



Ewan McGregor Wins Privacy Judgment to Protect Children

The paparazzo photographer squinted through the lens and zoomed in on Scottish actor Ewan McGregor enjoying a holiday with his children on a private beach in Mauritius.

By clicking the shutter and transmitting the snatched pictures, the photographer, who was crouching in a boat some distance from the hotel's private beach, unleashed a legal action 6000 miles away in the UK.

Mr McGregor, who in 2001 had asked picture editors not to publish pictures of his children, was outraged when he discovered that photographs of them had appeared in British tabloids in December 2002.

Court proceedings were issued against the photographic agency, Eliot Press S.A.R.L, and another agency, Fraser-Woodward, as well as against Jason Fraser, a well-known celebrity photographer.

In November this year, Mr Justice Eady granted judgment in default against Eliot Press, granting an injunction to prevent it from re-publishing the photographs, or similar photographs of the children.

The judge also directed an assessment of damages for breach of confidence, damages (if appropriate) for invasion of privacy, and compensation under the Data Protection Act.

The action against Jason Fraser and Fraser-Woodward Ltd is continuing.

Mark Thomson of Peter Carter-Ruck and Partners, who advised the claimants in this matter, sees some evidence that the courts are increasingly moving further to protect privacy.

In a recent article in the New Law Journal, he pointed out that in the 2003 case of *A v B plc*, the Court of Appeal was prepared to accept that no pre-existing confidential relationship between the parties was required to bring an action for breach of confidence.

He wrote: *"The broad extension of the circumstances in which a duty of confidence can arise remains to be worked out in the case law. Nevertheless, it has been recognised by the Court of Appeal in D v L [2003] EWCA Civ 1169 that the publication of a covert tape recording of a private conversation involves a breach of confidence, and publication of a tape or photograph may also be more intrusive than the publication of the information which it contains."*

Mr McGregor's successful application is the latest in a long



line of ground-breaking confidence/privacy-related actions brought by Carter-Ruck on behalf of celebrity and other high profile clients. For obvious reasons the majority of such clients cannot be named here, but they have included pop stars and members of the royal family as well as members of the general public.

"The courts are increasingly moving further to protect privacy"

Second High Court Win in a Year for Tunisian Leader Rashid Ghannouchi

Carter-Ruck has secured a second High Court libel victory this year for Sheikh Rashid Ghannouchi, leader of Tunisian opposition party An Nahda.

In March a jury awarded Sheikh Ghannouchi £61,000 in libel damages against the London based Arabic daily Al Arab over untrue allegations linking him with Osama bin Laden and Al Qaeda. Now, German newspaper Die Zeit has been forced to accept that similar allegations published in April 2003 were entirely untrue.

In a statement in open court read to Mr Justice Gray on 14 July 2003, Die Zeit apologised to Sheikh Ghannouchi, his family and the other members of An Nahda for the distress and embarrassment its article caused. The newspaper also paid Sheikh Ghannouchi a substantial sum in damages, published an agreed apology, undertook not to repeat the offending allegations and met his legal costs.

In its original article, Die Zeit had wrongly claimed that An Nahda was suspected of seeking to use Germany as an operational area for Islamic fundamentalist terrorism. It also alleged that Sheikh Ghannouchi had, together with bin Laden, attended an "International Congress of Islamic terrorist groups" held in Pakistan in October 1999 and that Sheikh Ghannouchi and An Nahda were implicated both in a terrorist explosion that occurred in April 2002 at a synagogue in Djerba, Tunisia and in an attempted coup d'etat against the Tunisian government in 1991.

In its full apology, retracting all these allegations, Die Zeit accepted that neither Sheikh Ghannouchi nor An Nahda had, at any time, had any connection of any kind with bin Laden or with Al Qaeda. It recognised too that neither Sheikh Ghannouchi nor An Nahda had any form of involvement either in the atrocity that occurred in Djerba (which they condemned unreservedly at the time) or in any planned coup d'etat in Tunisia.

Sheikh Ghannouchi expressed his happiness that his name has been cleared so conclusively. "An Nahda and I have always condemned all forms of terrorist activity and have most certainly not engaged in any such activity. We are, and have at all times been, committed to the democratic process and to bringing about peaceful change in Tunisia," he said.

Carter-Ruck managing partner Cameron Doley acted for Sheikh Ghannouchi, assisted, as in the Al Arab case, by Kate Macmillan. The firm again represented Sheikh Ghannouchi under a Conditional Fee Agreement.

Berezovsky Wins Extradition Battle

Extradition proceedings brought by the Russian Government against the prominent Russian politician and financier Boris Berezovsky and his business colleague Yuli Dubov have been discharged at Bow Street Magistrates

Court in London.

Both Mr Berezovsky and Mr Dubov, advised by Carter-Ruck senior partner Andrew Stephenson, maintained that the charges brought against them were bogus, that they were politically motivated and stemmed from Mr Berezovsky's opposition to the current regime in Russia. It was their case that they would not get a fair trial were they to be returned to Russia.

Discharge of the extradition proceedings against Mr Berezovsky came on 12 September, two days after the Home Office granted him refugee status. Refugee status is granted if it can be shown that a person has well founded grounds to fear persecution on political grounds in his home state. Mr Dubov's application for political asylum was granted on 30 September, with the Court discharging the extradition case against him on 7 October.

Mr Berezovsky has been a vocal critic of President Vladimir Putin's policies, in particular with regard to the mass media, the centralisation of power within the Kremlin and the conflict in Chechnya. Now that he has won political asylum, Mr Berezovsky intends to continue to oppose the current regime through the Liberal Russia political party.

This is the second major success senior partner Andrew Stephenson has achieved for Mr Berezovsky this year. In March he settled Mr Berezovsky's libel claim against Forbes magazine. In a statement in open court read on 6 March Mr Justice Gray was told that Forbes had falsely accused Mr Berezovsky of being involved in the murder of political rivals. The magazine accepted that there was no evidence that he was responsible for any murder and it had been wrong to characterise Mr Berezovsky as a mafia boss. Forbes agreed to publish a correction, both in the magazine and on its website. The settlement brought to an end prolonged litigation, which began when court proceedings were issued in February 1997.

Partners Mark Thomson and Claire Gill, and assistant Kate Macmillan worked with Andrew Stephenson on the extradition case, the trial of which had been due to start on 6 October.

STOP PRESS:

Eurobusiness Magazine has apologised to Boris Berezovsky for an article in its October edition. The article falsely accused Mr Berezovsky of running the car distribution firm Logovaz "into the ground" and, with a "mastery of fraudulent accounting", of selling multiple cars with identical plates as a means of keeping "huge profits off the books". Most seriously, the article alleged that Mr Berezovsky has been "accused of murdering liberal Russia party leader Sergei Yushenkov." In a statement in open court on Thursday 30 October Eurobusiness accepted these allegations were untrue and without foundation, and apologised for having made them. Eurobusiness has agreed to pay the sum of £10,000 to Mr Berezovsky, which he will donate to the International Foundation for Civil Liberties, a non-profit organisation which he founded to promote human rights causes in Russia.

Jury Awards Former Mayor £65,000 for Aeroplane Banner Libels

On 24 October 2003, following a bitterly-contested two week libel trial, a High Court jury unanimously awarded Mrs Jenifer Howlett, a former Mayor and Councillor in Castle Point Borough Council in Essex, £65,000 in libel damages against Essex multi-millionaire Terry Holding and his company, Holding & Barnes PLC. In what is believed to be the first libel trial of its kind, the defamatory allegations in question were largely contained in banners trailed by the Defendants behind an aircraft.

During the year 2000, Mrs Howlett was a vocal critic of a highly controversial planning application which was being made by Mr Holding and his company Holding & Barnes Plc., which stores and auctions accident-damaged cars. Mrs Howlett's criticisms prompted the Defendants to commence a three year campaign against her, most clearly manifested by the repeated flying of 60-foot banners which read, for example, "TELL US ABOUT SHOPLIFTING COUNCILLOR HOWLETT" and "THE THIEF NEXT ELECTION - BE WARNED". These were trailed behind Mr Holding's private aircraft circling over Canvey Island and the surrounding area - an area with a population in the region of 400,000, and where Mrs Howlett and her family had been living and working for over 30 years. The Defendants also dropped thousands of leaflets from their aircraft repeating the untruthful allegations.

In May 2002, Mrs Howlett (advised by Cameron Doley and Adam Tudor of Carter-Ruck) commenced libel

proceedings against Mr Holding and his company,

At the trial, which lasted two weeks and involved the Court hearing evidence from more than twenty witnesses, the Defendants attempted to persuade the jury that the allegations concerning Mrs Howlett were true.

The jury, however, clearly accepted Mrs Howlett's version of events as they returned a unanimous verdict in her favour, awarding her £65,000 in damages. The trial judge, Mr Justice Eady, ordered an injunction preventing the Defendants from repeating the untruthful allegations. He also ordered the Defendants to pay Mrs Howlett's legal costs, a very large proportion of them on the indemnity basis.

Mrs Howlett's victory represents a particularly welcome success for Carter-Ruck's Conditional Fee Agreement scheme. Mrs Howlett was an individual, of modest means, whose life had been made (as she put it) a "living hell", and whose reputation had been severely damaged by the libels. Furthermore, as part of their campaign, the Defendants had goaded Mrs Howlett to sue them, no doubt on the assumption that she would not have the means to do so. Their bluff was called.

The £65,000 damages awarded by the jury in this case was the highest libel award in 2003. The second highest was the £61,000 which London based newspaper Al Arab was ordered to pay Sheikh Rashid Ghannouchi in March - another case in which managing partner Cameron Doley's team at Carter-Ruck acted for the successful Claimant.



Grounded

Carter-Ruck partner Alasdair Pepper is acting for Adam Afriyie, the Conservative parliamentary candidate for Windsor, in a high profile action for libel against the Mail on Sunday.

A long running libel action, in which HTV (advised by senior partner Andrew Stephenson) faced a claim for damages of over £500,000, has been successfully struck out. The case concerned a documentary broadcast in March 1998 which exposed serious failings in the running of two drug and alcohol rehabilitation centres in Bristol. The Claimant was ordered to pay HTV's legal costs.

Carter-Ruck managing partner Cameron Doley has been retained by the Palestinian Relief and Development Fund charity (otherwise known as Interpal) to pursue a number of matters arising out of a recent US Executive Order freezing its assets. An inquiry by the UK Charity Commission has already found there to be no evidence of wrongdoing and Interpal's assets in this country have therefore been unfrozen. Interpal will now attempt to persuade the US administration to rescind its original order. Carter-Ruck is also instructed by the Trustees of Interpal in relation to the publication of libellous material on the website of the Board of Deputies of British Jews.

The long running case between Bedford Borough Council officers and their local newspaper, Bedfordshire on Sunday, has finally concluded with Michael Gough, the Borough solicitor whose success in the Court of Appeal featured in the last newsletter, agreeing to accept the sum of £27,500 in damages from the newspaper and its co-Defendant, former Conservative Party agent Stewart Lister. The newspaper also agreed to publish an apology to Mr Gough on the front page and Mr Lister provided a letter of apology. Ruth Collard acted for Mr Gough.

The firm, which has acted for a number of clients on website content and internet related law, has also now been retained by Yahoo Inc of the USA to advise on aspects of English law and procedure.

Cameron Doley is acting for Iranian human rights campaigner Abu Muntasser in proceedings resulting from the publication of libellous allegations in The Observer.

Quentin Hoare, the Director of the Bosnian Institute, and Branka Magas, a historian (both represented by



Ruth Collard) have succeeded in their claim for libel against Bookmarks Publications Limited arising out of the publication of the book "The Balkans, Nationalism and Imperialism", which falsely alleged that they were apologists for Franjo Tujman, the Croatian dictator and Holocaust revisionist. As well as entering into a statement in open court, the Defendants arranged for apologies to be published in the Socialist Review and International Socialism and paid damages and costs to Mr Hoare and Ms Magas.

Carter-Ruck continues to direct worldwide efforts to overturn orders (made in the aftermath of the 11 September atrocities) freezing the assets of prominent Saudi businessman Yassin Kadi. On 14 October the Court of First Instance in Luxembourg heard Mr Kadi's application to annul freezing restrictions placed upon his assets by the European Union. Judgment is expected later this year. Partner Guy Martin, with consultant Saad Djebbar, leads the Carter-Ruck team.

Baroque music expert Dr Lionel Sawkins (advised by Ruth Collard) has issued a claim against Hyperion Records for breach of copyright in respect of the CD "Music for The Sun King" recorded in 2001. Among other remedies, Dr Sawkins is seeking an injunction to prevent Hyperion continuing to sell the CD, which contains the work of 18th Century composer Michel-Richard De Lalande as adapted and arranged by Dr Sawkins.

Carter-Ruck partner Alasdair Pepper is acting for Chelsea Chairman, Ken Bates, in an action for libel against the publishers of the Evening Standard. The action relates to allegations published in July 2003.

Carter-Ruck is delighted to announce that Adam Tudor has now joined the partnership, with effect from 1 November 2003.

Adam joined Carter-Ruck from Herbert Smith in October 2001.

If you have any comments on this Newsletter, or if you require any other information, please contact Amanda Ellinor on: 020 7353 5005 or e-mail Amanda.Ellinor@carter-ruck.com