Neutral Citation Number: [2020] EWHC 977 (QB)

Case No: QB-2019-001964

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

Date: 24 April 2020

Before :

THE HONOURABLE MR JUSTICE NICKLIN

- -

Between :

Rachel Riley	**Claimant**
- and -	
Laura Murray	**Defendant**

- -
- -

William Bennett QC and John Stables (instructed by **Patron Law Limited**) for the **Claimant**
Anthony Hudson QC and Mark Henderson (instructed by **Howe & Co**) for the **Defendant**

Written submissions: 7 April 2020

Covid-19 Protocol: This judgment was handed down by the judge remotely by circulation to the parties' representatives by email and release to Bailii. The date of the hand-down is deemed to be as shown above.

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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.

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THE HONOURABLE MR JUSTICE NICKLIN

The Honourable Mr Justice Nicklin :

1. This is a libel action concerning the following Tweet, posted by the Defendant at 21.03 on 3 March 2019 ("the Tweet"):

> "Today Jeremy Corbyn went to his local mosque for Visit My Mosque Day, and was attacked by a Brexiteer.
>
> Rachel Riley tweets that Corbyn deserves to be violently attacked because he is a Nazi.
>
> This woman is as dangerous as she is stupid. Nobody should engage with her. Ever."

2. At the time of the Tweet, the Defendant was employed as the Stakeholder Manager in the office of Jeremy Corbyn, then the leader of the Labour Party. The Claimant complains that she has been defamed by the Tweet. In her Particulars of Claim, the Claimant contends that the natural and ordinary meaning of the Tweet ("the Claimant's Meaning") was:

> "The Claimant had publicly supported a violent attack upon Jeremy Corbyn at a mosque by saying that he deserved it. She has shown herself to be a dangerous person who incites unlawful violence and thuggery and is therefore so beyond the pale that people should boycott her and her tweets."

3. In the alternative, the Claimant contended that this meaning was conveyed by innuendo. The Particulars of Innuendo relied upon were:

> "The words complained of were published on Twitter. Users of Twitter use the word "engage" to mean to interact with another user, whether by reading their (sic) tweets, liking their tweets, retweeting their tweets and so on. Therefore all or a substantial number of the publishees would have understood the words complained of to bear [the Claimant's Meaning]."

4. The Claim was commenced on 31 May 2019. The Defendant has not yet filed a Defence. On 8 October 2019, Master Yoxall ordered that there should be a preliminary trial of the following issues ("the Preliminary Issues"):

   i) the natural and ordinary meaning of the Tweet, and any innuendo meaning.

   ii) whether the meaning(s) convey(s) a statement of fact or of opinion, or else in part a statement of fact and in part opinion; and

   iii) whether the meaning(s) convey(s) a defamatory tendency at common law.

5. The Claimant's case is that, at the date of publication of the Tweet, the Defendant had 7,245 followers on Twitter. The Tweet was retweeted 1,544 times and liked by 4,738 people. The Claimant contends that the Tweet would also have been republished via email, WhatsApp and other forms of communication outside Twitter. It is unlikely that it will be possible to identify the full extent of publication or to identify every one of the publishees. Although not on the scale of a national newspaper publication, the Tweet was published generally, rather than to a limited and identifiable group.

6. When ordering the trial of the Preliminary Issues, Master Yoxall also gave further directions, including:

   i) that the Defendant was to file and serve a document ("the Defendant's Case") recording her case on the Preliminary Issues, including what defamatory meaning and/or opinion is contended for by the Defendant, and if opinion what the basis of that opinion is;

   ii) disclosure of documents relevant to the matters in dispute;

   iii) witness statements; and

   iv) that time for service of the Defence was extended until 21 days after determination of the Preliminary Issues.

7. Although the Claimant complained of an innuendo meaning, the factual issue to which it gives rise is of a limited compass - whether publishees of the Tweet were aware of the special meaning attributed to "engage" – it appears that the directions for disclosure and witness statements were made because the Defendant wished to put before the Court factual matters beyond the Tweet itself.

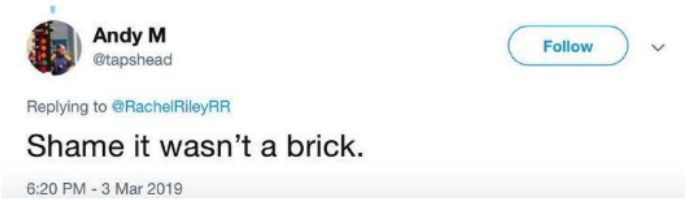
8. The Defendant's Case was duly filed on 29 October 2019 and included the following:

   i) The Defendant identified the following as matters of "context" in which the Tweet was published:

      a) A violent attack by a Brexiteer on Jeremy Corbyn whilst he was visiting his local mosque for Visit My Mosque Day on 3 March 2019 (at approximately 15.52), and the publicity concerning that attack.

      b) the following tweet posted by the Claimant at 18.16 on 3 March 2019 ("the Claimant's Tweet") following, and in response to, the attack on Jeremy Corbyn, which retweeted a tweet posted by Owen Jones, two months earlier, on 10 January 2019:

c) responses to the Claimant's Tweet including the following tweet posted at 18.20:



d) responses to the Claimant's Tweet by other Twitter users, including the following reply by Owen Jones at 19.03:

e) the Defendant's reply to the Claimant's Tweet posted at 20.10:

ii) The Defendant denied that the Tweet bore the Claimant's meaning. She contended that the Tweet bore the following natural and ordinary meaning ("the Defendant's Meaning"):

"(a) Following an attack on Jeremy Corbyn by a Brexiteer, the Claimant had posted a tweet which meant that Jeremy Corbyn deserves to be violently attacked because he is a Nazi.

(b) It was dangerous and stupid of the Claimant to post such a tweet.

(c) As a result, the Defendant's followers should not reply or respond to the Claimant's tweets on such matters."

iii) The Defendant denied the innuendo facts relied on by the Claimant: "*users of Twitter do not use the word 'engage' exclusively to mean 'interact with another user, whether reading their tweets, linking (sic) their tweets, retweeting their tweets and so on'. The meaning of the word 'engage' depends on the context in which it is used.*"

iv) The Tweet was a statement of opinion.

v) The Tweet, in its proper context, indicated the basis of the opinion including, (a) the politically motivated attack/assault on Jeremy Corbyn at a mosque; (b) the Claimant's Tweet; and (c) responses to the Claimant's Tweet.

vi) The Defendant denied that the meaning conveyed a defamatory tendency: "*It expressed the Defendant's opinion about the message that the Claimant had conveyed by the tweet she had posted in response to the attack on the Leader of the Opposition that day. The reader would appreciate that the Defendant's Tweet was simply an expression of the Defendant's opinion about the Claimant's Tweet, and they could form their own view of the Claimant's Tweet. If, which is denied, the Defendant's Tweet conveyed a statement of fact, it is denied that it conveyed a defamatory tendency.*"

9. The Defendant has filed a witness statement dated 20 December 2019. The Claimant has filed no evidence. The Defendant's witness statement contains sections headed "*Background*" – setting out her current and previous roles in the Labour Party; "*The Claimant's social media activity*"; "*Owen Jones' tweet of 10 January 2019*"; "*The attack on Jeremy Corbyn and the subsequent tweets*" and "*Use of the word 'engage'*".

10. It is unusual for the court to be asked to consider evidence when determining the natural and ordinary meaning of a publication and whether the hypothetical ordinary reasonable reader would have understood the words to be making an allegation of fact and/or expression of opinion. The reason it is unusual is that evidence is not admissible on the issue of what readers understood an allegedly defamatory publication to mean. The assessment of the single natural and ordinary meaning of words is wholly objective. Neither the meaning the publisher intended to convey, nor the meaning the publishees actually understood the publication to bear is relevant. From all the authorities that could be cited for these principles, it probably suffices to refer to ***Charleston -v- News Group Newspapers Ltd*** **[1995] 2 AC 65, 70 and *Slim -v- Daily Telegraph Ltd* [1968] 2 QB 157**, **171-172**, **173**, **174**. What publishees actually understood a statement to mean can *sometimes* become relevant if a defendant seeks to establish that, notwithstanding publication of an objectively defamatory single meaning, the claimant's reputation was not actually harmed seriously (a point of potential relevance under s.1 Defamation Act 2013 and in any assessment of damages): ***Monir -v- Wood*** **[2018] EWHC 3525 (QB)** [196(iv) and (v)]. Such an exercise can only usually be expected to be fruitful in cases where the individual publishees can be identified. It might be thought that these are fundamental principles of defamation law that have been clearly established over many decades, across the Commonwealth. However, there is a creeping tendency, under the guise of alleged "context", to attempt to adduce evidence extrinsic to the words complained of on the issue of the natural and ordinary meaning. The submissions made in this case are the latest, but it must be said one of the more ambitious, efforts to rely upon

matters wholly beyond the publication complained of as "context". For the reasons I explain below, the attempt fails.

11. With the consent of the parties, no hearing took place to hear the submissions of the parties. Instead, I have considered the written submissions of the parties on the issues to be determined. In accordance with the practice I outlined in ***Hewson -v- Times Newspapers Ltd*** **[2019] EWHC 650 (QB)** [25], copies of the parties' written submissions will be made available with copies of this judgment.

Natural and Ordinary Meaning: the Law

12. Most of the principles relevant to determining these preliminary issues are not controversial.

    i) For the determination of the natural and ordinary meaning, and whether the Tweet conveys an allegation of fact and/or an expression of opinion, it is common ground that the relevant principles are set out in ***Koutsogiannis -v- The Random House Group Limited*** **[2020] 4 WLR 25** [11]-[17].

    ii) As to the assessment of fact/opinion, Mr Hudson QC contends that the fact that the speech is political is relevant, and relies on the following passages from Warby J's judgment in ***Barron -v- Collins*** **[2015] EWHC 1125 (QB)**:

> [53] … As I have noted, the law relating to meaning, and to the distinction between fact and comment, makes some allowance for the need to give free rein to political speech. But the nature of the principles means that there are limits on the protection that can be given to political speech by those means.
>
> [54] The law must accommodate trenchant expression on political issues, but it would be wrong to achieve this by distorting the ordinary meaning of words, or treating as opinion what the ordinary person would understand as an allegation of fact. To do so would unduly restrict the rights of those targeted by defamatory political speech. The solution must in my judgment lie in resort, where applicable, to the defences of truth and honest opinion or in a suitably tailored application of the law protecting statements, whether of fact or opinion, on matters of public interest, for which Parliament has provided a statutory defence under s 4 of the Defamation Act 2013.

    iii) As to whether a statement is defamatory at common law, the applicable principles are set out in ***Allen -v- Times Newspapers Ltd*** **[2019] EWHC 1235 (QB)** [19].

13. There is equally no dispute that the context of the publication is very important when ascertaining meaning (and fact/opinion): ***Jeynes -v- News Magazines Ltd*** **[2008] EWCA Civ 130** [14]; ***Bukovsky -v- CPS*** **[2018] 4 WLR 13** [13]; ***Koutsogiannis*** [12(ix)]; ***Tinkler -v- Ferguson*** **[2019] EWCA Civ 819** [15]. Mr Hudson QC is correct to submit that the importance of assessing a publication in its proper context received clear endorsement from the Supreme Court in ***Stocker -v- Stocker*** **[2019] 2 WLR 1033**. However, in light of the material upon which Mr Hudson QC seeks to

rely as "context", it is important to identify clearly what the Supreme Court meant by this. Under the heading "Context", Lord Kerr said:

> [39] The starting point is the sixth proposition in ***Jeynes*** - that the hypothetical reader should be considered to be a person who would read the publication - and, I would add, react to it in a way that reflected the circumstances in which it was made. It has been suggested that the judgment in ***Jeynes*** failed to acknowledge the importance of context - see ***Bukovsky -v- Crown Prosecution Service*** [13] where Simon LJ said that the propositions which were made in that case omitted "*an important principle [namely] … the context and circumstances of the publication*".
>
> [40] It may be that the significance of context could have been made more explicitly clear in ***Jeynes***, but it is beyond question that this is a factor of considerable importance. And that the way in which the words are presented is relevant to the interpretation of their meaning - ***Waterson -v- Lloyd*** **[2013] EMLR 17** [39].
>
> [41] The fact that this was a Facebook post is critical. The advent of the 21st century has brought with it a new class of reader: the social media user. The judge tasked with deciding how a Facebook post or a tweet on Twitter would be interpreted by a social media user must keep in mind the way in which such postings and tweets are made and read.
>
> [42] In ***Monroe -v- Hopkins*** **[2017] 4 WLR 68** [35], Warby J said this about tweets posted on Twitter:
>
> > "The most significant lessons to be drawn from the authorities as applied to a case of this kind seem to be the rather obvious ones, that this is a conversational medium; so it would be wrong to engage in elaborate analysis of a 140 character tweet; that an impressionistic approach is much more fitting and appropriate to the medium; but that this impressionistic approach must take account of the whole tweet and the context in which the ordinary reasonable reader would read that tweet. That context includes (a) matters of ordinary general knowledge; and (b) matters that were put before that reader via Twitter."
>
> [43] I agree with that, particularly the observation that it is wrong to engage in elaborate analysis of a tweet; it is likewise unwise to parse a Facebook posting for its theoretically or logically deducible meaning. The imperative is to ascertain how a typical (i e an ordinary reasonable) reader would interpret the message. That search should reflect the circumstance that this is a casual medium; it is in the nature of conversation rather than carefully chosen expression; and that it is pre-eminently one in which the reader reads and passes on.
>
> [44] That essential message was repeated in ***Monir -v- Wood*** **[2018] EWHC 3525 (QB)** [90] where Nicklin J said: "*Twitter is a fast moving medium. People will tend to scroll through messages relatively quickly.*" Facebook is similar. People scroll through it quickly. They do not pause and reflect. They do not ponder on what meaning the statement might possibly bear.

Their reaction to the post is impressionistic and fleeting. Some observations made by Nicklin J are telling. Again, at [90], he said:

> "It is very important when assessing the meaning of a Tweet not to be over-analytical … Largely, the meaning that an ordinary reasonable reader will receive from a Tweet is likely to be more impressionistic than, say, from a newspaper article which, simply in terms of the amount of time that it takes to read, allows for at least some element of reflection and consideration. The essential message that is being conveyed by a Tweet is likely to be absorbed quickly by the reader."

[45] And Nicklin J made an equally important point at [92] where he said (about arguments made by the defendant as to meaning), "*these points only emerge as a result of close analysis, or someone pointing them out. An ordinary reasonable reader will not have someone by his/her side making points like this.*"

[46] A similar approach to that of Nicklin J had been taken by Eady J in dealing with online bulletin boards in ***Smith -v- ADVFN plc*** **[2008] EWHC 1797 (QB)** where he said:

> [13] It is necessary to have well in mind the nature of bulletin board communications, which are a relatively recent development. This is central to a proper consideration of all the matters now before the court.
>
> [14] … Particular characteristics which I should have in mind are that they are read by relatively few people, most of whom will share an interest in the subject matter; they are rather like contributions to a casual conversation (the analogy sometimes being drawn with people chatting in a bar) which people simply note before moving on; they are often uninhibited, casual and ill thought out; those who participate know this and expect a certain amount of repartee or 'give and take'.
>
> [16] … People do not often take a 'thread' and go through it as a whole like a newspaper article. They tend to read the remarks, make their own contributions if they feel inclined, and think no more about it.

14. In ***Stocker***, the Supreme Court was dealing with the meaning of a posting on Facebook. Reference must be made to the Court of Appeal judgment to see the immediate context in which the words, "*he tried to strangle me*", were published: **[2018] EMLR 15** [11]. ***Stocker*** was an important restatement of existing principles of defamation law in relation to modern methods of communication. It re-emphasised the importance of taking the hypothetical ordinary reasonable reader to be a person who would read, and react to, a publication "*in a way that reflected the circumstances in which it was made*" [39] and that "*the way in which the words are presented is relevant to the interpretation of their meaning*" [40]. By so doing, the Supreme Court was not overthrowing the principles governing the admissibility of extrinsic evidence on the natural and ordinary meaning of words in defamation actions. Indeed, in [42],

Lord Kerr expressly endorsed the statement of those principles by Warby J in ***Monroe -v- Hopkins***.

15. In ***Monroe -v- Hopkins***, Warby J went on to explain the limits of what could be admissible as "context":

> [37] There has been some debate about another issue: what are the limits of categories (a) and (b) at [35] above? How much should be regarded as known to a reader via Twitter, or as general knowledge held by such a reader? … [In] principle the main dividing lines seem reasonably clear. A matter can be treated as known to the reader if the court accepts that it was so well known that, for practical purposes, everybody knew it. An example would be the fact that the Conservatives formed a government after the 2015 general election. A matter can be treated as known to the ordinary reader of a tweet if it is clearly part of the statement made by the offending tweet itself, such as an item to which a hyperlink is provided. The external material forms part of the tweet as a whole, which the hypothetical reader is assumed to read. This much seems to be common ground in this case…
>
> [38] The third point concerns material on Twitter that is external to the tweet itself. This is perhaps less straightforward. I would conclude that a matter can be treated as part of the context in which an offending tweet if it is on Twitter and sufficiently closely connected in time, content, or otherwise that it is likely to have been in the hypothetical reader's view, or in their mind, at the time they read the words complained of. This test is not the same as but is influenced by the test for whether two publications are to be treated as one for the purposes of defamation: ***Dee -v- Telegraph Media Group Ltd*** **[2010] EMLR 501** [29] (Sharp J).
>
> [39] I would include as context parts of a wider Twitter conversation in which the offending tweet appeared, and which the representative hypothetical ordinary reader is likely to have read. This would clearly include an earlier tweet or reply which was available to view on the same page as the offending material. It could include earlier material, if sufficiently closely connected. But it is not necessarily the case that it would include tweets from days beforehand. The nature of the medium is such that these disappear from view quite swiftly, for regular users. It may also be necessary, in some cases, to take account of the fact that the way Twitter works means that a given tweet can appear in differing contexts to different groups, or even to different individuals. As a matter of principle, context for which a defendant is not responsible cannot be held against them on meaning. But it could work to a defendant's advantage.
>
> [40] Mr Price invites me to "extend" the principle, that context includes information in the wider publication that incorporates the statement complained of, by taking into account "*facts and matters in the wider realm of Twitter generally as it was being experienced by the hypothetical ordinary reader at the relevant time*". I have indicated how I do see the context in a Twitter case. But Mr Price has put forward a rather broad formula, which is also rather vague, and looks as if it might be somewhat over-ambitious. To the extent that it might draw in as "context" things that might or might not have been known to the ordinary reader, it would tend

> to erode the rather important and principled distinction between natural and ordinary meanings and innuendos..."

16. The underlined passages establish that the following material can be taken into account when assessing the natural and ordinary meaning of a publication:

    i) **matters of common knowledge**: facts so well known that, for practical purposes, everybody knows them;

    ii) **matters that are to be treated as part of the publication**: although not set out in the publication itself, material that the ordinary reasonable reader would have read (for example, a second article in a newspaper to which express reference is made in the first or hyperlinks); and

    iii) **matters of directly available context to a publication**: this has a particular application where the statement complained of appears as part of a series of publications – e.g. postings on social media, which may appear alongside other postings, principally in the context of discussions.

17. The fundamental principle is that it is impermissible to seek to rely on material, as "context", which could not reasonably be expected to be known (or read) by all the publishees. To do so is to "*erode the rather important and principled distinction between natural and ordinary meanings and innuendos*": ***Monroe -v- Hopkins*** [40]. When I considered this principle very recently, I explained that the distinction was between "*material that would have been known (or read) by all readers and material that would have been known (or read) by only some of them. The former is legitimately admissible as context in determining the natural and ordinary meaning; the latter is relevant only to an innuendo meaning (if relied upon)*" (emphasis in original): ***Hijazi -v- Yaxley-Lennon*** **[2020] EWHC 934 (QB)** [14]. As Warby J noted in ***Monroe -v- Hopkins*** [38], the second principle is influenced by the test for whether two publications are to be read together and treated as a single publication for the purposes of ascertaining their meaning.

18. Applying these principles can raise sometimes fine questions of judgment – for example the extent to which the ordinary reasonable reader is taken to read hyperlinks (see ***Falter -v- Atzmon*** **[2018] EWHC 1728 (QB)** [12]-[13]; ***Poulter -v- Times Newspapers Ltd*** **[2018] EWHC 3900 (QB)** [21]-[24] and ***Greenstein -v- Campaign Against Antisemitism*** **[2019] EWHC 281** [17]) or what constitutes directly available context in a particular mode of publication (e.g. see the discussion about how postings on Twitter appear in ***Monroe -v- Hopkins*** [39]). Nevertheless, the underlying principle – as a necessary corollary of the wholly objective assessment of natural and ordinary single meaning – represents one of the most fundamental concepts of the law of defamation.

Submissions

19. For the Claimant, Mr Bennett QC makes his submission in a single paragraph of his written submissions. The ordinary reasonable reader would have read the Tweet, standing alone, in one go (before moving further down his or her timeline) and absorbed its very simple message. The Tweet was self-contained. Nothing in it suggested that the reader needed to bear in mind or refer to any other information in

order to understand it. The Defendant made a simple accusation in a straightforward and unambiguous manner.

20. Mr Hudson QC for the Defendant introduces his submissions by setting out what he contends are the following "material facts" (these being largely drawn from the Defendant's witness statement):

    i) At the date of publication of the Tweet, the Defendant was the Stakeholder Manager at Jeremy Corbyn's office. Mr Corbyn was, at the time, the Leader of the Opposition. On 3 March 2019, at about 15.52, Mr Corbyn was visiting the Finsbury Park Mosque as part of the 'Visit My Mosque Day' initiative when he was struck on the head by a man holding an egg, and a member of his staff detained the assailant. The news broke on the internet shortly afterwards, and the Defendant began receiving messages about it via a staff WhatsApp group. Mr Corbyn left the mosque with a police escort at 18.30.

    ii) At 18.16, the Claimant tweeted a comment on the attack (see [8(i)(b)] above). The red rose (referencing the Labour Party) and egg (referencing the attack) emojis made clear that her tweet related to the attack on Mr Corbyn.

    iii) Reaction to the Claimant's Tweet included a tweet by "Andy M": "*Shame it wasn't a brick*" (see [8(i)(c)] above).

    iv) At 20.10, the Defendant tweeted a reply to the Claimant's Tweet (see [8(i)(e)] above).

    v) At 21.03, the Defendant sent the Tweet. It would have gone to her own followers (i.e. it was not a direct reply to the Claimant's Tweet). She sent only one other tweet in between those two.

    vi) At 00.13 on 4 March 2019, apparently after the Defendant had gone to sleep, the Claimant 'quote tweeted' the Tweet to the Claimant's followers with the comment "*Thank you to all the people who checked the facts of this to call out this appalling distortion of the truth. To those calling for my arrest, urgh*."

    vii) Upon waking and seeing the Claimant's 00.13 tweet, the Defendant replied to the Claimant at 07.38 stating: "*Your tweet said 'good idea' to the words 'if you don't want to get egged, don't be a Nazi'. The obvious interpretation of that is that you're saying Corbyn is a Nazi and it's a good idea to punch him. If you meant something different, please clarify it*?".

21. Mr Hudson QC submits that whether read in isolation or "in its proper context", the Tweet would be understood by the ordinary reasonable readers to contain the following statements:

    i) The first sentence contained the statements that, on that day – 3 March 2019 – Mr Corbyn had gone to his local mosque for 'Visit My Mosque Day' and had been attacked by a Brexiteer.

    ii) The second sentence contained the statements that (i) the Claimant had posted a tweet that day (following the attack on Jeremy Corbyn); and (ii) the

Claimant's tweet meant that Mr Corbyn deserved to be violently attacked because he is a Nazi.

iii) The third, fourth and fifth sentences contained the statements that (i) the Claimant was as dangerous as she is stupid; and, as a result, (ii) nobody should ever engage with her.

22. The first sentence, he contends, is a statement of fact. On reading the second sentence, he argues, the ordinary reasonable reader would understand it to mean that the Claimant had posted a tweet following the attack on Mr Corbyn which was concerned with and commenting on the attack on Mr Corbyn. The reader would appreciate that the Defendant was not reproducing the Claimant's tweet by, for example, "quote-tweeting" it or by setting it out in the Tweet. The reader would realise that the Defendant was describing or summarising the meaning and effect of the Tweet and would understand that it was setting out the Defendant's impression of what the Tweet was conveying. Mr Hudson QC submits that the hypothetical ordinary reasonable reader: "*would understand [the Tweet] to mean that the Claimant had posted a tweet (following the attack on Jeremy Corbyn) which (in the Defendant's view) meant (or conveyed) that Jeremy Corbyn deserves to be violently attacked because he is a Nazi*". The third, fourth and fifth sentences of the Tweet set out the Defendant's reaction to, and views on, the conduct of the Claimant in posting the tweet she did about the attack on Mr Corbyn. Readers would understand the Defendant to be saying that, in posting such a tweet, the Claimant's behaviour was dangerous and stupid and that, as a result, the Defendant's followers should not engage with the Claimant by replying or responding to the Claimant's tweets on such matters. The word 'Ever' (on its own) would be understood simply to be emphasising the point that her followers should not engage with the Claimant.

23. To support this construction of the Tweet, Mr Hudson QC then advances a detailed argument, over several pages of his written submissions, as to the "relevant context", relying principally on the matters I have identified above. However, he argues that, "*the meaning that an ordinary reasonable reader would derive from [the Tweet]… is simply reinforced when [it] is read in its proper context. It does not lead to a different meaning.*"

24. In answer to Mr Hudson QC's case on "context", Mr Bennett QC contends that they have no, or no sufficient, connection with the Tweet to justify being treated as having been read together with it. The Defendant cannot rely upon information which the reader might discover after reading the Tweet. More generally, Mr Bennett QC asks why the Court should assume that the hypothetical reader read a further tweet A, but not tweets B, C, D and so on. If the Defendant's argument on "context" is correct, then the Court would have to assess every tweet published relevant to the publication complained of by way of context.

Natural and Ordinary Meaning: Decision

25. This is a straightforward case. My findings are these:

i) The natural and ordinary meaning of the Tweet is:

"(1) Jeremy Corbyn had been attacked when he visited a mosque.

(2) The Claimant had publicly stated in a tweet that he deserved to be violently attacked.

(3) By so doing, the Claimant has shown herself to be a dangerous and stupid person who risked inciting unlawful violence. People should not engage with her."

ii) Paragraphs (1) and (2) are statements of fact. Paragraph (3) is an expression of opinion.

iii) Paragraphs (2) and (3) are defamatory at common law.

26. I have removed some parts of the Claimant's meaning which appear to me either unjustifiably to gloss the words complained of, or to add nothing to the defamatory sting of the meaning. I agree with Mr Hudson QC that "engage" is an ordinary English word. It needs no further explanation in the natural and ordinary meaning. I address below the issue of whether it has an extended innuendo meaning to certain readers (see [30]-[32] below).

27. I reject Mr Hudson QC's argument that the hypothetical ordinary reasonable reader would understand the second sentence of the Tweet to be a statement of opinion. This argument is untenable – with or without the elaborate argument based on "context". The second sentence was a simple factual statement and would be understood as such; it provided a summary of the content of a tweet alleged to have been posted by the Claimant.

28. In any event, I reject the argument on context. None of the conditions for the material relied upon by Mr Hudson QC to be admissible on the question of the natural and ordinary meaning of the Tweet (see [16] above) is met.

i) The matters relied upon were not common knowledge. They had all occurred in less than 6 hours.

ii) Other than loose subject matter, there is no nexus between the Tweet and any of the material relied upon as "context".

iii) It is fanciful to suggest that all (or even a significant number) of the readers of the Tweet would have read (or been aware) of this earlier material. The extent to which any individual reader would have been aware of any of the matters relied upon as "context" would be almost completely random, and would vary reader by reader.

iv) None of the material was presented with the Tweet, so that the hypothetical reader could have read it. It was not hyperlinked or otherwise referenced in the Tweet.

v) The Tweet was self-contained and stood alone. It would have appeared - and been read - on its own in the timelines of the Defendant's followers. What appeared in the immediate context in the timelines of the Defendant's followers would have depended entirely on who else each of them followed. In that respect, Twitter is perhaps one of the most inhospitable terrains for any

argument based on the context in which any particular Tweet appeared in a reader's timeline.

29. An imputation that a person had publicly supported a violent attack on someone is plainly defamatory at common law; it is conduct which would substantially affect, in an adverse manner, the attitude of other people towards the Claimant or have a tendency so to do. Had it stood alone, the description of the Claimant as "dangerous" and "stupid" would also have been defamatory, but the gravity of the defamatory meaning is largely supplied by the allegation of fact rather than the expression of opinion based upon it.

Innuendo Meaning

30. Given my findings in relation to the natural and ordinary meaning of the Tweet, the innuendo meaning adds nothing, even if the supporting facts could be established. All that the Claimant has relied upon by way of evidence is a collection of printouts from various websites including from Twitter. I have been provided, for example, with pages titled "*What fuels a Tweet's engagement?*" and "*Introducing Twitter Engage*", which appears to relate to what is described as "*a new companion app for Twitter*", providing "*real-time data and insights, allowing you to quickly understand, engage, and grow your audiences… Twitter Engage surfaces (sic) the most important follows and @mentions from influencers and loyal fans, providing an effortless way to stay plugged into Twitter*". There is a printout of a page from the Twitter website containing "*Definitions*". "*Engagements*" is defined as "*total number of times a user interacted with a Tweet. Clicks anywhere on the Tweet, including Reteweets, replies, follows, likes, links, cards, hashtags, embedded media, username, profile picture, or Tweet expansion*". Also included in the hearing bundle – without any explanation that conventionally might be expected to be found in a witness statement – are pages from a blog, from Ben Brown, on a website www.bitcatcha.com. In it, Mr Brown tells his readers, "*How I got 10,000 Twitter Followers in 3 months (and a 13% engagement rate)*".

31. In Mr Bennett QC's written submissions as to the innuendo meaning, he set out the following:

> "The Claimant's evidence regarding the way 'engage' is understood by Twitter users is [in the hearing bundle]. Engage means to engage with a tweet by retweeting it, liking it, replying to it etc. It connotes some sort of interaction beyond merely reading it. See in particular the definition of engagements... The Particulars of Claim state … that engagement means reading a tweet. This is not wholly correct. Whilst an engagement is evidence that someone has read a tweet, it is possible to read a tweet without engaging by not interacting with the tweet by enlarging it, liking it etc."

32. I will not spend time trying to decipher the "evidence" that the Claimant has relied upon. I doubt that it provides any real evidence, or any evidence of any value. If there exists a category of reader who – submerged in the lexicon of Twitter – understands the word "engage" in some sort of Twitter-specific way, the meaning that s/he would understand is not materially different from the natural and ordinary meaning of the word as it appeared in the Tweet.