



Neutral Citation Number: [2013] EWHC 4048 (Fam)

Case No: FD13P02300

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 17 December 2013

Before :

SIR JAMES MUNBY PRESIDENT OF THE FAMILY DIVISION

In the matter of P (A Child)

Mr Rex Howling QC (instructed by **Essex County Council**) for the applicant

Hearing date: 13 December 2013

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....
SIR JAMES MUNBY PRESIDENT OF THE FAMILY DIVISION

This judgment was handed down in open court

Sir James Munby, President of the Family Division :

1. This is an application by Essex County Council for a reporting restriction order in a matter which has been the subject of much reporting and comment in the media both in this country and around the world. Too much of that reporting has been inaccurate – though that, as I shall explain, is not entirely the fault of the media – and some of it has been tendentious, to use no stronger word. It is accordingly both necessary and desirable that I set out the background before turning to address the one application that is currently before me.

The background

2. Alessandra Pacchieri, the mother, came to this country in, I think, early June 2012. She had no, or very little, previous connection with this country. She was on a short visit. She was pregnant. Following what she describes as a panic attack, she was detained pursuant to section 3 of the Mental Health Act 1983 on 13 June 2012.
3. On 23 August 2012 the relevant NHS Trust made an urgent application to Mostyn J sitting in the Court of Protection. Having concluded that the mother lacked capacity to decide for herself, he authorised the performance of a caesarean section and, if necessary and appropriate, the use of restraint. He gave his reasons in an extempore judgment: *Re AA* [2012] EWHC 4378 (COP).
4. The mother's daughter, P, was born by caesarean section the next day, 24 August 2012. Essex County Council began care proceedings the same day. Later the same day a District Judge at Chelmsford County Court granted an interim care order and authorised the local authority to refuse contact in accordance with section 34(4) of the Children Act 1989. P was placed in foster care. The mother had some contact with her. Various hearings took place at Chelmsford County Court before His Honour Judge Newton which there is no need for me to detail.
5. On 17 January 2013 Essex County Council applied to Chelmsford County Court for a placement order in relation to P pursuant to section 22 of the Adoption and Children Act 2002.
6. The final hearing took place on 1 February 2013. The mother, who had returned to Italy on 21 October 2012, returned for the hearing. Judge Newton made both a care order and a placement order. His reasons are set out in the extempore judgment he gave on 1 February 2013: *Re P (A Child)*. It speaks for itself.
7. The mother did not seek to challenge any of these orders in the Court of Appeal. Indeed, she has never done so. Instead she took various proceedings in the Italian courts, first in Florence and then in Rome. The proceedings in Italy came to an end on 13 September 2013.

8. Subsequently, Essex County Council applied to Chelmsford County Court for an order giving it leave to place P for adoption. Judge Newton made that order on 25 October 2013. Not long after, P was placed with prospective adopters, with whom she remains.

9. Until 1 December 2013 none of this information was in the public domain in this country. Nor were the judgments given by Mostyn J on 23 August 2012 and by Judge Newton on 1 February 2013. Indeed, at that point no approved transcript of either judgment was in existence.

Events since 1 December 2013

10. The story ‘broke’ in this country on 1 December 2013 with the publication of prominent accounts of the case in two Sunday newspapers. Since then there has been very extensive coverage in the print and to a lesser extent the broadcast media. There has also been extensive discussion of the case on the internet, the blogosphere, by legal commentators and others.

11. On 2 December 2013 Essex County Council issued a statement. Headlined ‘Essex County Council responds to interest in story headlined “Essex removes baby from mother”’, it read as follows:

“Key Dates

There have been lengthy legal proceedings in this case over the past 15 months.

- Mother detained under Section 3 of the Mental Health Act on 13 June 2012
- Application by the Health Trust to the High Court 23 August 2012
- Application for Interim Care Order 24 August 2012
- Mother took part in the care proceedings ending on 1 February 2013
- Mother applied to Italian Courts for order to return the child to Italy in May 2013. Those courts ruled that child should remain in England
- In October 2013 Essex County Council obtains permission from County Court to place child for adoption

Context

The Health Trust had been looking after the mother since 13 June 2012 under section 3 of the Mental Health Act. Because of their concerns the Health Trust contacted Essex County Council's Social Services.

Five weeks later it was the Health Trust's clinical decision to apply to the High Court for permissions to deliver her unborn baby by caesarean section because of concerns about risks to mother and child.

The mother was able to see her baby on the day of birth and the following day. Essex County Council's Social Services obtained an Interim Care Order from the County Court because the mother was too unwell to care for her child.

Historically, the mother has two other children which she is unable to care for due to orders made by the Italian authorities.

In accordance with Essex County Council's Social Services practice social workers liaised extensively with the extended family before and after the birth of the baby, to establish if anyone could care for the child.

Statement on behalf of Essex County Council

"The long term safety and wellbeing of children is always Essex County Council's priority. Adoption is never considered until we have exhausted all other options and is never pursued lightly."

12. Also on 2 December 2013 I authorised the Judicial Office to issue the statement that I had:

"ordered that the matter be transferred to the High Court and any further application in respect of the child be heard by [me]."

After hours on the same day, 2 December 2013, I made two orders. In accordance with my direction they are dated 3 December 2013. The first, in the Court of Protection, was in the following terms:

"IT IS ORDERED by the President of the Court of Protection of his own motion that any further applications in these proceedings or relating to the [mother] are reserved to and are to be listed before and heard by him."

The other, in the Chelmsford County Court, read as follows:

“IT IS ORDERED by the President of the Family Division of his own motion that:

(a) these proceedings and any further proceedings relating to [P] that may be issued in the Chelmsford County Court are to be transferred to the Family Division of the High Court of Justice forthwith; and

(b) any further applications in these proceedings or in any future proceedings relating to [P] are reserved to and are to be listed before and heard by him.”

13. On 3 December 2013 a national newspaper ran a front page story under the headline ‘EXPLAIN WHY YOU SNATHCHED BABY AT BIRTH’. The strapline, ‘Judge’s order to social workers behind forced caesarean’, was elaborated in the accompanying article, which stated that I had “demanded to know why the girl should not be reunited with her mother”. That was simply not so. All I had done was as I have set out above. I had directed no hearing. How could I? And I had given no directions as to the evidence that might be required at some future hearing of an application that had not yet been made. How could I? All I had done was to direct that any further application was to be heard by me. In other words, *if* any application was made, either in the Court of Protection or in the family court, I would hear it. That was all. Unhappily this canard has been much repeated in the media.
14. On the same day, 3 December 2013, Judge Newton authorised the publication of his judgment of 1 February 2013. It was made available the same day by the Judicial Office.
15. During the afternoon of the same day, 3 December 2013, an application was made to me, without notice to anyone else, by Essex County Council seeking a reporting restriction order. The application was made by telephone. I refused the application. In the circumstances I gave no formal judgment but my reasons were set out in a statement I drafted and which I authorised the Judicial Office to publish the next day, 4 December 2013:

“Re P (A Child)

Yesterday afternoon (Tuesday 3 December 2013) an application by telephone was made to the President of the Family Division, Sir James Munby, by leading counsel on behalf of Essex County Council seeking a ‘without notice’ reporting restriction order prohibiting publication of the name and date of birth of the child and the names of the child’s mother, the child’s father and any member of the mother’s family and any pictures of the family if such publication was likely to lead to the identification of the child.

The application was made by telephone because the President was away from London carrying out his official duties.

The President decided that the circumstances were not such as, having regard to section 12(2) of the Human Rights Act 1998, to justify the making of any order unless steps had first been taken by Essex County Council to notify the media of the application. He made clear that he was ready to hear any further application which Essex County Council might wish to make having given notice to the media. No such further application has been made.”

16. The same day, 4 December 2013, Essex County Council renewed its application for a reporting restriction order, the application now being made on notice. The papers were put before me. On my instructions the following message was sent to Essex County Council:

“The President of the Family Davison has considered the papers submitted by Essex County Council in your email of today timed at 1017.

He notes that the required Checklist has not been properly completed:

1 It seems not to have been completed by the advocate making the application.

2 The draft order is not attached.

3 The boxes marked 'Any legal submissions' and 'Explanatory note' have not been ticked but the reasons for those omissions have not been explained under Q5. Reliance on Q6 (if intended) would seem misplaced.

4 The time of service has not been stated.

5 The documents establishing service are not attached.

The President further notes that service has seemingly not been effected on, nor has notice been given to, any of the UK newspapers (including the Daily Mirror) whom it is known are running this story.

The President asks whether it is proposed to place anything further before the court in advance of the hearing and, if so, when that will be done. Please respond as soon as possible. In the meantime arrangements are being made for the application to be heard as a matter of urgency this afternoon.”

17. The application came before Charles J, to whom I had released the matter. He sat in open court. He granted a more limited form of injunction than that sought by Essex County Council, setting out his reasons in a judgment which, once transcribed, was made available on 10 December 2013 by the Judicial Office: *Re P* [2013] EWHC 4383 (Fam).
18. Later the same day, 4 December 2013, Mostyn J authorised the publication of his judgment of 23 August 2012 together with the transcript of the proceedings before him and an anonymised version of the order he had made. Those documents, accompanied by a Note by Mostyn J dated 4 December 2013, were made available the same day by the Judicial Office: *Re AA* [2012] EWHC 4378 (COP).
19. According to reports in the media the mother has English solicitors acting for her. It is also a fact that other solicitors, Dawson Cornwell, have been instructed by the Italian government (see below). Be all that as it may, the fact is that, as at the date of the hearing before me on 13 December 2013, no application of any kind had been made on behalf of either the mother or the Italian authorities, whether to the Court of Protection, the Chelmsford County Court or the Family Division, nor had any application been made to the Court of Appeal. The only application that had been made by anyone in relation to either P or the mother since the date of the last hearing in the Chelmsford County Court, 25 October 2013, was the application by Essex County Council for a reporting restriction order.
20. This, so far as I am aware, remains the position as of this morning, 17 December 2013.

The media coverage

21. The media coverage of all this has been very extensive. It is neither necessary nor appropriate for me to attempt even to list let alone analyse this in any detail. For present purposes it suffices to say that the coverage in this country (I say nothing about the foreign media) has had four principal themes.
22. The first, and most substantial, is comment about, and in some instances criticisms of, the various orders made by the English courts. Much of this has been strident and some of it has been inaccurate. The initial coverage on 1 and 2 December 2013 appeared under such headlines as ‘Operate on this mother so that we can take her baby’, ‘Woman’s baby taken from womb by social services’ and ‘Social workers took baby into care after forcing her mother to have a Caesarean’. In fact, as we now know, the application to the Court of Protection was made by the relevant NHS Trust, not the local authority. In relation to all this there is interesting comment by various legal commentators on the blogosphere, including suggestions that some of the orders made might be vulnerable to legal challenge. Since these matters may yet require judicial determination I say nothing more.

23. The second consists of reports of what is being said by and interviews with the mother and, more recently, her own father.
24. The third consists of comments about and criticisms of the lack of transparency in the court process, the fact that the hearing in the Court of Protection was in “secret” and the delay in publication of the judgments – hence the comment in a national newspaper on 2 December 2013 that “no information concerning any element of our treatment of the Italian mother has been made public by the courts”.
25. The fourth, though largely confined to legal commentators on the blogosphere, relates to criticisms, some expressed in strong terms, of the way in which the case has been reported by the media.
26. So far as concerns the relationship between the media and the court I can only repeat what I said earlier this year in a judgment that was widely reported at the time: *Re J (A Child)* [2013] EWHC 2694 (Fam). I forbear from extensive citation, merely repeating at this point, so as to emphasise, three key principles (*Re J*, paras 37-39). First, that “It is not the role of the judge to seek to exercise any kind of editorial control over the manner in which the media reports information which it is entitled to publish”. Second, that “Comment and criticism may be ill-informed and based, it may be, on misunderstanding or misrepresentation of the facts [but the] fear of such criticism, however justified that fear may be, and however unjustified the criticism, is ... not of itself a justification for prior restraint by injunction of the kind being sought here, even if the criticism is expressed in vigorous, trenchant or outspoken terms ... or even in language which is crude, insulting and vulgar”. Third, that “It is no part of the function of the court exercising the jurisdiction I am being asked to apply to prevent the dissemination of material because it is defamatory ... If what is published is defamatory, the remedy is an action for defamation, not an application in the Family Division for an injunction.”
27. I stand by every word of that, but think I should repeat what I said earlier this year when addressing the Annual Conference of the Society of Editors:

“dare I suggest that the media should remember the great C P Scott’s famous aphorism that “Comment is free, but facts are sacred.” I recently gave a judgment that received coverage in the media. A legal commentator suggested that readers might wish to compare and contrast what I had actually said with how it was reported: “Compare. And contrast ... And weep.””

The case to which I was referring is *Re W (A Child), Re H (Children)* [2013] EWCA Civ 1177.

The hearing on 13 December 2013

28. On 9 December 2013 the return date for Essex County Council's application was fixed for 13 December 2013 before me. On 11 December 2013 the application and supporting documents were served on the mother and the father and, more generally, by means of the Press Association's CopyDirect Injunctions Alerts Service. The same day there was an email interchange between Essex County Council and Associated Newspapers Limited (publisher of the Daily Mail and the Mail on Sunday) which, having led to agreement as to the appropriate form of order, concluded with Associated Newspapers Limited indicating that it did not intend to instruct counsel to appear at the hearing on 13 December 2013.
29. Shortly before 6pm on 12 December 2013 my clerk received by email the following letter from Dawson Cornwell addressed to him and dated 6 December 2013:

“Dear Sir

Re P (a child)

Case No CM12/C05138 – an Italian Child/Care/Adoption

We refer to the above matter.

We understand that this has now been transferred to the High Court with the intention that a hearing be fixed before the President of the Family Division.

We would advise the President that we have been approached by the Italian Embassy in London who would wish us to make an application to intervene in this case on behalf of Italy. The case relates to Italian nationals and we are instructed that it may be helpful for Italy to make representations on the application of the Council Regulation (EC) No 2201/2003 (Revised Brussels II).

For the avoidance of doubt Italy would not seek to advocate the position of any particular party to the proceedings but would wish to assist the Court in every way possible, where appropriate, as to the events referable to this case and also in order to formulate general guidance if appropriate.

The Legal team would be ... instructed by Anne-Marie Hutchinson of this firm.

We should be grateful also if you would let us know whether any hearing has been fixed?

Yours faithfully”

That was followed by another letter the following morning in which they sought “the guidance of the court as to how the application for leave to intervene should be best dealt with.”

30. As to this there are only two things I can properly say. In the first place, as I have already explained, the case was not transferred to the High Court “with the intention that a hearing be fixed before [me].” It was transferred so that *if* any application was made I would hear it. The other matter is this: I cannot provide the “guidance” that is sought. The Italian authorities must take such steps (if any) as they may be advised.
31. The hearing before me took place on 13 December 2013 in open court. Essex County Council was represented by Mr Rex Howling QC. No one else appeared or was represented though reporters, one from the Press Association, attended the hearing.
32. At the end of the hearing I made an order in the form set out below. I gave brief reasons for my decision: *Re P* [2013] EWHC 4037 (Fam). I said that I would give fuller reasons in due course, which I now do, 17 December 2013, again in open court.

Discussion

33. The principles upon which the jurisdiction is exercised are too well established and familiar to require repetition. I summarised them very recently: *Re J*, paras 21-24. Put shortly, the court must conduct a ‘balancing exercise’, focusing on the comparative importance of the specific rights in play in the individual case and treating the interests of the child, although not paramount, as a primary consideration.
34. In the present case, as typically, a number of competing interests are engaged, protected by Articles 6, 8 and 10 of the Convention. Three competing interests, in particular, have to be considered here. I take them in no particular order.
35. The public has an interest in knowing and discussing what has been done in this case, both in the Court of Protection and in the Chelmsford County Court. Given the circumstances of the case and the extreme gravity of the issues which here confronted the courts – whether to order an involuntary caesarean section and whether to place a child for adoption despite the protests of the mother – it is hard to imagine a case which more obviously and compellingly requires that public debate be free and unrestricted.
36. The mother has an equally obvious and compelling claim to be allowed to tell her story to the world. I repeat what I have on previous occasions (see most recently *Re J*, para 36) about the importance in a free society of parents who feel aggrieved at their experiences of the family justice system being able to express their views publicly about what they conceive to be failings on the part of individual judges or failings in the judicial system and likewise being able to criticise local authorities and others. I repeat what I said last week (*Re P* [2013] EWHC 4037 (Fam), para 4):

“The mother wishes to complain publicly about the way in which the courts in this country have handled her and her daughter. The court should be very slow indeed before

preventing a parent doing what the mother wishes to do in the present case.”

If ever there was a case in which that right should not be curtailed it is surely this case. To deny this mother in the circumstances of this case the right to speak out – and, I emphasise, to speak out, if this is her wish, using her own name and displaying her own image – would be affront not merely to the law but also, surely, to any remotely acceptable concept of human dignity and, indeed, humanity itself.

37. P also, it should go without saying, has an equally compelling claim to privacy and anonymity.

38. How then, in the final analysis, is the court to balance these competing demands?

39. I start with P. On this I agree entirely with how Charles J expressed himself on the previous occasion (*Re P* [2013] EWHC 4383 (Fam), para 3):

“... the representative of Associated Newspapers has made clear to me ... that Associated Newspapers have no intention of publicising the present whereabouts of the child, the people who are caring for the child or the identity of the child. That confirms my preliminary view that I have not been able to identify any public interest (as opposed to matters which might be of interest to the public) in identifying those matters. The reasons for that are that this child at present, pursuant to the relevant orders, is placed with a view to adoption. Stability of that placement if at the end of the day the child is adopted is of significant if not crucial importance for the short, medium and long term life of the child. Prospective adopters are going through an emotional experience and one where they are bonding to a child. If that is disrupted because of publicity with the result that the child is moved, that is likely, in my view, to cause short, medium and long term damage to the child. I have not been able, as I said during the hearing, to identify any argument which would indicate that the matters that are of significant public interest relating to the decision-making processes of both the Family Court and the Court of Protection in this matter, would be advanced one iota by identifying the present carers of the child, or the child. I therefore propose to grant an injunction as sought relating to the identification of the child or the persons caring for the child and the publication of any pictures of the child and/or those persons.”

40. P’s welfare demands imperatively that neither she nor her carers should be identified. On the other hand, as Charles J pointed out, neither the compelling public interest in knowing about the case nor the mother’s compelling claim to be allowed to tell her

story, would be advanced one iota by identifying P or her carers. I repeat what I said last week (*Re P* [2013] EWHC 4037 (Fam), para 3):

“the arguments in favour of the continuing anonymisation of the child are overwhelming and ... arguments in favour of the naming of the child, if indeed there are such arguments (and none have in fact been put forward), are exiguous and, on any basis, heavily counterbalanced by the arguments in favour of the child’s anonymity being preserved.”

41. That was as far as Charles J was prepared to go. He was not prepared to grant any injunction restraining identification of either the mother or P’s father. I agree entirely with that approach. There are, as I have already acknowledged, the most obvious and compelling reasons why, in this case, there should be no stifling of the widest possible public discussion of what has happened nor any stifling of the mother if she wishes to speak out. Moreover, as I said last week (*Re P* [2013] EWHC 4037 (Fam), para 5):

“any argument that if the mother is identified, as has in fact happened, whether by name (by which I mean her maiden name) and/or by photograph, that would in some way lead to the identification of the child is little more than fanciful. Accordingly, ... there are ... very compelling arguments that the mother should not merely be enabled to tell her story to the world at large (if that is what she wants), but moreover that she should be enabled to do so by reference to her name (by which I mean her maiden name rather than her married surname), as, indeed, if this is what she wants, allowing her photograph to be published.”

42. It was for these reasons that I made the order set out below. It is largely self-explanatory but two matters require explanation. The proviso at the end of paragraph 13 is designed to make explicitly clear that the injunction restraining identification of P does *not* prevent the mother identifying herself, as indeed she has already done, by her first and maiden names. The wording at the end of paragraph 16 gives effect to the agreement I referred to in paragraph 28 above. The point raised by Associated Newspapers was that there was no justification for a reporting restriction order to remain in place if P was returned to her mother’s care. I agree.
43. Before parting from the case there are two points that require to be addressed with honesty and candour. Both relate to the fact that, when this story first ‘broke’ on 1 December 2013, none of the relevant information was in the public domain in this country.
44. The first point is this: How can the family justice system blame the media for inaccuracy in the reporting of family cases if for whatever reason none of the relevant information has been put before the public?

45. The second point is, if anything, even more important. This case must surely stand as final, stark and irrefutable demonstration of the pressing need for radical changes in the way in which both the family courts and the Court of Protection approach what for shorthand I will refer to as transparency. We simply cannot go on as hitherto. Many more judgments must be published. And, as this case so very clearly demonstrates, that applies not merely to the judgments of High Court Judges; it applies also to the judgments of Circuit Judges.

Using the Press Association

46. Shortly before the hearing a question arose about the operation of the Press Association's CopyDirect Injunctions Alerts Service, use of which is required by PD 12I. In the circumstances it may be useful for me to set out for the attention of a wider audience a most helpful note which was sent to my office on 12 December 2013 by Mike Dodd, legal editor of the Press Association. Having said that he was unable to attend the hearing the following day, and explained that he is the individual with responsibility for oversight of the Press Association's Injunctions Alerts Service, Mr Dodd continued:

“There is a page on the Injunctions Alerts Service website – <http://www.medialawyer.press.net/courtapplications/mediaorganisations.jsp> - which lists the media organisations served, and the relevant telephone numbers, and which states at the top:

“The notification system serves all the national media (newspapers and broadcasters) with the exception of the Financial Times and Sky News. If notice has to be served on these two companies it needs to be served on them directly.”

The service was also established on the basis that subscribing organisations would be taken to have been served with an application if notification was sent via the service.

The system works as follows: Would-be applicants are supposed to call a number, given in the Practice Note, and speak to the Customer Services staff who deal with the service.

They then send the documents, electronically (which is easier) or by fax, to the service. These documents are, if necessary, scanned to be put into electronic form, and are then distributed via e-mail alerts to the national media. Distribution is followed up by calls to each of the subscribing organisations to check that service has been received.

The service does not:

- 1: Serve regional and local newspapers, or magazines

2: Serve orders which have been obtained from the courts (despite the continuing efforts by some law firms to use it for this purpose).

The website's Home page, and the pages for the Practice Direction, Practice Note and for the Notification system all contain a red-bordered box detailing what it does and not do. The box is the same on all pages. It will be updated in the New Year, due to increasing use of the service by applicants seeking injunctions in the QBD who are also being required to notify the media of their applications. These mostly are cases involving settlements of medical negligence cases involving children."

47. I am grateful to Mr Dodd for his assistance.

Appendix

48. The order I made on 13 December 2013 was in the following terms:

Before the President

IN THE MATTER OF CHILD P [A GIRL, D.O.B. 24.08.2012]

IN THE MATTER OF THE ADMINISTRATION OF
JUSTICE ACT 1960

AND IN THE MATTER OF THE CHILDREN ACT 1989

AND IN THE MATTER OF THE HUMAN RIGHTS ACT
1998

After hearing Mr R Howling QC who appeared on behalf of the
local authority

And Upon reading confirmation from Associated Newspapers
Limited that they consent to the terms of this order

REPORTING RESTRICTION ORDER MADE BY THE
PRESIDENT ON 13 DECEMBER 2013 SITTING IN OPEN
COURT.

IMPORTANT WARNING: ANY PERSON OR BODY WHO
KNOWS OF THIS ORDER AND DOES ANYTHING TO
BREACH ITS TERMS MAY BE HELD TO BE IN
CONTEMPT OF COURT AND MAY BE IMPRISONED,
FINED OR HAVE THEIR ASSETS SEIZED.

IF YOU ARE SERVED WITH THIS ORDER YOU SHOULD READ IT EXTREMELY CAREFULLY AND ARE ADVISED TO CONSULT A SOLICITOR AS SOON AS POSSIBLE. YOU HAVE THE RIGHT TO ASK THE COURT TO VARY OR DISCHARGE THE ORDER.

The parties

1 The Applicant is Essex County Council (“the Local Authority”)

The First Respondent is B (“The Mother”).

The Second Respondent is C (“The Father”).

The Third Respondent is P (“The Child”).

2 The lead lawyer employed by the Local Authority is ... , whose direct telephone number is ... and email address is ... , and to whom all enquiries about the scope and effect of this order should be addressed.

Recitals

3 On 13 December 2013 the Court considered an application for a reporting restriction order.

4 This order was made at a hearing with notice having been given to the Press Association. Both the First and Second Respondent had also been given notice of this hearing by email.

5 The Judge read the following documents: the Application, a draft Order, a chronology and position statement prepared by Essex County Council, together with a statement from a social worker employed by Essex County Council, and was informed that the child had been placed for adoption.

6 Schedule 1 to this order [omitted] is an explanatory note in plain English. It forms part of this order. The note must always be supplied to any person affected by this order but otherwise is not to be published.

7 At present the address of the child and the names and address of her carers are not public knowledge. Those names and address are therefore not set out in this order. Those details must remain strictly confidential.

8 Subject to the following paragraph, this order binds all persons and all companies or unincorporated bodies (whether acting by their directors, employees or in any other way) who know that the order has been made.

Territorial limitation

9 In respect of persons outside England and Wales:

(i) Except as provided in sub-paragraph (ii) below, the terms of this order do not affect or concern anyone outside the jurisdiction of this court.

(ii) The terms of this order will bind the following persons in a country, territory or state outside the jurisdiction of this court:

(a) the First and Second Respondents or their agents;

(b) any person who is subject to the jurisdiction of this court;

(c) any person who has been given written notice of this order at his residence or place of business within the jurisdiction of this court;

(d) any person who is able to prevent acts or omissions outside the jurisdiction of this court which constitute or assist in a breach of the terms of this order; and

(e) any other person, only to the extent that this order is declared enforceable by or is enforced by a court in that country or state.

Undertakings to the court

10 If the court later finds that this order has caused loss to a Respondent or to a third party and decides that such Respondent or third party should be compensated for that loss, the Applicant shall comply with any order the court may make.

11 The Applicant will not, without permission of the Court, seek to enforce this order in any country, state or territory outside England and Wales.

IT IS ORDERED THAT:

12 The Applicant is granted permission pursuant to the Children Act 1989 s100 to apply for an order in the exercise of the Court's inherent jurisdiction.

Prohibited publications

13 Subject to the "territorial limitation" above, this order prohibits the Respondents from facilitating or permitting the publishing or broadcasting in any newspaper, magazine, public computer network, internet website, social networking website,

sound or television broadcast or cable or satellite program service any information, including the mother's married surname, that reveals the identity or name or address or whereabouts of the child (whose details are set out in Schedule 1), or the identity or name or address or whereabouts of her carers, or any pictures of the child or her carers if, but only if, such publication is likely, whether directly or indirectly, to lead to the identification of the child as being:

- (a) A child who is or has been subject of proceedings under the Children Act 1989 or the Adoption and Children Act 2002; and/or
- (b) A child who has been removed from the care of her parents; and/or
- (c) A child whose contact with her parents has been prohibited or restricted.

Provided that nothing in this order prevents the publication of the mother's first and maiden names.

14 No publication of the text or summary of this order or the supporting documents (except as provided for below under "service of this order") shall include any of the matters referred to in the preceding paragraph.

Permitted publications

15 Nothing in this order shall prevent any person from:

- (a) publishing information relating to any part of a hearing in a court in England and Wales (including a coroner's court) in which the court was sitting in public and did not itself make any order restricting publication;
- (b) seeking or publishing information which is not restricted by the section "prohibited publications" above;
- (c) enquiring whether a person or place falls within the section "prohibited publications" above;
- (d) seeking information relating to the child while acting in a manner authorised by statute or by any court in England and Wales;
- (e) seeking information from the lead solicitor acting for the local authority, whose details are set out under "the parties" above, or from any press officer employed by the local authority;

(f) seeking or receiving information from anyone who before making of this order had previously approached that person with the purpose of volunteering information (but this paragraph will not make lawful the provision or receipt of private information which would otherwise be unlawful).

Duration of this order

16 Subject to any different order made in the meantime, this order shall have effect until 6pm on 24 August 2030, save in the event that the child is returned to the care of the mother in which case this order shall thereupon cease to have effect.

The right to apply for variation or discharge of this order

17 The parties and any person affected by any of the restrictions in the section “prohibited publications” above of this order may make application to vary or discharge it to a judge of the High Court on no less than two working hours’ notice to the Applicant and the Press Association and, if practicable, to the other parties. Any such application shall be supported by a witness statement endorsed with a statement of truth.

Service of this order

18 Without prejudice to the terms of the “territorial limitation” above, copies of this order (which is endorsed with the notice warning of the consequences of disobedience) shall be served by the Applicant (and may be served by any other parties to the proceedings):

(a) by service on such newspaper and sound or television broadcasting or cable satellite or programme services as they see fit, by fax or first class post addressed to the editor (in the case of a newspaper) or senior news editor (in the case of a broadcasting, cable or satellite programme service) or website administrator (in the case of an internet website) and/or to their respective legal departments; and/or

(b) on such other persons as the parties may think fit, by personal service.

Costs

19 There shall be no order as to costs.

Dated 13 December 2013