Neutral Citation Number: [2019] EWHC 2605 (QB)

Case No: E40MA051

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 07/10/2019

Before :

MRS JUSTICE STEYN

- -

Between :

Martin John Bourne	**Claimant**
- and -	
Hamed Ahmadi Nejad	**Defendant**

- -
- -

Richard Carter (instructed by **Field Fisher**) for the **Claimant**
The Defendant did not appear and was not represented

Hearing date: 4 October 2019

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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.

.....

Mrs Justice Steyn :

1. This is an application by the Claimant for judgment in default of acknowledgment of service or defence pursuant to CPR Part 12.

2. The Claimant is a solicitor. The Defendant was a student at Linacre College, Oxford University ("the College"). The College brought disciplinary proceedings against the Defendant. The Claimant was instructed by the College to advise and assist the College in relation to the Defendant's alleged misconduct. The Defendant's subsequent conduct towards the Claimant has been such that he has brought claims in defamation and harassment.

3. The Claimant seeks a final injunction, putting it shortly, to restrain the Defendant from continuing to publish certain defamatory words on a website and to restrain the Defendant from pursuing any conduct which amounts to harassment of the Claimant.

Procedural Background

4. On 11 June 2018 the Claimant issued an application seeking an injunction against the Defendant (before the issue of a claim form). The application was supported by a witness statement made by the Claimant, dated 7 June 2018 ("the Claimant's first statement"), and exhibit MJB1 (which runs to 171 pages). The application was issued in the Circuit Commercial Court (QBD) of the Business and Property Courts of Manchester.

5. The application for an interim injunction was made on notice to the Defendant. He chose not to respond to it.

6. On 28 June 2018, following a hearing, HHJ Sephton QC granted an injunction. The preamble records: "The Defendant did not attend and the Court expressed itself satisfied that the Defendant [has] been given appropriate notice of the Application pursuant to section 12 of the Human Rights Act 1998".

7. The interim injunction which was imposed "up to and including trial on the intended action or other order" provided:

> "1. The Defendant whether by himself his servants or agents or otherwise be restrained and an injunction is hereby granted restraining him from publishing the following words namely 'Martin Bourne is the College's dirty solicitor. His role is to send legal threats intended to harass and intimidate students who threaten the college's interests, such as those who speak against the college's crimes', or words to the same or similar effect OR printing, circulating, distributing or otherwise publishing or causing to be printed, circulated, distributed or otherwise published those words;
>
> 2. The Defendant whether by himself his servants or agents or otherwise be restrained and an injunction is hereby granted restraining him from harassing the Claimant."

8. Provision was made in the order for alternative service. In particular, the order provided that the claim form should be served, if possible, by personal service on the Defendant at a specified postal address and by email at a specified email address.

9. The Claimant undertook, inter alia, to issue a claim form by 4pm on 5 July 2018; to serve it on the Defendant as soon as practicable thereafter; and to take all reasonable steps to effect personal service of the claim form and the order of 28 June 2018 on the Defendant.

10. The 28 June 2018 order also provided:

> "If the Defendant wishes to defend the Claim he must acknowledge service within 14 days of being served with the Claim Form."

11. The claim was duly issued on 5 July 2018, again in the Circuit Commercial Court (QBD) of the Business and Property Courts of Manchester, followed by Particulars of Claim on 18 July 2018. The order, claim form, particulars of claim and accompanying documents were served on the Defendant by email, but the Defendant evaded personal service.

12. Consequently, the Claimant made an application on 24 August 2018 seeking:

> "An order that the Claimant has validly served the Order for an injunction dated 28 June 2018, Claim form dated 5 July 2018, Particulars of Claim dated 18 July 2018 and response pack upon the Defendant by email and by leaving them at the Defendant's last known residence. Or in the alternative, that the Claimant be granted permission to serve these documents upon the Defendant by email and first class post and that Claimant is not required to personally serve such documents."

13. The 24 August 2018 application was supported by a witness statement of the same date made by Harry Wells, the Claimant's solicitor, ("Harry Wells 2nd statement"), in which he gave evidence that:

> "5. The Injunction Application was emailed to the Defendant on 11 June 2018 at 15:04 (see pages 1 of HW2). The Defendant responded to this email on 12 June 2018 at 11:15 (see pages 2-4) thereby confirming that he had received the email. I also instructed an agent to serve the application upon the Defendant personally at his residence. The agent could not personally serve the documents upon the Defendant so these were posted through the Defendant's letterbox on 12 June 2018. …
>
> 6. On 21 June 2018, a letter was sent to the Defendant confirming the date, time and location of the hearing of the application (see page 11). On 25 June 2018, a sealed copy of the Injunction Application and a notice of hearing was emailed to the Defendant at 15:19 (see page 12). The Defendant responded to some of these emails and spoke with me regarding the

> application hearing (see telephone note and emails at pages 13-17).
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> …
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> 8. On 29 June 2018, the Defendant emailed me at 22:14 regarding an agent I had instructed to serve documentation upon him personally. The Defendant said in his email: '*Your boy Steve Sweet wrote a report about he was creeping around my home like a sex predator, but in his incompetence he messed up the dates…*' …
>
> 9. On 2 July 2018, I emailed the Defendant at 09:56 with a note of the hearing and minute of the order made at the hearing. …
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> 13. In accordance with the Interim Injunction, the Claimant issued a claim form on 5 July 2018 ('the Claim Form'). Following the issue of the Claim Form, I sent an email to the Defendant's email address (…) on 5 July 2018 at 16:39 serving sealed copies of the Interim Injunction, the Claim form and a response pack. I also advised the Defendant that he may wish to obtain legal advice. … The Defendant responded a few minutes later that same day at 16:42 stating: '*Your idiocy never fails to amuse… how much money have you wasted so far on this?*' thereby evidencing that he had received my email with the Interim Injunction, Claim Form and response pack which explained how he could respond to the claim. A copy of this email is at pages 33 of HW2.
>
> 14. On 9 July 2018 at 10:56, the Defendant emailed me alleging that the documents that had been left at his residence included a parking ticket (which is denied). He said '*Please keep sending me stuff. (Although my address has changed; and this time you can't bribe the CPS to send it to you. You might want to stick with email.) …*' …
>
> 15. On 19 July 2018, Particulars of Claim in the matter were prepared and served upon the Defendant along with a further copy of a response pack by email timed at 16:18 (see page 35 of HW2). The Defendant responded to this email at 17:20 that same day to say '*…You're alive…I was just about to send police officers to your door to do a welfare check…*', see page 35 of HW2. This confirmed that the Defendant had received the Particulars of Claim and further copy of the response pack by email." (Underlining added.)

14. Mr Wells then explained the efforts that had been made, without success, to serve documents on the Defendant personally at his home address. As the Defendant evaded personal service, the agent posted the documents through the Defendant's letterbox at his residence on 19 July 2018.

15. On 11 September 2018, HHJ Halliwell considered the Claimant's application dated 24 August 2018 without a hearing and made an order that:

> "The Claimant is granted permission to serve the Order for an Injunction dated 28 June 2018, Claim Form dated 5 July 2018, Particulars of Claim dated 19 July 2018 and response pack by email to him at the following address… and first class post addressed to him at …"

16. The two orders, the Claim Form, Particulars of Claim and response pack were served on the Claimant that day, giving a deemed date of service of 20 September 2018.

17. The Defendant failed to file an acknowledgment of service or defence to the claim within the time limit set out in CPR 15.4 and has not done so in the year since.

18. On 22 November 2018 the Claimant made an application for judgment in default, seeking a final injunction and costs of the claim. This was duly served on the Claimant by email and first class post on 27 November 2018. The application was supported by a further statement made by Mr Wells on 19 December 2018 ("Harry Wells 3rd statement"). He said:

> "9. Despite the Interim Injunction, the Defendant continues to publish the words set out in paragraph 1 of the Interim Injunction through the website and continues to harass the Claimant.
>
> 10. The Defendant is fully aware of the contents of the Interim Injunction and has taken no steps to remove the webpage relating to the Claimant. Indeed, additions have been made to the offending website which refer to this 'failed' court action. I enclose a copy of the relevant page of the website which includes such additions … I also enclose a copy of the Defendant's most recent email to me on 21 October 2018 … The hyperlink in the email is to a video of the rap song 'Can't Be Touched'. The Defendant signs off as 'Captain'. 'Captain' is the pseudonym also adopted by the Defendant in his email to me on 9 July 2018, 17 July 2018, 19 July 2018, 31 July 2018, and 8 September 2018 …
>
> 11. The Defendant also sent two emails to the Claimant on 21 October 2018. One comprises solely of the lyrics of the rap song 'Can't Be Touched'. The other simply says 'We are coming'. … The Claimant has stated that the Defendant has said on several of his previous email communications that he intends or wishes to pay the recipient a visit. The Claimant stated that he believes that this latest email is intended physically to intimidate and harass him and it succeeds."

19. A hearing was listed for 2 January 2019 and came before HHJ Davies. As previously, the Defendant chose not to attend and was not represented (although he had continued to send harassing emails to the Claimant and his solicitor). HHJ Davies made an order that:

> "The case shall be transferred from the Circuit Commercial List to the Queen's Bench Division in Manchester and shall be placed before an appropriate Judge to determine on paper whether the case should be transferred into the Media and Communications List or otherwise whether the Application should be heard by an authorised Media and Communications List Judge and if so whether the case should be transferred to the Royal Courts of Justice for such purposes."

20. An order was made on 24 January 2019 transferring the claim to the Media and Communications List. On 19 June 2019 Nicklin J considered the matter on the papers and made an order for the Claimant's application dated 23 November 2018 for judgment in default to be listed for a hearing before a Judge of the Media and Communications List on a date to be fixed after 1 July 2019 with a time estimate of 1 hour. Nicklin J's order also provided that:

> "Any party wishing to rely on any further evidence at the Hearing, must file and serve that at least 7 days prior to the Hearing.
>
> Claimant to lodge a bundle for the Hearing, a skeleton argument and a draft Order not later than 10am on the day prior to the Hearing."

21. The Claimant's (new) solicitors sent Nicklin J's order to the Defendant by email and first class post on 28 June 2019, that is, the day on which they received the sealed order. The Defendant responded to this email on 22 July 2019, clearly demonstrating that he had received Nicklin J's order.

22. The hearing bundle, skeleton argument and a draft order were duly lodged by the Claimant. The Claimant also initially sought, at the hearing before me, to rely on a further witness statement which was filed and served on the Defendant on 2 October 2019, that is, only two days prior to the hearing. Given the terms of Nicklin J's order, the Claimant would have had to have sought relief from sanction, in accordance with CPR 3.9 and *Denton v TH White Limited* [2014] 1WLR 3926, to rely on this further evidence. Mr Carter withdrew reliance on the late witness statement and I have not had regard to it.

Proceeding in the absence of the respondent

23. In *Pirtek (UK) Limited v Robert Jackson* [2017] EWHC 2834 (QB) Warby J considered, in the context of a claim for libel and malicious falsehood, an application for default judgment and summary relief pursuant to sections 8 and 9 of the Defamation Act 1996. As in this case, the respondent did not attend and was not represented. Warby J observed that proceeding in the absence of the respondent

> "19. … is permissible in principle, but the court has a discretion: CPR 23.11. The Court must exercise its power to proceed in the absence of a party in a way that is compatible with the overriding objective. I had to consider this issue in somewhat similar circumstances two years ago, in *Sloutsker v Romanova* [2015]

> EWHC 545 (QB) [2015] EMLR 27 (July 2015) and again in *Brett Wilson LLP v Persons Unknown* [2015] EWHC 2628 (QB) [2016] EMLR 2 [14]-[16] (September 2015). Both were applications for default judgment where the defendant was a litigant in person who had failed to appear without giving a reason, and the relief sought fell within the scope of s.12(2) of the Human Rights Act 1998.
>
> 20. I took a two-stage approach, considering (1) whether the defendant had received proper notice of the hearing and the matters to be considered at the hearing; (2) if so, whether the available evidence as to the reasons for the litigant's non-appearance supplied a reason for adjourning the hearing. I considered it necessary to bear in mind that the effect of s.12(2) is to prohibit the Court from granting relief that 'if granted, might affect the exercise of the Convention right to freedom of expression' unless the respondent is present or represented or the Court is satisfied that '(a) the applicant has taken all reasonable steps to notify the respondent; or (b) that there are compelling reasons why the respondent should not be notified.' I adopt the same approach in this case."

24. In *Pirtek*, Warby J concluded that the hearing should proceed in the absence of the respondent and then continued at [24]:

> "I add that despite these conclusions I have decided to hand down this judgment in written form, and to direct the claimant to serve a copy on Mr Jackson along with the resulting order. In that way, he will not be hampered or delayed in getting to know my reasons. Anyone has the right to obtain a transcript. But Mr Jackson is a litigant in person who lacks or may lack the knowledge or the financial resources to obtain a transcript. Proceeding in the way I have described will give him an opportunity to consider and, if he thinks it appropriate, to make a timely application to the Court for Pirtek's application to be re-listed pursuant to CPR 23.11(2), or to set aside the default judgment which I propose to enter. I do not suggest that it would be appropriate to make either application. My point is that in this way Mr Jackson will be able to give informed consideration to those options, in full knowledge of the basis on which judgment has been entered against him, and will have no reason to delay any application he may choose to make. All this buttresses my view that it is just and convenient to go ahead now, despite the absence of Mr Jackson."

25. Mr Carter invited me, at the outset of the hearing, to consider and determine whether to proceed in the absence of the Defendant. I did so, adopting the same approach as Warby J took in *Pirtek*, and I concluded that the hearing should proceed. I indicated at the hearing that, for the same reasons as were given by Warby J in *Pirtek* at [24], I would hand down a written judgment and direct the Claimant to serve a copy of it, together with the resulting order, on the Defendant.

26. Section 12(2)(b) of the Human Rights Act 1998 is obviously inapplicable. However, I am satisfied that s.12(2)(a) applies. I have already recounted the efforts made by the Claimant to serve the Defendant. It is quite clear, not least from his email responses, that the Defendant has received the interim injunction, the claim form and the particulars of claim, and he is aware of the basis and detail of the claim.

27. I am also satisfied that the Defendant has been given proper notice of this application for default judgment and the listing of this hearing, as is apparent not only from the fact that the application and supporting documents, and Nicklin J's order, have been duly served on him, but also from his responses which I have already recounted.

28. There is nothing at all before me, by way of evidence or otherwise, that suggests that I ought to adjourn this hearing or that it would be unfair to proceed in the Defendant's absence. I note that the Defendant drew attention in an email to the fact that Nicklin J's order was only emailed to him on the day on which the parties were due to provide the Clerk of the Lists with their available dates. However, there is nothing to suggest that the reason for the Defendant's absence is that the hearing has been listed on a date that is not convenient for him. The Defendant has not asked for an adjournment. He has chosen not to engage with these proceedings, other than by sending harassing email correspondence and posting defamatory material on a website. He has chosen not to file an acknowledgment of service, defence or any evidence; not to attend the hearings on 28 June 2018 and 2 January 2019; and he chose not to attend the hearing of this application on Friday, 4 October 2019.

Judgment in default

29. The Claimant has made an application for default judgment pursuant to CPR 23, as required by CPR 12.4(2), this being a type of claim in which default judgment cannot be obtained by filing a request pursuant to CPR 12.4(1).

30. CPR 12.3(1) provides:

> "The claimant may obtain judgment in default of an acknowledgment of service only if –
>
> (a) the defendant has not filed an acknowledgment of service or a defence to the claim (or any part of the claim); and
>
> (b) the relevant time for doing so has expired."

31. In accordance with Practice Direction 12, para 4.1

> "… on an application for default judgment the court must be satisfied that –
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> (1) the particulars of claim have been served on the defendant (a certificate of service on the court file will be sufficient evidence),
>
> (2) either the defendant has not filed an acknowledgment of service or has not filed a defence and that in either case the relevant period for doing so has expired,

> (3) the defendant has not satisfied the claim, and
>
> (4) the defendant has not returned an admission to the claimant under rule 14.4 or filed an admission with the court under rule 14.6."

32. I accept Mr Carter's submission, and the evidence of Mr Wells, that the conditions for granting default judgment are met. As I have said, following the order of HHJ Halliwell, the Particulars of Claim were duly served on 20 September 2018. The time for filing an acknowledgment of service or defence has long expired. The Defendant has not filed an acknowledgment of service or any defence within time, or subsequently. Nor has the Defendant satisfied the claim or returned or filed an admission.

33. As Warby J stated in *Pirtek* at [26]:

> "On such an application, the Court will enter 'such judgment as it appears to the court that the claimant is entitled to on his statement of case': CPR 23.11(1). This enables the Court to proceed on the basis of the claimant's unchallenged particulars of claim, which is normally the right approach, as evidential examination of the merits will usually involve unnecessary expenditure of time and resources and hence be contrary to the overriding objective: *Sloutsker v Romanova* [84], *Brett Wilson v Persons Unknown* [18]. Both those judgments contain some discussion of the possibility of departing from that normal approach. But I see no reason to do so here."

34. I see no reason to depart from the normal approach in this case and so I proceed on the basis of the Claimant's unchallenged particulars of claim.

Jurisdiction

35. Section 10(1) of the Defamation Act 2013 provides:

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

36. Warby J addressed this provision in *Pirtek* at [27] to [38]. Mr Carter submitted that s.10 is not applicable because his application is for default judgment, not summary relief, whereas in *Pirtek* the claimant had sought both default judgment and summary relief. Mr Carter's submission was that granting default judgment does not involve hearing and determining the defamation claim. This submission was not developed in any detail. It seems to me that it is inconsistent with *Pirtek* in which Warby J was clearly considering the issue of whether the court had jurisdiction pursuant to s.10 of the Defamation Act 2013 in the context of the "first application before the Court", which was for default judgment.

37. I approach the issue of whether the Court has jurisdiction pursuant to s.10 on the basis of the case stated by the Claimant in his Particulars of Claim: see *Pirtek* at [29].

38. The Claimant has pleaded that "the Defendant publishes and continues to publish the Webpage" (Particulars of Claim, paragraph 20), which is a webpage "found at www.linacretruth.com/martin-bourne/" which "comprises the Claimant's contact details, a photo of the Claimant and a reference to the Claimant in the following terms, 'Martin Bourne is the College's dirty solicitor. His role is to send legal threats intended to harass and intimidate students who threaten the college's interests, such as those who speak up against the college's crimes.'" (Particulars of Claim, paragraph 12).

39. In my judgment, the uncontradicted allegations in the Particulars of Claim lead to the clear conclusion that the Defendant was the "author" or, at the very least, an "editor" (as defined in s.10(2) of the Defamation Act 2013) of the statement which is the subject of the defamation claim.

40. I would reach the same conclusion if the matter of jurisdiction was one for decision on the evidence. The Particulars of Claim state at paragraph 24:

> "It can readily and justifiably be inferred that the Defendant is the publisher of the Website and the Webpage for *inter alia* the following reasons:
>
> 24.1 The content of the Website being analogous with the history of the Defendant's complaints to the College;
>
> 24.2 The content of the Website containing:
>
> (a) The College report regarding the Defendant's allegations of harassment against College staff members; and
>
> (b) A witness statement submitted in the criminal investigation against the Defendant.
>
> 24.3 The words used on the Website being similar to those used by the Defendant in his emails;
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> 24.4 The Defendant having worn a placard advertising the Website whilst in the College grounds;
>
> 24.5 The police investigation leading to the restraining order detailed at paragraph 18; and
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> 24.6 The Defendant emailing the Claimant's legal representative on 27 June 2018, the day before the interim injunction hearing in this claim, to inform the Claimant that the Webpage had been 'taken down'. The Claimant's legal representative checked the Website and the Webpage was still in existence but had been altered to remove the content regarding the Claimant. Following receipt of a witness statement filed by the Claimant's legal representative detailing this, the Defendant emailed again to

> inform the Claimant that the content on the Webpage had reverted 'back to the way it was before'."

41. This is supported by the Claimant's 1st witness statement in which he explains that the source of the defamatory statement about himself "can only have been Mr Nejad", as the only other people who were aware of the relevant communications are two people who have themselves been the subject of "malign and/or defamatory descriptions" posted on the Website, and who are clearly not responsible for the postings.

42. The Defendant has not adduced any evidence to counter the allegation that he published the Webpage, in the sense of being the originator of the statement. In his email of 22 July 2019, he claims that he is "not responsible" for the content of the Website. However, the Defendant's assertion in correspondence is not worthy of any weight for the reasons given by Warby J in *Pirtek* at [33], and, in any event, his assertion of lack of responsibility does not contradict the evidence that he is the author, as the Defendant himself states, "I can forward them information to be published".

43. I conclude that the Court has jurisdiction pursuant to s.10 of the Defamation Act 2013.

The substantive claims

44. I find that the Particulars of Claim set out a factual case which discloses good causes of action for libel and harassment and which justifies the court in entering default judgment in the Claimant's favour for a final injunction.

45. I can deal briefly with the claim for libel. The Particulars of Claim clearly and sufficiently allege publication on the Webpage by the Defendant of a statement which expressly refers to the Claimant. I accept Mr Carter's submission that the suggestion that a solicitor is "dirty", carrying as it does an obvious imputation of dishonesty, is defamatory at common law. On the pleaded case and uncontested evidence, I also accept that, for the purposes of s.1 of the Defamation Act 2013, it is a statement that "has caused or is likely to cause serious harm to the reputation of the claimant".

46. As regards harassment, this tort is provided for by s.1 of the Protection from Harassment Act 1997. Warby J observed in *LJY v Persons Unknown* [2017] EWHC 3230 (QB) [2018] EMLR 19:

> "32. A single individual alleging harassment must prove a 'course of conduct' involving conduct on at least two occasions in relation to that person: PHA s.7(3). It is clear that publication can be conduct for these purposes. Conduct is not harassment unless it crosses the boundary from regrettable to the unacceptable, to such an extent that it would sustain criminal liability: *Majrowski v Guy's and St Thomas's NHS Trust* [2006] UKHL 34; [2007] 1 AC 224 [30] (Lord Nicholls).
>
> 33. There must, therefore, be conduct on at least two occasions which is, from an objective standpoint, calculated to cause alarm or distress and oppressive, and unacceptable to such a degree that it would sustain criminal liability: see *Dowson v Chief Constable of Northumbria Police* [2010] EWHC 2612 (QB) [142] (Simon

> J). Another definition or summary of the tort is that harassment is a persistent and deliberate course of unreasonable and oppressive conduct, targeted at another person, which is calculated to and does cause that person alarm, fear and distress."

47. The Claimant has given particulars of harassment as "numerous threatening or menacing remarks in emails to the Claimant", which are set out at paragraph 11, as well as the continuing publication of the Webpage. The Particulars of Claim plead that the "defendant played on his unpredictable and dangerous reputation in his emails to cause the Claimant anxiety". For example, as the Claimant states in evidence, the Defendant wrote to him that he "will show you no such mercy" and that "you're putting your career, your reputation and your firm's reputation on the line"; and he sent him an email containing the single word "pussy". The Defendant sent the Claimant an email containing a picture of a bodybuilder with a photograph of the Claimant pasted on the face, along with a message "I know a guy that can get you a perfect beach body in 8 weeks … Shall I have him contact you?" In addition, the 3rd statement of Harry Wells describes how the Defendant sent emails to the Claimant on 21 October 2018 which intimated and harassed him further.

48. I accept Mr Carter's submission that the Particulars of Claim and the uncontested evidence filed on behalf of the Claimant is sufficient to disclose a good cause of action in harassment.

Conclusion on default judgment

49. For these reasons, I conclude that the Claimant is entitled to default judgment. The only relief that he seeks is a final injunction. The case stated in the Particulars of Claim provides a sufficient basis for the grant of a final injunction in the same terms as the interim injunction granted by HHJ Sefton QC. I have had regard to the particular importance of the Convention right to freedom of expression: s.12(4) of the Human Rights Act 1998. I am satisfied that the interference with free speech which the injunctive relief sought would represent is justified and goes no further than required. There is a public interest in protection the Claimant's professional reputation against false and damaging defamatory allegations, as well as in protecting the Claimant from further harassment by the Defendant.

50. I have decided that an order within s.9(1)(d) of the Defamation Act 1996 should be made pursuant to the default judgment procedure. As the Claimant does not seek any other relief, it is not necessary for me to consider summary disposal regime contained in ss.8 and 9 of the Defamation Act 1996.

Costs

51. The Claimant sought his costs of the claim, summarily assessed on an indemnity basis. The Claimant has been the successful party and he is entitled to his costs in accordance with the general rule. Schedules of costs had been duly served and I consider it appropriate to summarily assess them. I have disallowed costs incurred in drafting the witness statement and compiling the exhibit which were not, as I have explained, relied upon. No objection to the reasonableness and proportionality of the other costs has been raised. I consider that, assessed on the standard basis, the other costs claimed are reasonable and proportionate and so it is not necessary to determine whether the

Claimant's conduct in respect of these proceedings is such as to warrant an order for indemnity costs. Accordingly, I make an order that the Defendant shall pay the Claimant's costs of this claim, summarily assessed in the sum of £27,750.