



Courts and Tribunals Judiciary

27 July 2023

[embargoed until 10.00 am on 27 July 2023]

BETWEEN:

THE DUKE OF SUSSEX

- and -

NEWS GROUP NEWSPAPERS LIMITED

JUDGMENT SUMMARY

Important note for press and public: This summary is provided to assist in understanding the Court of Appeal's decision. It does not form part of the reasons for the decision. The full judgment is the only authoritative document. The judgment is a public document and is available online at [Judgments Archive - Courts and Tribunals Judiciary](#).

1. Judgment is handed down today on News Group Newspapers Limited's application to strike out the claim of Prince Harry, the Duke of Sussex ("the Duke") or, in the alternative, for summary judgment on its defence of the whole of the Duke's claim.
2. It is also the judgment on the Duke's application to amend his pleaded case, to rely on the effect of a secret agreement that he said was made between someone on behalf of the Royal Family and unidentified senior executives of News Group or its parent company, in about 2012.
3. The Duke's claim is for damages and other relief against News Group in respect of different categories of unlawful conduct alleged to have been carried on by the News of the World and The Sun newspapers, namely: interception of voicemails on his and his associates' mobile phones ("phone hacking"), blagging of confidential information from third parties, and instructing private investigators to do these or other unlawful acts ("the alleged Unlawful Acts").
4. A trial of the claims of the Duke and many other claimants is scheduled to start in January 2024. The process of selecting the cases that will be tried on this occasion will take place in the autumn.

5. The application of News Group was made solely on the ground that the Duke's claims were brought too late, as all the matters complained of occurred before 2012 and the claim was only issued on 27 September 2019. There is a six-year limitation period for such claims.
6. The application raises a question about when the six-year period for bringing these claims started to run: was it before 27 September 2013, six years before the claim was issued, or at some time after that date. Section 32(1) of the Limitation Act 1980 provides that where relevant facts have been deliberately concealed from a claimant by the defendant, time does not start to run until the claimant knew or could with reasonable diligence have discovered the relevant facts.
7. The Duke's original pleaded case was that he was unaware until about 2018 that he had a claim to bring, save in relation to one isolated occasion of phone-hacking in 2006.
8. In March 2023, the Duke made a witness statement explaining that there was a secret agreement, which he said required him only to bring a claim against News Group at a much later time, when it would be admitted by News Group or settled with an apology. He said that he did not bring his claim in about 2012 because he relied on this secret agreement.
9. The Duke only made an application to amend his pleaded case to rely on the secret agreement during the hearing of News Group's application, in April 2023.
10. The Duke's proposed amended case did not reach the necessary threshold of plausibility and cogency for permission to be granted to amend his case at this stage. There was no witness or documentary evidence to support what the Duke claimed. It raised for the first time a case that was inconsistent with the existing pleaded case. Despite the attempts of the Duke's lawyers to enable both cases to proceed, the attempt to do so failed.
11. Accordingly, permission to amend the Duke's pleaded case was refused.
12. As for News Group's application, it was not disputed by News Group for the purposes of this application that it had deliberately concealed relevant facts from the Duke.
13. For News Group to succeed on its application, it had to persuade the court that there was no realistic chance of the Duke proving at trial that he did not know, and could not with reasonable diligence have discovered, by 27 September 2013 enough to believe that he had worthwhile claims against News Group in respect of the alleged Unlawful Acts.
14. The Duke's evidence was that he knew by 2012 that he had been phone-hacked by the News of the World on more than one occasion, but that he was not aware of any other Unlawful Acts and could not reasonably have discovered the relevant facts about them before 27 September 2013.
15. The decision of the court on News Group's application is that, by September 2013, the Duke knew that he had been hacked by the News of the World, and knew enough relevant facts about phone-hacking at The Sun (or could readily have discovered them by asking his staff or lawyers) to understand that he had a worthwhile phone-hacking claim in relation to The Sun

too. That was sufficient to start time running before September 2013 for his phone-hacking claim. Time therefore expired before the Duke issued his claim form in 2019.

16. In relation to the other Unlawful Acts, however, the decision is that the Duke has a realistically arguable case at trial that he did not by 27 September 2013 know (and could not reasonably have found out) enough about blagging of his confidential information and the commissioning of private investigators to do other alleged Unlawful Acts, to believe then that he had a worthwhile claim.
17. Whether the Duke issued his claim for these other Unlawful Acts too late is one of the many issues in the claim that will have to be decided at trial, in 2024 or 2025. The judgment does not decide that the Duke's claim in respect of them was issued in time: it only decides that it is not sufficiently clear at this stage that it was issued too late.
18. For these reasons, I will grant News Group summary judgment on its defence of the claim in respect only of the claims of phone-hacking during the period 1996-2011. In respect of all other allegations of Unlawful Acts during that period as identified in the claim, I dismiss the application for summary judgment.
19. The outcome of the applications is therefore that News Group has succeeded in part on its application but failed on the remaining part.