



IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

[2015] EWHC 2552 (QB)

No. HQ13D03087

Royal Courts of Justice

Friday, 31st July 2015

Before:

HIS HONOUR JUDGE MOLONEY QC

(sitting as a Judge of the High Court)

B E T W E E N :

(1) CALLIOPE TARDIOS
(2) ST. JOHN'S PREPARATORY SENIOR SCHOOL LIMITED Claimants

- and -

PAMELLA LINTON
(Aka Patricia Carpenter) Defendant

*Transcribed by **BEVERLEY F. NUNNERY & CO**
(a trading name of Opus 2 International Limited)
Official Court Reporters and Audio Transcribers
5 Chancery Lane, London EC4A 1BL
Tel: 020 7831 5627 Fax: 020 7831 7737
info@beverleynunnery.com*

MR. J. RUSHBROOKE QC (instructed by Carter-Ruck) appeared on behalf of the Claimants.

THE DEFENDANT did not attend and was not represented.

J U D G M E N T

(As approved by the Judge)

JUDGE MOLONEY QC:

Section A - Background

- 1 This judgment relates to the assessment of damages in a libel claim brought by the first and second claimant in respect of a defamatory petition published on the internet between May and December 2013. Default judgment was entered against the author of that petition on 21st August 2013. On 21st May 2015 Dingemans J handed down a judgment [2015] EWHC 1429 (QB), in which he explained the reasons why he was satisfied that the true author and publisher of that petition, who used the pseudonym of Patricia Carpenter, was in fact the present defendant, Pamella Linton. Permission to appeal that judgment of Dingemans J was refused finally by Fulford LJ on 7th July 2015. I refer to Dingemans J's judgment for the full history of this case and, in particular, the evidential reasons that led him to his conclusions, which of course I implicitly accept, that the defendant Pamella Linton is the same person as the Patricia Carpenter who is the purported author of the words. It follows that the default judgment is against, and is binding upon, the defendant Pamella Linton and that it is now appropriate for me to determine what remedies in the form of damages and injunction the claimants are entitled to obtain against Pamella Linton. I set out below my findings of fact and my conclusions on these issues. I should say that the defendant failed to attend the damages assessment hearing on 29th July and, indeed, applied *in absentia* to adjourn that hearing. I gave a reasoned oral decision on that day why I refused that adjournment and considered it appropriate to proceed to a hearing, as I then did.
- 2 The first claimant, Mrs. Calliope Tardios, is a lady of Greek origin, now aged 63. In 1988 she and her husband founded two private day schools in Enfield, St. John's Prep School and Senior School. The second defendant company is the vehicle through which the Tardios family owns and operates those schools. Mrs. Tardios has always been the head of the junior or preparatory school and her husband the head of the senior or secondary school. Their son and daughter also work within the schools. For present purposes it is sufficient for me to say that the two schools appear to have been a great success in every respect. They now have some 450 pupils. Last year, in 2014, the senior school was number 35 in The Times list of the top 500 independent schools. More importantly for present purposes, in 2012 the schools were the subject of an Ofsted inspection which gave them high marks not only for academic attainment but also for what I may call pastoral care. At no time has the defendant sought to defend her allegations, to which I will refer, as being true in fact or representing honest opinion, so it is important that I should put on record this strong positive evidence of the schools' quality.

- 3 In 2011 one of the pupils at the junior school was the daughter of the defendant Pamela Linton. Unfortunately, a dispute arose between the school in the form of its head teacher, Mrs. Tardios, and the mother, Ms. Linton. It would not be right for me to go into the merits of that dispute, because it is still the subject of pending litigation in another court, but the fact that there is such a dispute is important background to this defamation claim. The dispute had several elements, including: in May 2011, a written letter of rebuke from the headmistress, Mrs. Tardios, to Ms. Linton for her daughter's non-attendance at the school; in September 2011 a claim by the school for unpaid fees; in January 2012 a claim by the child, via her mother as litigation friend, for racial discrimination; and in January 2013 the obtaining by the school of an interim charging order over the defendant's house.

Section B - the defamatory petition

- 4 In mid-2013 the defendant decided to mount an internet attack on Mrs. Tardios and the school. Since she has never admitted her responsibility, or given evidence about it, her motives for doing so cannot be clear. But I am satisfied that they must have included the dispute with the school, to which I have referred, if only because that dispute is actually referred to in the libellous words complained of.
- 5 The defendant lacked the courage and honesty to make her criticisms openly in her own name. That would have been her legal right, subject of course to answering for the consequences in law if she should go too far. Instead, she adopted two precautions: (a) she put the petition on an American website "change.org", it being well known that the law in the USA is more favourable to publishers than is English law; (b) she did not use her own name but a pseudonym or a fictitious character called Patricia Carpenter, said to live in Zimbabwe. I refer to Dingemans J's judgment for the story of how the defendant persisted in this fantasy identity of Patricia Carpenter over a two-year period in an attempt to evade her responsibility for the petition.
- 6 The petition went online in late May 2013 and came to the first claimant's attention on 31st May 2013. Its terms, as set out in the amended particulars of claim, were as follows:

"St. John's Prep School: Mrs. Tardios Resign as Head of St. John's Prep School Potters Bar, The Ridgeway, EN6 5QT

Petition by

Patricia Carpenter [London UK]

This Headteacher/Co-owner is every parent or guardian's nightmare. A Parent-Teacher Association (PTA) is non-existent in this school. There

are no Governors. A lot of parents regret selecting this school due to this Headteacher's authoritarian leadership style. She has caused unimaginable psychological and mental suffering to many pupils. She has prevented all attempts by parents to form a PTA, which without doubt would have been instrumental in highlighting and preventing her unacceptable treatment of children. Since the 1990s, Mrs. Tardios has repeatedly bullied and inflicted psychological harm to many children at St. John's Prep School. Many parents deeply regret their failure to notice the abuse which they initially mistook for discipline.

Various videos and school's events and ceremonies clearly show this Headteacher viciously shouting at numerous children in front of their peers and their parents. It is second nature for her to humiliate parents who ask relevant and pertinent questions about the running of her school.

The Headteacher has repeatedly been aggressive, verbally abusive and demeaning towards students, teachers and families at this school. Mrs. Tardios has proved herself ethically and morally offensive. St. John's Prep School needs a respectful and honourable Headteacher.

Mrs. Tardios and one of her teachers are currently facing court action for breach of duty of care and race discrimination. The court action relates to the treatment of a nine year old pupil. The pupil involved is no longer at the school.

Many children were subjected to the following by this Headteacher:

- 1. Demonstrations of anger and hostility, by being aggressively shouted at.*
- 2. Being viciously told off and humiliated in front of their peers.*
- 3. Being viciously admonished and humiliated in front of parents for any insignificant reasons, such as; having slightly longer hair (boys), or school uniforms which may have become slightly outgrown (girls). This would occur in the school, also during school sporting events and ceremonies.*
- 4. Being viciously admonished for having braided hair extensions (black girls).*
- 5. Being treated with complete lack of respect.*

Verbal abuse: Screaming and shouting at a child has never worked as a disciplinary technique. In fact, frequent verbal abuse may make you

come across as repulsive to the child. The child will gradually stop confiding in you for fear of being shouted at. The child will become vulnerable and withdrawn and not ask for help even if desperate. No form of discipline, no matter how justified is worth making a child afraid to ask for help. This verbal and psychological abuse by Mrs. Tardios needs to stop now.

Children are genuinely fearful of this domineering and controlling woman. Some parents were subjected to the following by this Headteacher:

- 1. During parents meetings, she has openly discussed the results of other parents' CRB reports in their absence and without their consent.*
- 2. Parents are denied meetings with the Headteacher in areas concerning bullying at the school.*
- 3. Parents are denied written responses to their complaints of bullying.*
- 4. To cover up the real reason behind those parents who withdrew their children due to bullying, this Headteacher would openly state that these parents have removed their children from the school due to 'financial reasons'.*
- 5. Non white and foreign parents or guardians are always reminded that 'in this country', this is how things are done.*

More facts:

- 1. This Headteacher boasted on how she told off a teenage girl on work experience (from another school) for wearing a short skirt, before adding: 'Who would blame paedophiles if they attack her dressed like that. These girls are asking for it.'*
- 2. Bullying is rife at the school and even continues online.*
- 3. A parent, who complained of her child being bullied, was informed that there was no evidence of her child being bullied at the school. She was told that her child had 'special needs' and was the perpetrator/bully.*
- 4. Children are so petrified of this Headteacher, to the extent of wetting themselves when their teachers refer them to her.*
- 5. One child was forced by the school chef to eat his lunch despite showing human hair contained in his food.*

6. *Children are forced to clean spillages before eating their lunch, despite the dangers of this unhygienic practice.*

7. *This Headteacher is the biggest bully in this school and should not be allowed to continue working with children.*

8. *Some teachers abuse their authority as they take great satisfaction in sending their pupils to the Headteacher for minor issues.*

9. *Several former pupils were threatened with expulsion following their parents' decision for them to undertake senior school entrance exams for other schools. There is a senior school attached to this Prep school (St. John's Senior School), which would benefit financially if the Prep school pupils carried on there.*

10. *Pupils with outstanding results, who leave the school at the end of the year, have their prizes or awards given to lesser achievers. The award ceremony for each year is held the following October, (months after the end of the school year). Depriving children of their rightful awards for hard work and achievement is unacceptable. This dishonesty is also defrauding the parents or guardians of these children who worked hard and deserve to be rewarded.*

Numerous attacks by parents and community members to expose the ill treatment of children by this Headteacher via the internet have all failed. Various websites and chat forums containing any negative material about the school were threatened with legal action by the school's lawyers. Such action by the school justifies our action and proves that beyond doubt, Mrs. Tardios is not fit to be a teacher and should therefore stand down as Headteacher of St. John's Prep School.

Damage done to any child is irreversible and scars will remain for a lifetime. Help us to STOP this abuse now. Children are the future and no child should be treated like this by anyone.

To:

St. John's Prep School, St. John Prep School

The Rt Hon Michael Gove MP, Deapartment [sic] of Education

Education Services, Enfield Council, London Borough of Enfield

Ofsted, Ofsted

Nick De Bois MP, Enfield North MP

The Mayor of Enfield, Enfield Council

NSPCC

Coram Child Legal Centre

Mumsnet

Mrs. Tardios: Resign as Head of St. John's Prep School Potters Bar, The Ridgeway, EN6 5QT

We the undersigned petition for, Mrs. Tardios, the Headteacher of St. John's Prep School to resign with immediate effect. She has continued to demonstrate a total lack of respect for both pupils and parents. She has caused immeasurable psychological and mental damage to children at her school. She has failed in her moral and ethical obligation and has misled parents into believing she is a disciplinarian, when she is in fact a bully. Her conduct as a Headteacher is questionable and she has acted unethically and immorally. For these reasons, she is unfit to work with children or run a school.

Parents have entrusted this Headteacher with the care of their children and she has blatantly abused that trust. Far too often you hear of cases where children disown their parents or guardian for failing to listen when it mattered most. Many of these children have gone on to be deeply psychologically disturbed adults. Many children have suffered deep emotional pain and scars at the hands of this Headteacher. This must come to an end now.

This petition will be delivered to:

St. John Prep School

St. John's Prep School

Deapartment[sic] of Education

The Rt Hon Michael Gove MP

London Borough of Enfield

Education Services, Enfield Council

Ofsted

Ofsted

Enfield North MP

Nick De Bois MP

Enfield Council

The Mayor of Enfield

NSPCC

Coram Child Legal Centre

Mumsnet."

The words complained of bore a dramatic logo in red, "*Bullying stops here*".

(I should say that it has been necessary for me to read this material into this judgment; but any report of this case which does not emphasise what I have already said, and am going on to say, about the untruthfulness of the libel will not be fair or accurate.)

- 7 Over the six months that the petition remained on the internet it was supplemented in various ways: by further contributions bearing the name of Patricia Carpenter; by comments purporting to be from ex-pupils agreeing with the allegations, (or in one case, to be fair, supporting the school); and by comments purporting to be from outsiders who also supported the petition on more general grounds. These supplementary publications are not expressly sued on as additional libels in this case. The claimants, of course, strongly suspect that many, perhaps most, of these are forgeries put on line by the defendant herself to lend weight, or apparent weight, to the petition. That may be the case, but the question of the defendant's responsibility for these additional publications is not established by the default judgment and has not been put before me or any other judge for factual determination. So, for the purposes of assessing the remedies in this case, it would not be right for me to take into account those additional publications, but only those for which the defendant is proved to be responsible. The original petition itself, which I have just recited, is quite serious enough.
- 8 I will consider later on in this judgment the specific issues relevant to damages of the defamatory meaning of that petition, the extent of its circulation and its adverse effects on the first and second claimants. For the purpose which I am now engaged in of setting out the factual background it suffices to say as follows. The petition was obviously seriously critical of the first and second claimant, in particular through its allegations of bullying by Mrs. Tardios. It rapidly came to her attention and that of her family, causing her great distress. And it also came to the attention of many people connected with the school, including staff, senior pupils and many parents and prospective parents. The first claimant and her family could not brush it under the carpet, they had to

deal with it at meetings with staff and parents. It therefore became necessary for them to take legal action.

- 9 For the details of the legal steps necessary to commence proceedings and serve them on the imaginary Patricia Carpenter by email, I refer again to the judgment of Dingemans J. Proceedings were served on the defendant via her spurious Patricia Carpenter email address on 9th July 2013 and judgment in default was entered on 21st August 2013 against “a person unknown claiming to be Patricia Carpenter”. Under the pretence of being Patricia Carpenter and living in Zimbabwe, the defendant sought unsuccessfully to have this judgment set aside.
- 10 Meanwhile, the claimants' representatives were also engaged with the website "change.org" in America. After some prevarication, change.org removed the petition from their website on 2nd December 2013. Since that time the petition has reappeared on the internet in the name of a person who may be the defendant's brother-in-law. Again, the claimants, understandably, strongly suspect the defendant had responsibility for this. But again, that has not been pleaded or proved for the purposes of these proceedings, and I shall therefore not take it into account against the defendant in this assessment of damages, which relates to the original petition as placed on change.org in 2013.
- 11 It might have been hoped that the take-down would have been the end of the matter so far as continued injury to the first and second claimants was concerned, subject of course to the inevitable persistence of the adverse effects of any serious libel. But in this case the first claimant contends, in my judgment plainly correctly, that the injury to her feelings has been aggravated by the manner in which the defendant has continued to contest her liability over the subsequent 18 months.
- 12 Again, the details and the evidence on this issue are set out in Dingemans J's judgment and for my purposes I need only record the chronology of the main events. On 20th December 2013 Master Eastman found that the so-called Patricia Carpenter was in fact the defendant Pamella Linton and ordered Pamella Linton to be joined as a defendant. The defendant appealed that decision, and that appeal was not finally determined until May 2015. In the light of Dingemans J's decision it is now clear that that appeal was based entirely on the defendant's continuing pretence that she was not Patricia Carpenter. It is an appeal that she should never have pursued. On 8th April 2014 Wilkie J granted Ms. Linton permission to appeal, not so much because he was of the view that there was anything wrong with Master Eastman's judgment, but in order that the parties would have a fuller opportunity to deploy the evidence and have the matter more carefully considered. On 7th June 2014 HHJ Parkes QC, sitting as a Judge of the High Court, granted various orders, including in particular orders against Google for disclosure of

information in their possession which might reveal the true identity of Patricia Carpenter. The defendant appealed that order as well (even though, if she were not Patricia Carpenter, it might be thought she would welcome the disclosure of such information). On 19th December 2014 her application for permission to appeal HHJ Parkes QC's order was refused. On 21st May 2015, after a full hearing which the defendant attended, Dingemans J gave his judgment, to which I have referred, establishing that she was indeed Patricia Carpenter, the author of the libel. He then gave directions for the determination of this damages assessment, including directions for the filing of evidence by the claimants and by the defendant. On 17th July 2015 Fulford LJ dismissed the application to appeal Dingemans J's decision and on 29th July 2015 (two days ago) I held the damages hearing at which I heard the evidence of the claimants and their witnesses about the damages issues. A point to note from this chronology is that but for the defendant's persistence in the pretence that she was not Patricia Carpenter, this damages hearing could have taken place over a year ago, so the proceedings have been prolonged to that extent.

- 13 With that preface, I now turn to the live issues before me. What damages should be awarded to Mrs. Tardios and to the company as compensation for the harm done to them by the defendant's publication of the petition between May and December 2013, and, in Mrs. Tardios' case, also by the defendant's aggravating conduct in the persistent and dishonest denial of liability thereafter?
- 14 Section C - the law Although this case is a serious one, it does not appear to me to present any novel or unusual problems so far as the application of the principles of the law of damages for defamation are concerned. Those principles are conveniently summarised in Chapter 25 of the 4th 2015 edition of **Duncan and Neill on Defamation** as follows:

"25.03 The basic common law rule is that in civil actions damages are awarded as compensation for injury, not as punishment for wrongdoing. Accordingly, in most actions for defamation, the damages have to be assessed on a compensatory basis.

25.04 The purpose of an award of compensatory damages is to restore the claimant, as far as money can do so, to the position he would have been in if the fraud had not been committed. This compensatory principle was stated by Lord Blackburn in the case of Livingstone v Rawyards Coal Co as follows:

'Where any injury is to be compensated by damages, in settling the sum of money to be given for reparation of damages you should as nearly as possible get at that sum of money which would put the party who has been injured, or who has suffered, in the same position as he would have

been in if he had not sustained the wrong for which he is now getting his compensation or reparation'

25.07 The Court of Appeal in John v MGN Ltd set out the three essential elements of general compensatory damages in a defamation case as follows:

'The successful plaintiff in a defamation action is entitled to recover, as general compensatory damages, such sum as will compensate him for the wrong he has suffered. That sum must compensate him for the damage to his reputation; vindicate his good name; and take account of the distress, hurt, and humiliation which the defamatory publication has caused.'

While the significant subjective element in an award of damages in a defamation action makes it impossible to put forward objective standards by which to gauge the right figure in any particular case, it is, nevertheless, possible to identify the factors which can properly be taken into account in assessing damages. These three elements -- damage to reputation, vindication and injury to feelings -- will be addressed in turn below. There is some overlap between the three elements, however, and factors affecting the assessment of the amount of compensation, including aggravating and mitigating factors, may relate to more than one of them. In Cairns v Modi, the Court of Appeal acknowledged that the court will normally arrive at a 'global figure' for damages, rather than seeking to allocate particular sums to each of the three elements.

25.08 It is also essential to ensure, when all the relevant circumstances of the case have been taken into account, that the sum to be awarded is proportionate to the damage suffered and that it is reasonably required to compensate the claimant and re-establish his reputation. This is because an award of damages is a restriction upon freedom of expression, which must be justified under Art. 10(2) of the European Convention on Human Rights."

I have endeavoured, in reaching the conclusions that I have set out below, to hold those principles, and particularly the last one, firmly in mind when arriving at figures for quantum.

Section D - the damages assessment factors

- 15 The gravity of the libel, injury to reputation Under this head I refer to the relative severity of the allegations made by the defendant, that is, the seriousness of the defamatory meanings borne by the words complained of. In this respect I am greatly assisted by the recent judgment of Warby J in the case

of *Sloutsker v Romanova* [2015] EWHC 2053 (QB). In that case he considered, at paras.83 to 86 of his judgment, the question whether, in assessing libel damages following a default judgment, as in this case, it was necessary for the judge to make a finding of fact as to what defamatory meanings the words complained of bore. Warby J's conclusion was that in general this would not be necessary, because pursuant to CPR 12.11(1) the rules of the court provide for the courts to give that judgment to which the claimant is entitled on his statement of case, that is, in the defamation context, to apply the claimant's pleaded defamatory meaning. Warby J added this proviso: the court was not bound to accept pleaded meanings which were wildly extravagant or impossible, or to do so in a case where the words complained of were plainly not defamatory.

16 At this point I should set out the claimants' pleaded defamatory meanings:

"5.1 The First Claimant deliberately aggressively bullies and abuses the children in her care causing severe unacceptable and irreversible psychological harm and emotional distress, to the extent that children are genuinely fearful of her and lose control of urinary functions when sent to see her;

5.2 The First Claimant is, without any justification, unacceptably demeaning, humiliating and domineering towards the parents of the children at her school and the teachers who work there;

5.3 The First Claimant is entirely unresponsive to parents who raise reasonable questions and concerns about aspects of her school, and reprehensibly dismissive of reports of real bullying at St. John's Prep;

5.4 The first claimant is justifiably facing a claim for breach of a duty of care towards children and race discrimination, and make suggestively racist remarks to non-white parents, to the extent that it is reasonable to suspect that the First Claimant is racist;

5.5 The First Claimant dishonestly conceals the true reason that children are withdrawn from St. John's Prep, which is her bullying conduct, by publicly stating, in breach of confidence, that the families had financial difficulties meeting fees;

5.6 The First Claimant excused the possibility of unlawful paedophilic conduct towards a schoolgirl because the schoolgirl's attire was skimpy and revealing;

5.7 The first claimant threatened junior school children with expulsion vindictively and unjustifiably when they decided to take entrance exams for other schools;

5.8 In the premises, the First Claimant is an unethical and immoral individual who should not be permitted to work with children for their own safety.

Of the Second Claimant

5.9 Parents regret choosing St. John's Prep because of the headteacher's bullying and abusive conduct towards their children;

5.10 Serious bullying is rife at St. John's Prep, and continues amongst the pupils online unchecked by the school or teachers;

5.11 St. John's Prep routinely and cynically overlooks legitimate pupil achievement whenever a pupil has opted to continue his or her education elsewhere, thereby depriving St. John's Senior school of that pupil revenue."

- 17 In my judgment, there is no reason here to apply Warby J's proviso. The words complained of are plainly very defamatory of these claimants, even on the most literal interpretation. The pleaded meanings that I have just recited are in effect a rephrasing in lawyer's language of the words complained of. There is no reason here for me not to accept and apply in my assessment of damages those pleaded defamatory meanings, and I propose to do so.
- 18 There is one thing, however, that I should say clearly about the allegations the defendant has made. Both in the petition itself and in the pleaded meanings the word "abuse" is introduced in the connection of the abuse of children. This word "abuse" is sometimes used nowadays as if it was synonymous with sexual or physical abuse. For the avoidance of doubt, there is no hint in the petition, or in anything that even this defendant has ever said about Mrs. Tardios or the school, of any allegation of those kinds of misconduct. The central allegation here, as is clear from the words that I have read, is one of bullying in the form of psychological abuse, specifically verbal abuse and the humiliation of children. If it were true, this would of course be a very serious matter, but it is not of the same degree of utmost severity as an allegation of sexual or physical abuse of children, which would of course be serious criminal offences.
- 19 Subject to that point, it is self-evident that these allegations are of a high degree of severity, though not of the very highest degree to which I have referred. They go to the core of the duties and responsibilities of a school teacher in a school, particularly a school for children of primary age. The effect of the words can, in my opinion, be fairly summarised as follows: no decent parent who knew of these allegations would consider Mrs. Tardios a fit

person to teach or to run a school and no such person would wish to send their child to her school.

- 20 The extent of the publications It is of great importance in assessing libel damages to take into account the extent of the publication in two main senses: (a) roughly how many people are likely to have read the words complained of, or to have received the allegations by way of unforeseeable republications? (what is sometimes referred to as the “ripples in a pond” principle); (b) to what extent are those people close to or connected with the claimant so as to magnify the adverse effects upon the claimant of publication to them? It is trite law that a slander even to one close person, say one's spouse or one's employer, might easily do far more harm than publication to a thousand people in a distant place where one is not known.
- 21 As to the numerical circulation of this petition, the direct evidence from change.org is that in the first two months, until 24th July 2013, 474 different people had viewed the petition online. Of course, it remained online for another four months after that. The evidence also indicates that by that time the petition had become, and remained, the second listing on Google after St. John's School's own website when one made a search for St. John's School, or even the very first listing. It is therefore obvious that the number of publishees was considerably greater overall than 474, and I am confident that it is likely to have been well into four figures before the petition was taken down from the website.
- 22 But, of course, as the above evidence about Google searches indicate, the likelihood is that the typical reader of this petition would not be a member of the general public reading their daily paper or its digital equivalent. The petition did not appear in those places. The reader of this libel would be a person who had some reason to consult the Internet about St. John's School; that is a person who had some form of connection with, or at least some interest in, that school.
- 23 This inference is confirmed by the direct oral evidence given to me by Mrs. Tardios, her husband, who is the head of the senior school, her son who is employed at the school, and her colleague, Mrs. Robinson Farringdon, who is the deputy head of the junior school. Mrs. Robinson Farringdon told me that, not surprisingly, the petition was the talk of the staff room. Mr. Tardios senior told me how the petition came up in his classroom discussions with his sixth form, and when it was mentioned, all 14 or 15 students who were there put their hands up as having read it or heard about it. Mrs. Tardios' son Alex, who deals, among other things, with the school's marketing, said that this has been a disaster for the reputation of the school, which does not advertise but relies on word of mouth recommendations. To this day, he told me and I accept, when he takes prospective parents on a tour of the school, at least one member of the

group will always ask him about the petition and the allegations it makes. Mrs. Tardios herself gave evidence that in September 2013 she found it necessary to discuss the matter with new parents at the school's induction evenings and in December 2013 she found it necessary to discuss it with the nursery school heads, from whom she draws her pupils, at the school's Christmas show, in each case because of the high level of local knowledge and interest in the petition and the allegations that it made.

- 24 My conclusion from this evidence is that the numerical extent of this publication was substantial, though not enormous, but that those publishees were, by and large, people sufficiently closely connected with the school, that publication to them was a disproportionately serious matter.
- 25 Effects on business This issue is particularly relevant to the claim made by the company, since it is the company which carries on the business at the school. It is important to note that there is no pleaded claim here for special damages, that is for actual pecuniary losses shown to have been caused by the libel. The witnesses to whom I have referred did testify that at least one parent appeared to have withdrawn his child from the school as a result of the petition and that the level of new admissions fell materially after the petition was published; but there are several possible reasons for these things and I was not given any accountancy or other evidence that would have enabled me to award damages on a loss of profit basis even if such a claim had been pleaded before me.
- 26 Unlike a human being, a corporation has no feelings and it cannot claim damages under that head, either basic damages or aggravated damages. It can, however, claim damages for injury to reputation, and just as with a human being, those damages serve both to compensate for the injury to its reputation it has actually suffered and to stand as a public vindication in the future if the libel should ever re-emerge. It is sometimes said that a company can only be injured in its pocket, but that dictum should not be misunderstood as meaning that a company cannot recover substantial general damages for libel when special damages for loss of business has not been claimed. For example, in the case of *Metropolitan International Schools v Designtecnica Corporation* [2010] EWHC 2411 (QB), Tugendhat J awarded the claimant company £50,000 for an internet libel accusing its distant learning courses of being a scam. He did so not by way of an award of special damages for proven loss of business but as general damages, (though he did consider it proved that some students had been deterred from taking the courses) .
- 27 In the present case I consider it certain that this company's business reputation has suffered serious damage from the petition; and I consider it likely, on a balance of probabilities, that some actual loss of business has been sustained as a result but cannot be quantified in monetary terms. I shall, in my award for the company, give particular weight to the need for it to receive a vindicatory

award large enough to serve as a public rebuttal for the libel if it should ever recur.

- 28 If this judgment should ever be cited in a future case, it should be noted that the words here were published, and the action commenced, in the year 2013, before the coming into effect of s.1B of the Defamation Act 2013. For the future, that subsection will require a trading corporation to show as a condition of bringing a libel claim that the words complained of had caused, or are likely to cause, it serious damage or loss. It is not necessary or appropriate for me to reach any conclusion on how that section would have been applied in this case if it had been applicable.
- 29 Injury to feelings This head of damages applies only to Mrs. Tardios, the first claimant. It may be sub-divided into two elements -- the basic injury caused by the publication of the petition itself, and the aggravation caused by the further misconduct of the defendant, especially in respect of the manner in which the action has been defended.
- 30 So far as the effect of the libel upon Mrs. Tardios is concerned, the evidence is compelling. The words complained of were directed primarily against her personally and depict her as a vicious and unpleasant bully of the small children in her care, (to select the most blatant of the allegations). To a person who has devoted her adult life to education, these allegations are plainly likely to be most serious.
- 31 Mrs. Tardios presents herself as a strong, efficient, business-like woman. (Her son in his evidence referred to her affectionately as "Mrs. T", and it is not hard to see the comparison.) But it became very clear from her own evidence, and that of her family and colleague, that behind this strong façade she is as vulnerable as any other person to the effects of defamation. Indeed, having, because of her job, to keep up a calm exterior has actually increased the adverse effects upon her.
- 32 She told me how, from the first moment when she heard the petition while at the hairdressers over two years ago until now, she has felt devastated and destroyed. Even her family's efforts to help her through merely added to her distress. She could hardly eat, sleep or think. She almost wanted to die. Though there is no medical evidence before me, this picture of symptoms akin to depression was corroborated by Mrs. Robinson Farringdon, who has been her colleague for over 20 years and said that to her Mrs. Tardios seemed to be under great strain and to have a kind of black fog following her around wherever she might be.
- 33 Her husband and son gave evidence in similar terms. Her husband described her as like an engine which had run out of steam. Her son told me how even

on his wedding day in 2014 his mother had been unable to be happy because she was eaten up with worry about this case.

- 34 That leads me on to the question of aggravated damages. Although the petition was taken down from the internet in late 2013, all through 2014 and 2015, as I have described, the litigation has continued at considerable expense to Mrs. Tardios and her family entirely because of the defendant's deliberate and dishonest refusal to admit her responsibility for the libel. Having heard Mrs. Tardios' testimony, which I should say convinced me of the sincerity and truthfulness of her evidence of the harm that had been done to her, I am satisfied to a high degree of certainty that the continuing litigation, and Mrs. Tardios' continuing sense of having to deal with a hostile person who is trying to persecute her, have greatly prolonged and increased the already serious injury to her feelings occasioned by the original libel itself.
- 35 Although the defendant chose, as I have found, not to attend or participate in this damages hearing, nevertheless it is right for me to consider whether there are any mitigating factors here that I should take into account. By Dingemans J's directions order, the defendant was given the opportunity to put in evidence on this damages hearing, but she has not done so. I note that there is no plea of justification here; however it appears that that was principally because the defendant chose to pretend that she was not the person responsible. But on the evidence before me there has been no conduct on the defendant's part that tended in any way to reduce the adverse effects of this libel on the claimants. I am not aware of any other mitigating factor that applies in this case, not even evidence as to some subjective reason or excuse for her behaviour.
- 36 Having set out the principal relevant factors above, I should now weigh them up and translate them into a pecuniary award. In doing so, I bear in mind in particular the requirements that the awards should be compensatory not punitive, that they should be moderate and proportionate, and that I should bear in mind the question of totality.
- 37 In Mrs. Tardios' case, I regard this as a libel of great seriousness, in terms of the gravity of the allegations, the manner in which they were targeted at those with whom she had to deal, and their extremely painful events upon her. Although it is not a case of the utmost severity such as would warrant a six-figure award, this case falls well within the next level of seriousness. A basic compensatory award of over £50,000 would have been well justified if this matter had been brought to a conclusion at the end of 2013. Taking into account the extraordinarily severe aggravating factors to which I have referred, the award which I consider overall to be the just and proportionate one in this case is £70,000.

38 So far as the company is concerned, for the reasons that I have already stated I consider that a substantial award is required to ensure its public vindication, and the amount that I consider appropriate for that purpose is £25,000.
