mr Earnshaw claims to be impecunious, but also because Mr Parkes is no longer in communication with Mr Earnshaw and does not know his whereabouts.
48. In terms of the extent of publication, on Mr Parkes’s pleaded case:
- i) the Third Publication, in the form of an email with the Solemn Statement attached, went to “numerous” recipients, although it cannot be said precisely how many, and it is reasonable to assume that a substantial portion of the recipients would have opened and read the attachment;

- ii) the Fourth to Twelfth Publications, which were videos, were at the time of issue of the claim viewed at least 536 times, according to Mr Parkes's estimate (based on screenshots he had taken), being 434 views on YouTube and 102 views on Brighteon; and
 - iii) the Thirteenth Publication, which was an email, was sent to, most likely, the entire Connecting Consciousness mailing list, comprised of thousands of names, with embedded hyperlinks to the Brighteon videos.
49. The extent of publication beyond the above baseline is not possible to estimate with precision, but, for example, in relation to the videos there were likely to have been further views between when the screenshots were taken and the videos were taken down, and one must also take into account the expansion of publication via the "percolation" effect: see *Barron v Vines* at [21(3)(d)].
50. I accept, particularly in light of the gravity of the allegations and their likely impact on Mr Parkes's reputation, that the evidence shows publication to a significant extent, extending to hundreds, if not thousands, of publishees, warranting a substantial damages award.
51. It is clear from the evidence, and inherent in the nature of the allegations, and the manner in which they have been made, that they will have been very distressing for Mr Parkes and will also have affected and distressed his family, including his daughters and his ex-wives, with Mr Earnshaw having contacted them on Facebook, asking highly personal and offensive questions, attacking Mr Parkes's character, and alleging that he is a rapist. The negative effect of this intrusion will have been magnified by its having, for example, for Mr Parkes's daughters, come "out of the blue".
52. Mr Parkes also discusses the impact of the defamatory publications on Connecting Consciousness, which Mr Parkes said loses members every time the videos resurface. Mr Parkes estimated that in the three weeks before his witness statement of 28 September 2022, Connecting Consciousness had lost 300-400 members, specifically mentioning the videos as a reason. The videos have reappeared from time to time since the Nicol Order, leading Mr Parkes to have to take legal steps to have them removed. These latest videos have tens of thousands of views. Mr Parkes has found that whenever he holds a meeting for Connecting Consciousness, or attends a talk or other event, he is required to address the videos and explain that the allegations are all false. There is, therefore, a substantial and distressing on-going effect of the videos on Mr Parkes.
53. In her witness statement dated 28 September 2022, Mrs Parkes the impact of the videos published by the defendants on her husband and herself, as well as the impact on Connecting Consciousness, which she set up with Mr Parkes. She notes that the videos have been sent to social media influencers with a large online following. She describes her frustration that a year after the Nicol Order, they continue to feel the negative effect of these videos on Connecting Consciousness, which is an organisation that was set up in order to "[provide] a way for people to support each other".

54. In relation to elements of aggravation, Mr Parkes relies on unreasonable conduct by Mr Earnshaw, including:
- i) the publication of the Fourth to the Thirteenth Publications all following Mr Parkes's letter before action;
 - ii) Mr Earnshaw's intrusive investigation into Mr Parkes's private life;
 - iii) Mr Earnshaw's failure to grapple with the law and facts of these proceedings, failure to comply with case management orders, and use of abusive tactics such as inundating Mr Parkes with extensive irrelevant documentation; and
 - iv) apparent cooperation in the dissemination of new videos that contain clips of the original videos and rely heavily on the Solemn Statement.
55. In relation to Mr Earnshaw's conduct of these proceedings, Mr Parkes submitted that Mr Earnshaw did so in a manner intended to cause Mr Parkes as much harm as possible, including:
- i) alleging without evidence that Mr Parkes, his legal representatives, and process servers had "criminally forged" documents in order "to inhibit the process of my defence", thereby causing Mr Parkes additional cost, including the need to obtain a further witness statement from his process server to debunk Mr Earnshaw's allegations;
 - ii) abusing process by, for example, sending documents in an envelope marked "Confidential" to Master Dagnall before a hearing on 8 March 2021 without notifying Mr Parkes, much less providing him with copies (Master Dagnall having destroyed the confidential envelope and its contents without reading them, as noted in his order dated 8 March 2021); and
 - iii) as revealed by various documents provided by Mr Earnshaw during the course of this litigation, conducting a campaign against Mr Parkes, for example, a document evidencing a plan between Mr Hall and Mr Earnshaw to "take him [Mr Parkes] down" with a concerted campaign between the BBC and London Trading Standards.
56. I consider that, in addition to the harassing nature of each publication, there is harassment in the persistent campaign of publication of videos, including re-publication of the videos to Brighteon when the YouTube videos were taken down, and drawing attention to the videos via email through the Thirteenth Publication, which included hyperlinks to the Brighteon videos. I have already described the ongoing effect of this campaign, which is relevant to the harassing effect of Mr Earnshaw's campaign against Mr Parkes, regardless of whether Mr Earnshaw is actually involved in some way in the reappearance of the videos and/or in the publication of new videos including excerpts from the original videos and relying on the Solemn Statement. In my view, this is a serious case of on-line harassment that justifies an award in the upper *Vento* band.
57. Having regard to all of the foregoing, including Mr Parkes's recovery of compensation from Mr Hall further to the settlement embodied in the Tomlin Order, I

consider that an appropriate compendious award of general damages for the different heads of damage, avoiding double-counting, taking into account the relevant aggravating factors, and noting that Mr Earnshaw has provided no evidence of relevant mitigation, is £35,000. An award at this level will also stand as a sum sufficient to demonstrate vindication of Mr Parkes.

58. I note that an award of £35,000 is higher than the £25,000 sought by Mr Parkes, but that is my assessment of the proper level of the award in light of the relevant principles. I am not bound by Mr Parkes's own assessment of the correct level. I also do not consider the fact that Mr Earnshaw is impecunious (if that is true) or that he cannot be located by Mr Parkes to be relevant to the determination of the appropriate level of general damages.

Injunction

59. I also consider that I should exercise my discretion to grant injunctive relief to Mr Parkes, by prohibiting Mr Earnshaw from making any further publications about Mr Parkes, or further publishing Mr Parkes's private information or personal data, and/or pursuing any conduct that amounts to harassment of Mr Parkes or any individual associated with him, including any member of his family. I will also order that Mr Earnshaw must delete any copies in his possession or control of the nine videos comprising the Fourth to Twelfth Publications.
60. It is just and proportionate to make this order against Mr Earnshaw in light of his on-going conduct during his campaign of harassment against Mr Parkes, his unreasonable and abusive conduct of these proceedings while he was still engaged in them, the on-going effect of the eleven defamatory publications for which he is liable (in particular, the nine videos and the Solemn Statement), and his failure to offer an apology or show any remorse for the baseless allegations he has made against Mr Parkes.