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Case No. QB-2022-000353

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

Royal Courts of Justice, Strand, London WC2A 2LL

Date: 30 December 2022

Before :

THE HONOURABLE MR JUSTICE PEPPERALL

Between :

EMMY TAYLER

Claimants

- and -

HARPERCOLLINS PUBLISHERS LIMITED

Defendant

Victoria Jolliffe (instructed by Manleys Solicitors) for the Claimant
David Hirst (instructed by Wiggin LLP) for the Defendant

Hearing date: 28 June 2022

Approved judgment

I direct that official shorthand note shall be taken of this judgment and that copies of this version as handed down may be treated as authentic.

THE HONOURABLE MR JUSTICE PEPPERALL:

1. In 2021, HarperCollins Publishers Limited published *Perversion of Justice: the Jeffrey Epstein Story*. The author, Julie K. Brown, is an award-winning investigative journalist employed by the *Miami Herald*. The book exposes the scandal of the 2008 plea bargain which allowed the wealthy financier and paedophile, Jeffrey Epstein, to serve modest prison time for his crimes. It was, readers are told, Ms Brown's relentless pursuit of the Epstein story that led directly to the reopening of the case, Epstein's arrest on 6 July 2019 and subsequently the prosecution of Ghislaine Maxwell. The inside front cover claims:

“*Perversion of Justice* reveals how Epstein came to run a global sex-trafficking pyramid scheme with impunity for years, targeting vulnerable teens, often from fractured homes, and then turning them into recruiters.”

2. Emmy Tayler is a British woman who is said in the book to have worked for Jeffrey Epstein and Ghislaine Maxwell in 2005. She is specifically named in connection with the abuse of a fourteen-year-old victim in 2005 who is referred to simply as Jane Doe 1. The book claims that Jane was recruited by another girl, Haley Robson, who had been instructed by Epstein that “the younger” the girls that she recruited for him “the better.” It then describes, at pages 13-14, the moment when Jane entered Epstein's Palm Beach mansion:

“Shortly thereafter, a silver-haired man with a long face and bushy eyebrows entered the kitchen, along with a young woman who appeared to be about Haley's age. His name was Jeffrey. The young woman's name, police would later learn, was Emmy Tayler. At the time, Tayler arranged Epstein's massage schedule and also worked as Maxwell's assistant. After the introductions, Tayler led Jane Doe 1 up a spiral staircase from the kitchen to a master bedroom and bath. Jane told the police she became anxious as Tayler put up a folding massage table and laid out a bunch of oils. ‘Jeff will be up in a minute,’ she told Jane. There has been nothing to suggest that Tayler was aware of what happened in the room nor that she participated in any sexual activity.”

3. The book recounts how, when Jane was alone in the room with Epstein, he instructed her to remove all of her clothes and straddle his back as he lay on his stomach. He then told her to climb down. He rolled over, dropped his towel, and exposed himself. He then began stroking his penis with one hand while fondling Jane's breasts with the other. He placed a vibrator between her legs. When he ejaculated, he ordered Jane to get dressed and paid her \$300.
4. By this claim, Ms Tayler seeks damages and other remedies for libel. She asserts that her alleged involvement in arranging Epstein's massage schedule and in the abuse of Jane Doe 1 is demonstrably false. She says that she was not employed by Ms Maxwell in Florida in 2005 and she asserts that the 2006 police report into Jane Doe 1's allegation named another woman as the person who had shown the girl into the bedroom.
5. While the truth of the statements made about Ms Tayler is not in issue in this trial of three preliminary issues, it is only fair in this public judgment to make clear that the publisher accepts that Ms Tayler was wrongly named at page 13 as the young woman who led Jane Doe 1 to Epstein's bedroom in Palm Beach in 2005. It is the publisher's case that, once the mistake was identified, further distribution of the book was suspended on 7 August 2021. It also says that a corrected and re-printed paperback was published the following month and that amendments have been made both to the audiobook and e-book editions of the book. There was, however, no recall of unsold books that had already been sent to distributors.

6. On 22 March 2022, Nicklin J ordered that there should be a trial of the following preliminary issues: (i) the natural and ordinary meaning of the statement complained of; (ii) whether the statement complained of, in any meaning found, is defamatory of Ms Tayler at common law; and (iii) whether the statement complained of is, or includes, a statement of fact or opinion. Although no defence has yet been filed, the publisher has set out a statement of its case upon each of these issues.

(1) MEANING

7. Ms Tayler relies on some forty-six extracts from the book but the critical passage is that quoted at paragraph 2 above. She argues that the natural and ordinary meaning of statements made in the book is that:

- “(1) The Claimant arranged Jeffrey Epstein’s massage schedule in 2005 at a time when he was a prolific paedophile who regularly sexually abused underage girls under the guise of paying them to receive massages. On one occasion in 2005, when Epstein was aged in his 50s, the Claimant led a 14-year-old child – ‘Jane Doe 1’ - to a bedroom in Epstein’s Palm Beach residence. The Claimant set up a massage table and oils and left the girl alone in the master bedroom, having told her, and knowing that, Epstein would be joining the girl in the room shortly.
- (2) The child was subsequently seriously sexually assaulted by Epstein. The Claimant thereby knowingly facilitated the paedophilia of a notorious child abuser, or there are strong grounds to suspect that she did so.”

8. The publisher denies that the statements bear the meaning asserted by Ms Tayler. It argues that reasonable readers of the book would understand the statements to have the following meaning:

“In 2005 the Claimant was a young woman who worked as an administrative assistant to Ghislaine Maxwell, a close associate of Jeffrey Epstein, and also arranged massages for Epstein which, on one occasion, according to a later police report, involved the Claimant showing an unnamed girl into a massage room at Epstein’s Palm Beach mansion where, subsequently, behind closed doors and without the Claimant knowing about it, he proceeded to sexually abuse the unnamed girl who was also, it transpired, underage.”

THE PROPER APPROACH TO IDENTIFYING MEANING

9. In Koutsogiannis v. Random House Group Ltd [2019] EWHC 48 (QB), [2020] 4 W.L.R. 25, Nicklin J helpfully summarised the well-established principles applicable when determining meaning in a passage that was subsequently approved by the Court of Appeal in Corbyn v. Millett [2021] EWCA Civ 567, [2021] E.M.L.R. 19. Nicklin J observed, at [11]-[12]:

- “11. The court’s task is to determine the single natural and ordinary meaning of the words complained of, which is the meaning that the hypothetical reasonable reader would understand the words bear. It is well recognised that there is an artificiality in this process because individual readers may understand words in different ways: Slim v. Daily Telegraph Ltd [1968] 2 Q.B. 157.
12. The following key principles can be distilled from the authorities ...
- i) The governing principle is reasonableness.
 - ii) The intention of the publisher is irrelevant.

- iii) The hypothetical reasonable reader is not naïve but he is not unduly suspicious. He can read between the lines. He can read in an implication more readily than a lawyer and may indulge in a certain amount of loose thinking but he must be treated as being a man who is not avid for scandal and someone who does not, and should not, select one bad meaning where other non-defamatory meanings are available. A reader who always adopts a bad meaning where a less serious or non-defamatory meaning is available is not reasonable: s/he is avid for scandal. But always to adopt the less derogatory meaning would also be unreasonable: it would be naïve.
 - iv) Over-elaborate analysis should be avoided and the court should certainly not take a too literal approach to the task.
 - v) Consequently, a judge providing written reasons for conclusions on meaning should not fall into the trap of conducting too detailed an analysis of the various passages relied on by the respective parties.
 - vi) Any meaning that emerges as the produce of some strained, or forced, or utterly unreasonable interpretation should be rejected.
 - vii) It follows that it is not enough to say that by some person or another the words might be understood in a defamatory sense.
 - viii) The publication must be read as a whole, and any ‘bane and antidote’ taken together. Sometimes, the context will clothe the words in a more serious defamatory meaning (for example the classic “rogues’ gallery” case). In other cases, the context will weaken (even extinguish altogether) the defamatory meaning that the words would bear if they were read in isolation (e.g. bane and antidote cases).
 - ix) In order to determine the natural and ordinary meaning of the statement of which the claimant complains, it is necessary to take into account the context in which it appeared and the mode of publication.
 - x) No evidence, beyond publication complained of, is admissible in determining the natural and ordinary meaning.
 - xi) The hypothetical reader is taken to be representative of those who would read the publication in question. The court can take judicial notice of facts which are common knowledge, but should beware of reliance on impressionistic assessments of the characteristics of a publication’s readership.
 - xii) Judges should have regard to the impression the article has made upon them themselves in considering what impact it would have made on the hypothetical reasonable reader.
 - xiii) In determining the single meaning, the court is free to choose the correct meaning; it is not bound by the meanings advanced by the parties (save that it cannot find a meaning that is more injurious than the claimant’s pleaded meaning).”
10. Context is particularly important where the words complained of appear in a book. The ordinary reasonable reader is taken to have read the whole book. Such reader is unlikely to analyse the book like a lawyer, compare one passage to another, or focus on particular phrases. While the hypothetical reasonable reader is most unlikely to have read the entirety of Ms Brown’s 448-page book in a single sitting, the exercise for the court is to ascertain the broad impression made on such reader by the book taken as a whole. [See generally, Charman v.

Orion Publishing Co. Ltd [2005] EWHC 2187 (QB), Gray J, at [11]-[12]; Abramovich v. HarperCollins Publishers Ltd [2021] EWHC 3154 (QB). Tipples J.]

11. The final sentence of the passage quoted at paragraph 2 above raises the issue of bane and antidote. As Baron Alderson famously said in Chalmers v. Payne (1835) 2 C.M. & R. 156, at p.159, “the bane and the antidote must be taken together.” In Horan v. Express Newspapers [2015] EWHC 3550 (QB), Dingemans J, as he then was, explained, at [17]:

“This simply means that in reading the article as a whole if a ‘stain’ is removed in another part of the publication, the bane and antidote must be taken together when considering whether the article is defamatory, see Cruise v. Express Newspapers [1999] Q.B. 931 at 939. Whether the antidote has removed the bane is very much a matter of impression. In Cruise it was suggested that it would be rare that the antidote removed the bane, and reference was made to cases in which the bane had been destroyed by the contents of the article. There is no rule of law to the effect that antidote can never remove the bane, and there is no rule of law to the effect that an antidote will always remove the bane. It is a matter for the hypothetical reasonable reader.”

12. In Sergi v. Australian Broadcasting Commission [1983] 2 N.S.W.L.R. 669, Huntley JA observed pithily, at p. 670:

“The bane and antidote theory ... is merely a vivid way of stating that the whole publication must be considered, not a segment of it.”

13. Similarly, in this jurisdiction, Simon Brown LJ said in Mark v. Associated Newspapers Ltd [2002] EWCA Civ 772, [2002] E.M.L.R. 38, at [37]:

“One asks, therefore, in this as in any other case where the principle is invoked, whether, considered as a whole, the publication is damaging to the claimant’s reputation.”

14. In accordance with the guidance in Tinkler v. Ferguson [2019] EWCA Civ 819, I read Ms Brown’s book from cover to cover before considering the parties’ contentions and submissions in this case so as to capture my initial reaction as a reader.

THE PARTIES’ SUBMISSIONS

15. Victoria Jolliffe, who appears for Ms Taylor, argues that the book “hammers home” that it is based on a highly experienced journalist’s detailed research of court and police documents and her own investigative skills. The reader is told that it was Ms Brown’s investigative journalism that led to Epstein’s arrest in 2019 and the book is presented as an authoritative, rather than a sensationalist, account of the Epstein scandal. The reader is not left in any doubt that the accounts contained in the police reports should be taken as accurate. Indeed, Ms Brown made the point in colourful terms that she would not agree to her newspaper referring to the women as “alleged victims.” She asserted, at page 273:

“I reasoned that we don’t call people who are burglarized ‘alleged burglary victims.’ I also pointed that in this case, the victims were all listed as *victims* by the US Attorney’s Office as part of the final plea agreement that Epstein signed.”

16. Ms Jolliffe observes that Jane Doe 1’s story is the first detailed account of a victim given in the book. It was the incident that triggered the 2005 investigation and Ms Jolliffe argues that it

makes a particularly memorable impression on the reader. She also stresses that Jane Doe 1 plays a significant part in the narrative.

17. Ms Jolliffe submits that the reader had already been told that Epstein was fifty-three in 2006, and so in his early fifties in 2005, and that Jane Doe 1 was fourteen at the time of the abuse. She submits that there is no suggestion that Jane looked older than her age and stresses that readers are told that Epstein instructed Haley Robson, the individual who is said to have recruited Jane, that “the younger the better.” Ms Jolliffe submits that even without the earlier reference to Epstein’s “preferred prey” being “waiflike prepubescent girls” it would be reasonable for a reader to infer that a paedophile might have little interest in girls who look adult.
18. Further, Ms Jolliffe argues that the description of Ms Tayler as the person who arranged Epstein’s massage schedule in 2005 is significant since readers had been told shortly before, at page 10, that the operation was by then in “full swing.”
19. Addressing, the suggested antidote (that “there has been nothing to suggest that Ms Tayler was aware of what happened in the room nor that she participated in any sexual activity”), Ms Jolliffe submits that it is insufficient to extinguish the impression in the reader’s mind that Ms Tayler knew that Epstein carried out abuse under the guise of massage, or that there were at least strong grounds to suspect that she knew. She cites Lord Nicholls’ vivid observation about “playing with fire” in Charleston v. News Group Newspapers Ltd [1995] 2 A.C. 65, at p.74C:

“That is not to say that words in the text of an article will always be efficacious to cure a defamatory headline. It all depends on the context, one element of which is the layout of the article. Those who print defamatory headlines are playing with fire. The ordinary reader might not be expected to notice curative words tucked away further down in the article. The more so, if the words are on a continuation page to which a reader is directed.”
20. Ms Jolliffe points to Haley Robson’s explanation to girls that she recruited that they might have to do massages in the nude and that some “touching” might be involved (page 33), and to Alfredo Rodriguez’s account that, when he went into the master bedroom to clean the room, he would often find sex toys scattered on the floor (page 83). She submits that a reader would not need to be avid for scandal to infer that those working in the mansion in 2005, including Ms Tayler, knew that what was going on went well beyond massages, or at least to think that there were strong grounds for suspecting that she did so.
21. Further, Ms Jolliffe submits that even if the antidote is sufficient to extinguish the imputation that the claimant knew that Epstein sexually abused Jane Doe 1 in the room, it does nothing to remove the stain that it is asserted that Ms Tayler arranged Epstein’s massage schedule.
22. David Hirst, for the publisher, challenges the pleaded meaning on the basis that the fact that Epstein was a prolific paedophile and a “notorious child abuser” was neither known nor established in 2005. He points out that he had not then been arrested or charged with any offence. He submits that Ms Tayler artificially seeks to construe the book as imputing actual knowledge of criminality. He asserts that the text simply presents her as having showed Jane Doe 1 into a room for a massage.

23. Further, he submits that the claim seeks to present Jane as a child whereas she is described at page 12 of the book as having led a tough life, running away, partying, drinking, taking drugs, and as having lived at a “facility” for “troubled kids” while attending a school with a significant gun-violence problem. He asserts that the book records, at page 15, that when Jane stated she was 18, she was believed to be that age. Mr Hirst also points to the later passage, at page 125, that records that a police stake-out concluded that the women seen entering the mansion did not appear to have been underage.
24. Mr Hirst submits therefore that the pleaded meaning is the product of a strained and unreasonable interpretation, is avid for scandal, overly reliant upon inference, and impermissibly contains a number of elements which are not found in the words complained of.
25. In any event, he submits that this is a clear case of bane and antidote. He points out that the antidote is not in some remote part of the book but is immediately adjacent to the material said to give rise to the sting. He contends that the reasonable reader can hardly fail to notice the disclaimer or the deliberate proximity of its deployment. He submits that the antidote here is not a mere denial of an allegation but an authoritative statement by the author as to Ms Tayler’s knowledge. Readers, he submits, would notice that the disclaimer is Ms Brown’s voice intervening in the narrative to guide them to a particular conclusion. Further, he argues that the bane is in any event weak since it proceeds by inference only.
26. Mr Hirst also submits that the question of who is alleged to have aided and abetted Epstein is directly addressed on several occasions by the author. In doing so, Ms Brown does not name Ms Tayler.

DISCUSSION

Ms Tayler’s first suggested meaning

27. In my judgment, the publisher’s suggested meaning seeks to minimise the extent to which the book asserted that Ms Tayler arranged Epstein’s massage schedule. There is no basis for doing so. The clear assertion made in the book is that it was Ms Tayler who arranged Epstein’s massage schedule in 2005. That is very significant because it was through the guise of massage that Epstein abused his young victims. Furthermore, the reader is told something of the scale of that operation in 2005, at page 10, just before Jane Doe 1’s account:

“By 2005, the operation was in full swing. Girls from in and around West Palm Beach arrived two, three, four, or more times a day to Epstein’s cotton-candy-pink waterfront mansion on the island of Palm Beach.”
28. Further, I do not accept that Ms Tayler’s first pleaded meaning wrongly attributes knowledge of Epstein’s crimes at a time before he had been exposed as paedophile. While the second pleaded meaning asserts knowledge, the first simply asserts as a matter of fact that Epstein was in 2005 a “prolific paedophile who regularly sexually abused underage girls under the guise of paying them to receive massages.” Such assertion is central to the book. Indeed, the very opening statement at the beginning of the preface is that the position in September 2006 was as follows:

“For at least six years, multimillionaire financier Jeffrey Edward Epstein, fifty-three, and others working for him had been luring middle school and high school girls to his waterfront mansion in Palm Beach, Florida by offering to pay them for massages. The girls mostly thirteen to sixteen years old, arrived at all hours of the day and night, whereupon they were sexually abused in acts ranging from inappropriate touching to

rape. Afterward, Epstein paid them two to three hundred dollars each, then offered to give them even more money if the teenagers brought their friends, creating a revolving door of fresh young girls to fill his paedophile obsession...

... Epstein was wealthy enough to buy anything he wanted, including prostitutes. But he didn't want experienced women: his preferred prey were waiflike prepubescent girls from troubled backgrounds who needed money and had little or no sexual experience."

29. The publisher objects then to the suggested meaning that Ms Tayler "led a fourteen-year-old child" to the bedroom. It instead argues the meaning that Ms Tayler "showed an unnamed girl into a massage room" adding that "it transpired that she was underage." Three matters can be dealt with shortly:

29.1 The author's verb was "led" rather the more benign "showed" and there is no basis for watering it down.

29.2 The author described the room as "a master bedroom and bath" in which Ms Tayler set up a folding massage table, and not simply as a massage room.

29.3 The publisher's meaning declines to indicate Jane's age, yet the reader was clearly told on the previous page that she was fourteen at the time of this abuse.

30. The publisher's suggested meaning seeks then to imply that Jane might have looked rather older since it refers to it later "transpiring" that she was underage. Such implication is made more explicit in written argument. Mr Hirst submitted:

"A further construct to make up for the absence of evidence of knowledge in the text on the Claimant's part is to present Jane Doe 1 in the meaning being advanced as 'a child'. The Book refers to her only as 'a girl' at high school. Chapter 1, which relates the police report of the Jane Doe 1 case contains no reference to the word 'child' at all, which is a word that tends to conjure up a different impression than the one of Jane Doe 1 actually given by the Book. Instead, it is suggested that she led a tough life, running away, partying, drinking, taking drugs, and living at a 'facility' for 'troubled kids' whilst attending a Florida school with a significant gun violence problem (page 12). Jane Doe 1 stated she was 18 and was believed to be that age, the Book records (page 15). A police stake-out of Epstein's mansion as part of their investigation concluded that the girls seen entering did not appear underage (page 125)."

31. It is true that the book does not use the word child. There is, however, no merit in the point and I reject the unattractive argument that to describe her as a child is an artificial construct. The book is about Epstein's systematic sexual abuse of children. At fourteen, Jane was indeed a child and any reasonable reader would so regard her.

32. I have already referred to the fact that readers are told right from the outset that Epstein's sexual preference was for waiflike prepubescent girls. That claim is supported by a number of further extracts:

32.1 As already noted, in telling the story of Jane Doe 1, the book records at page 13 Epstein's instruction to Haley Robson to bring him girls, adding "the younger the better."

32.2 At page 33, where Robson's account to the police is quoted:

"She said that [Epstein] wanted all very young girls, and she explained how he had once gotten angry when she brought him a twenty-three-year old. The youngest

girl she introduced him to was fourteen, she said, naming a total of six girls whom she had brought to his mansion.”

32.3 At pages 83-84, where the 2006 taped statement of a houseman employed by Epstein between November 2004 and May 2005 is quoted:

“Rodriguez said Epstein had many visitors, most of them young masseuses who he said appeared to be of high school age. ... He said the girls who were coming to Epstein’s house came at all hours of the day and, as time went on, they appeared to be younger and younger.”

32.4 At pages 176-177, Ms Brown refers to Courtney Wild’s account that she was fourteen when she was first abused by Epstein. The sexual abuse happened so many times that Ms Wild was unable to count the number. Ms Brown then adds, at page 177:

“Like other girls who were brought to his house, [Wild] learned that she could avoid being abused herself by offering him new, younger girls to divert his attention from her. She started bringing him victims morning, noon and night.”

32.5 Further, at page 179:

“By the time she was seventeen, Epstein no longer wanted Courtney sexually. She was too old for him, and she no longer hung around with girls who were thirteen, fourteen, and fifteen. She began to have trouble finding girls of that age to bring to him.”

32.6 On the same page, the book records Ms Wild’s description of Epstein’s preference for “short, little white girls.”

33. I acknowledge that the reader is told at page 125 that the police staked out Epstein’s mansion and observed that the “women” who came and went all “appeared to be eighteen or older, mostly college students.” The overall impression created by the book is, however, that that observation was out of step with what was really going on inside Jeffrey Epstein’s mansion. The book does not reveal the period of surveillance but, as a reader, I was left with the impression that the author considered the investigation at that stage to have been rather superficial.

34. At page 13, the book records Haley Robson’s instruction to Jane Doe 1 that, if Epstein asked, she was to say that she was 18. After describing the abuse of Jane Doe 1 and just before the account that he ejaculated, the book records the following event at page 15:

“Epstein asked [Jane Doe 1] how she knew Haley, how old she was, what grade she was in, and what school she went to. She lied, telling him that she was an eighteen-year-old senior at Wellington High School.”

35. The author does not state that Epstein or anyone else believed Jane’s claim that she was 18. Nor is there any description of Jane as looking older than her years. In my judgment, a reasonable reader would infer that Robson’s instruction that Jane should claim to be 18 taken together with Epstein’s casual enquiry, slipped into the narrative not at the beginning of the massage but after she had been abused and he had begun masturbating himself, was nothing more than a cynical attempt to give Epstein plausible deniability should the girl’s true age later emerge. Certainly I was not left with the impression that the author was suggesting either that Jane really did look 18 or that Epstein believed her lie.

36. Further, I reject the unattractive argument that the fact that many of the girls had had a troubled life meant that they somehow looked older than their years. Ms Brown does not make that assertion. Rather the impression created is that the victims' difficult and chaotic home lives was what made them vulnerable to Epstein's abuse and, he no doubt calculated, less likely to be believed. Jane and the other victims of Epstein's abuse were children and the reasonable reader would form the impression that they looked like the children that they were. There is much force in Ms Jolliffe's submission that a reasonable reader would not conclude that this prolific paedophile was interested in children who looked older than their years. Indeed, such suggestion – which is not made in the book - would be somewhat counterintuitive. What he wanted, readers are told, was young, short, little, waiflike prepubescent girls.
37. Accordingly, I broadly accept Ms Tayler's first pleaded meaning. It should be added that Jane was then subjected to sexual abuse.

Knowingly facilitating the abuse

38. But for the last sentence of the passage dealing with Ms Tayler's involvement in arranging the massage, I would readily infer that the book was implying her knowing facilitation of child abuse, or at least that there were strong grounds for suspecting her knowing involvement in Epstein's crimes. The author, however, expressly recognises that that might be going through the reader's mind and steers one away from that conclusion. The antidote is all the more powerful for coming immediately after the passage describing Ms Tayler's role in setting up the massage. This is not a case of the sort mentioned by Lord Nicholls in Charleston where the antidote is buried away in some remote part of a newspaper article well away from a sensational and defamatory headline. Further, the antidote is all the more authoritative for coming from someone with a very detailed knowledge of the police files and the many hours of witness testimony. Drawing on her undoubted expert knowledge of the Epstein case, there is "nothing", Ms Brown tells her readers, to suggest that Ms Tayler was aware of what happened in Epstein's bedroom.
39. I accept Mr Hirst's submission that the antidote should not be read and dissected as a lawyer, but rather the court should consider the overall impression created in the mind of the reasonable reader taking into account both the bane and the antidote. Whatever the reader's initial inference, I accept Mr Hirst's submission that the disclaimer is Ms Brown's voice intervening in the narrative to guide readers away from the conclusion that Ms Tayler was complicit in the sexual abuse of these children. As he put it in his oral submissions, Ms Brown is saying to the readers "there's nothing to see here."
40. Such conclusion is supported by the fact that in the various later passages in which Ms Brown identifies Epstein's accomplices, Ms Tayler is not named. In particular, there is no reference to Ms Tayler in the epilogue which is devoted to informing readers as to what has become of those implicated in Epstein's criminality. Without the direct antidote at page 14 these passages hundreds of pages later would not be sufficient to neutralise the bane. Taking however the direct antidote at page 14 together with the absence of any later suggestion that Ms Tayler was complicit in Epstein's crimes, the book taken as a whole leaves the reasonable reader with the impression that Ms Tayler was not one of those who knowingly facilitated the sexual abuse of children.

Conclusion

41. I therefore find that the natural and ordinary meaning of the words complained of is as follows:

“The Claimant arranged Jeffrey Epstein’s massage schedule in 2005 at a time when he regularly received massages from underage girls. Unknown to her, he was a prolific paedophile who sexually abused the girls under the guise of paying them to receive massages.

On one occasion in 2005, when Epstein was aged in his fifties, the Claimant led a fourteen-year-old child - ‘Jane Doe 1’ - to a bedroom in Epstein’s Palm Beach residence. The Claimant set up a massage table and oils and left the girl alone in the master bedroom, having told her, and knowing that, Epstein would be joining the girl in the room shortly.

Jane Doe 1 was subsequently sexually assaulted by Epstein.”

(2) IS SUCH STATEMENT DEFAMATORY AT COMMON LAW?

42. In Corbyn v. Millett, Warby LJ said, at [9]:

“At common law, a meaning is defamatory and therefore actionable if it satisfies two requirements. The first, known as ‘the consensus requirement’, is that the meaning must be one that ‘tends to lower the claimant in the estimation of right-thinking people generally.’ The Judge has to determine ‘whether the behaviour or views that the offending statement attributes to a claimant are contrary to common, shared values of our society’: Monroe v. Hopkins [2017] EWHC 433 (QB), [2017] 4 W.L.R. 68 [51]. The second requirement is known as the ‘threshold of seriousness’. To be defamatory, the imputation must be one that would tend to have a ‘substantially adverse effect’ on the way that people would treat the claimant: Thornton v. Telegraph Media Group Ltd [2010] EWHC 1414 (QB), [2011] 1 W.L.R. 1985 [98] (Tugendhat J).”

43. Mr Hirst argues that actual knowledge of Epstein’s criminality is necessary to establish any defamatory meaning. He contends that there was nothing unlawful in underage children providing massages to an adult man and points to a later account at pages 207-208 of Virginia Giuffre’s father driving his sixteen-year-old daughter to Epstein’s mansion for an interview as a masseuse. Ms Jolliffe replies that there are no circumstances in which the reasonable reader would think that it was acceptable to arrange for a fourteen-year-old girl to give a fifty-two-year-old man a massage in the privacy of his bedroom.
44. The lawfulness of the alleged conduct is plainly not determinative of the issue. Much lawful conduct may be so disreputable that the allegation is defamatory. Even without knowledge of his sexual offending, I consider that the meaning as found is clearly defamatory at common law:
- 44.1 First, Ms Tayler’s alleged actions in arranging a massage schedule so that a succession of young underage girls, some as young as fourteen, would provide a massage to a man in his fifties in the privacy of his bedroom is, in my judgment, conduct that is contrary to common, shared values of our society and which would therefore tend to lower her in the estimation of right-thinking people generally. It is at best sordid conduct which, even without knowledge of what transpired in the bedroom, placed the girls at obvious risk of abuse. The meaning therefore satisfies the consensus requirement.
- 44.2 Secondly, I am satisfied that such an imputation would tend to have a substantially adverse effect on the way in which people would treat Ms Tayler especially once the man for whom she was working was identified as the notorious paedophile Jeffrey Epstein. While the book does not suggest that she knew what was going on, her alleged actions in arranging the massage schedule directly facilitated Epstein’s crimes. The meaning therefore satisfies the threshold requirement.

(3) FACT OR OPINION

45. The publisher accepts that the statements as to Ms Tayler's alleged involvement in arranging Epstein's massage schedule and in leading Jane Doe 1 into the bedroom are statements of fact and not opinion.