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RANDOM HOUSE THROW IN THE TOWEL OVER HATTON BOOK

Frank Warren, the boxing promoter and Chief Executive of Sports Network, has won his libel action against the publisher Random House over allegations published in “Ricky Hatton: The Hitman, My Story”, the autobiography of Ricky Hatton, the well-known professional boxer and former lightweight IBF world champion, who was promoted by Mr Warren between 1997 and 2005. The book was written in association with the boxing journalist, Niall Hickman.

After a long-running legal bout, Random House agreed to pay £115,000 in damages, together with his legal costs, over three false and highly defamatory allegations about Mr Warren.

First, the book alleged that Mr Warren conned the boxer Vince Phillips into accepting a pitiful fee to fight Ricky Hatton by lying about the sale of the US television rights. Random House had actually discovered from Vince Phillips himself, as early as November 2006, that this allegation was false. The publisher apologised to Mr Warren in open Court in October 2007 for making this allegation.

Secondly, the book alleged that Mr Warren had pressured Mr Hatton into competing in a WBU Light Welterweight title fight against the boxer Carlos Vilches, despite knowing that Mr Hatton did

not have the necessary fitness and that his hand was badly damaged. In fact Mr Warren was not aware that Mr Hatton was not fit to fight or had damaged his hand.

Finally, the book alleged that Mr Warren had lied to News of the World readers in 2005, in order to do down Mr Hatton and exaggerate his earnings, by making the deliberately misleading statement that Mr Hatton had made £6 million in the ring in 39 fights. In fact, Ricky Hatton had earned over £6.5 million during the 39 fights and earned over £7.5 million in the whole period he was promoted by Mr Warren.

The book was published in September 2006 and Mr Warren made his complaint in October 2006. Random House didn't pull its punches, fighting all the way to the Court of Appeal, and tried to create new and groundbreaking law. Having landed no punches and with a trial date looming for 1 December last year, the publisher finally threw in the towel and made an offer of £115,000 in damages, undertakings not to repeat the allegations and the payment of Mr Warren's legal costs.

Mr Warren was represented by a team at Carter-Ruck comprising Nigel Tait, Hanna Basha, Luke Staiano and Stephen Loughrey.

FUNDAMENTAL HUMAN RIGHTS TRUMP UN SECURITY COUNCIL RESOLUTIONS

The firm has won an appeal described by leading experts as *“the most important judgment ever delivered by the European Court of Justice on the relationship between EC and international law and one of its most important judgments on fundamental rights”*.

On 3 September 2008 the European Court of Justice in Luxembourg delivered a landmark judgment in favour of long-standing Carter-Ruck client Sheikh Yassin Abdullah Kadi, a Saudi Arabian businessman and philanthropist whose assets were frozen in the aftermath of the 9/11 atrocities. The appeal, which was heard by 14 judges from across Europe in 2007, overturned the 2005 decision of the Court of First Instance to uphold the freezing of Mr Kadi’s assets, which were first frozen 7 years ago.

The appeal court ruled that the EU freezing regulation breached Mr Kadi’s fundamental human rights and must be annulled. The decisions followed the delivery of the decision of Advocate General Poiares Maduro in January 2008 (as reported in *Get Carter-Ruck*, Summer 2008). This is the first time that the Courts of the European Communities have held that community legislation based on a United Nations Security Council Resolution must comply with fundamental human rights such as the right to property, the right to a fair hearing and the right to effective judicial review.

Mr Kadi’s legal team included Partner Guy Martin, Managing Partner Cameron Doley and solicitor Athalie Matthews, working with London-based Consultant Maitre Saad Djebbar. They instructed a team of advocates comprising the pre-eminent public international lawyer Ian Brownlie CBE QC (Chairman of the International Law Commission of the United Nations) and Pushpinder Saini QC, both of Blackstone Chambers London, together with leading European law experts David Anderson QC of Brick Court Chambers London and Piet Eeckhout, Professor of European Law at King’s College London.

“TAPAS 7” OBTAIN APOLOGY AND £375,000 DAMAGES FROM EXPRESS NEWSPAPERS

Friends of Kate and Gerry McCann, who have come to be referred to as the “Tapas 7” have obtained prominent apologies together with libel damages of £375,000 and legal costs from Express Newspapers. The friends were dining with Mr and Mrs McCann on the night that their daughter Madeleine was abducted from their holiday apartment in Portugal in May 2007.

Between July and December 2007, the Daily Express, Daily Star and Sunday Express published around twenty articles between them which suggested, entirely falsely, that the friends were to be suspected of involvement in Madeleine’s abduction, and of having misled the Portuguese authorities investigating her disappearance.

In addition to publishing apologies in the three titles in question, Express Newspapers also apologised to the friends in the High Court in London, and publicly acknowledged that there was no evidence to support the allegations they had made.

In a statement to the press, the friends confirmed that they would be donating all the damages to the Find Madeleine Fund, and explained:

“The defamatory stories written about us were not only extremely damaging on a personal level but we strongly feel were detrimental to the search for Madeleine. This aspect has been particularly heartbreaking to witness.

Although we are very pleased with the result, it changes little when Madeleine’s plight remains ongoing - she is still missing and her abductor is still free.

Our only aim is to see her safely recovered and re-united with the family who so adore her.”

The friends were represented by Partner Adam Tudor, assisted by Isabel Hudson and Stephen Loughrey.

CARTER-RUCK NEWS

Carter-Ruck continues to enjoy its reputation as the UK’s pre-eminent media litigation firm. In the new editions of the Legal 500 and Chambers Directories, the firm is described respectively as *“Continuing to lead the way...absolutely superb in heavyweight litigation”* and as a *“nationally unsurpassed libel practice...housing some of the most hard-hitting experts for defamation and privacy.”* Chambers lists no fewer than eleven members of the firm as Leading Individuals in the UK.

Meanwhile Carter-Ruck is pleased to announce that Stephen Loughrey, Kate Pantling and Edward Yell have all been appointed as solicitors at the firm. Stephen and Kate qualified in September 2008 having completed training contracts at Carter-Ruck, whilst Edward was called to the Bar in 2006 and subsequently joined the firm as an employed barrister, before qualifying as a solicitor.

PRIVACY LAW: BOUND BUT NOT GAGGED

In his recent headline-grabbing speech, the Daily Mail editor, Paul Dacre, launched a stinging attack on Mr Justice Eady, accusing him of clandestinely imposing privacy law on the British press. Stephen Loughrey, a former journalist, and now a solicitor at Carter-Ruck, believes it is Mr Dacre who is off on a frolic of his own.

Less than three years ago Lord Justice Sedley stated “privacy – prominently but not solely private sexual activity, which sells so many newspapers – is something which our law does not yet adequately protect”. Anyone reading tabloid newspapers recently could be forgiven for concluding little has changed. However, there is no doubt that there has been a recalibration of the law since Lord Justice Sedley’s damning assessment.

Mr Dacre blames this development on one judge’s interpretation of the “wretched” Human Rights Act, as he calls it, and claims this new law allows “the crooks, the liars, the cheats, the rich and the corrupt (to shelter) behind a law of privacy created by an unaccountable judge”. If this is really his concern, he need not worry.

Despite Mr Dacre’s protestation that one unaccountable judge running amok favours the right to privacy at the expense of freedom of expression, the reality is somewhat different. The rapidly developing law has only moved to redress an obvious imbalance. It is not credible to argue that the law inhibits the press from carrying out serious investigative journalism on issues of public concern. The law now simply recognises that the right to respect for private and family life is on an equal footing with the right to freedom of expression.

When deciding whether a legal right of privacy exists, the Court first asks whether there is a reasonable expectation of privacy, and if there is, it then applies an “intense focus” to the competing interests of freedom of expression and privacy. The Court must decide to what extent, if any, it is necessary to qualify the right to freedom of expression in order to protect the right to respect for private and family life of the person affected. It is important to note that the qualification to freedom of expression is only the minimum necessary to meet that purpose.

In his impassioned defence of the media’s right to name and shame, Mr Dacre argues “since time immemorial public shaming has been a vital element in defending the parameters of what are considered acceptable standards of social behaviour, helping ensure that citizens – rich and poor – adhere to them



An intense focus on privacy

for the good of the greater community.” Mr Dacre strongly criticises Mr Justice Eady’s judgments for being “amoral” and concludes that “when it comes to morality, the law in Britain is now effectively neutral”.

Mr Dacre is right on this point. The law is neutral, but that is exactly as it should be. In today’s society few would disagree that those engaged in sexual relationships with other consenting adults are entitled to expect that the details of those relationships will not be published to the world at large. It is not the role of the court to act as an arbiter of taste, decency or morality.

In his speech Mr Dacre revealed what many believe to be his real motivation for attacking Mr Justice Eady, namely that privacy laws were “undermining the ability of mass-circulation newspapers to sell newspapers in an ever more difficult market.”

However, this concern is misplaced. The commercial incentive will always ensure that stories revealing scandal will be published. It is just that editors will have to use a little more ingenuity to establish that the story is in the public interest before publishing it. This may involve justifying publication by establishing hypocrisy or rule-breaking by the subject. As in all areas of the law, when one loop-hole begins to close, those with an interest in circumventing it will always find another way round.

This article was published in The Lawyer. A longer version of the article was also published in the Solicitors Journal and the New Law Journal.

Sienna Miller received £35,000 in damages from News Group, the publisher of The Sun and the News of the World, in respect of publications in June and July of 2008. News Group's senior lawyer wrote to Ms Miller acknowledging that the articles and photographs which were the subject of the action should never have been published. Ms Miller received a further £16,000 in damages from Big Pictures, the agency that syndicated the offending photographs. In a subsequent action for harassment and invasion of privacy, Ms Miller secured £37,000 in damages from Big Pictures, together with undertakings to the Court not to follow or "doorstep" her. Sienna Miller is represented by Mark Thomson and Nicola McCann.

Music mogul and "X Factor" judge **Simon Cowell** (right) is being represented by Nigel Tait and Magnus Boyd in ongoing media matters.



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Kate McCann received a full apology from the News of the World following the newspaper's unauthorised publication of extracts from her diary. The News of the World also agreed to make a very substantial financial donation, to be used by the McCanns in the search for their daughter Madeleine. Mrs McCann was represented by Adam Tudor and Stephen Loughrey.

Darragh MacAnthony, the businessman and Chairman of Peterborough United Football Club, obtained a full apology and damages (which he donated to charity) from the News of The World over false allegations that financial circumstances were such that Peterborough United was being forced to sell a leading player for a knock-down price. In a separate complaint, Mr MacAnthony (who is represented by a team led by Adam Tudor) secured substantial damages against The Sun over false allegations concerning litigation in Spain, which were again donated to charity.

Anthony Steen, Conservative MP for Totnes, won his libel complaint against The Western Morning News and secured an apology with a front page banner. The newspaper also agreed to pay £10,000 damages to Mr Steen, together with his legal costs. Mr Steen was represented by Mark Thomson and Michelle French.

Prince Radu of Hohenzollern won a further victory in his claim for libel against the editor and

publisher of Royalty Monthly magazine. The Defendants appealed against the decision of Mr Justice Eady, following an earlier trial of this issue, that the article complained of was not the product of responsible journalism. The Court of Appeal unanimously rejected the appeal. A trial of the Defendants' remaining defences will now take place in June 2009. Prince Radu is being represented by Alasdair Pepper and Antonia Foster.

Michael Mates MP has won a libel complaint against Guardian News and Media relating to material published on its website. The Guardian has published an apology and paid Mr Mates damages, together with all his legal costs. Mr Mates was represented by Alasdair Pepper.

Inayat Bunglawala, an Assistant Secretary General of the Muslim Council of Britain, has won a full apology and £45,000 in libel damages against the Daily Express over false allegations of extremism. The allegations appeared in an article concerning Prince Harry's active service in Afghanistan. Mr Bunglawala was represented by Adam Tudor and

Stephen Loughrey.

Model **Larissa Summers** has secured substantial privacy damages from the News of the World. The offending story ran after Ms Summers dated the England rugby star Danny Cipriani. Magnus Boyd and Rebecca Toman acted for Ms Summers.

Sir Robert Atkins MEP, has won a libel complaint against the Daily Telegraph. The newspaper has published an agreed apology and paid Sir Robert damages, together with all his legal costs. Sir Robert was represented by partner Alasdair Pepper.

His Beatitude Patriarch Theophilos III, the Greek Orthodox Patriarch of Jerusalem and one of the highest-ranking members of the Eastern Orthodox Churches, has settled his libel action against the London based Arabic language newspaper Asharq Al Awsat on confidential terms which include the publication of a full apology. His Beatitude was represented by Guy Martin and Athalie Matthews.

If you have any comments on this Newsletter, would like to be removed from our mailing list, or if you require any other information, please contact Adam Tudor on: 020 7353 5005 or e-mail adam.tudor@carter-ruck.com