

IN THE HIGH COURT OF JUSTICE

Claim No: n/a

QUEEN'S BENCH DIVISION

MEDIA AND COMMUNICATIONS LIST

BETWEEN:-

JAMES DARREN EMANUEL

Complainant

- and -

(1) EXPRESS NEWSPAPERS

(2) MGN LIMITED

(3) TELEGRAPH MEDIA GROUP LIMITED

(4) TIMES NEWSPAPERS LIMITED

Publishers

STATEMENT IN OPEN COURT

Solicitor for the Complainant:

1. My Lord, I appear on behalf of the Complainant, Mr Darren Emanuel, an independent consultant who has worked in the banking and financial sector for over 23 years, for a number of high profile and very reputable international financial corporations.
2. The industry in which Mr Emanuel operates is regulated by the Financial Conduct Authority (FCA). Mr Emanuel is registered with the FCA and performs roles that require him to satisfy the FCA that he is fit and proper to perform controlled functions. Mr Emanuel has always achieved this approved person accreditation when required.
3. Mr Emanuel's career as an independent consultant is reliant upon his specialist expert knowledge, combined with his good name and the reputation that he has earned over more than two decades in his industry.
4. Mr Emanuel was defamed in a series of articles published in national newspapers on 8 and 9 February 2018.
5. The Publishers are Express Newspapers (publisher of the Daily Express in hard copy and the Express online), MGN Limited (publisher of the Mirror), Telegraph Media Group Limited (publisher of the Telegraph) and Times Newspapers Limited (publisher of The Times).
6. The Articles, which were based on agency copy, reported upon Mr Emanuel's trial and conviction before Magistrates on 8 February 2018, for wearing an item of police uniform, or resembling police uniform, in circumstances "calculated to deceive" the public that he was a police officer contrary to section 90(2) of the Police Act 1986. The Chair of the Magistrates stated that he was satisfied that Mr Emanuel had no

criminal intent, but the court went on to convict him of a criminal offence. On legal advice Mr Emanuel immediately appealed the conviction and two weeks' later, the conviction was overturned by the Crown Court and he was acquitted. The Crown Court recorded that Mr Emanuel had been riding lawfully.

7. The Publishers published articles on or around 8 February, alleging variously that Mr Emanuel was wearing actual police clothing or second-hand police clothing, that he was riding a police motorcycle with a raised rear blue light, that he used the imitation police attire to speed through rush hour traffic to gain an advantage over other road users, that he deliberately dressed as a police officer and that he had intended to deceive the public and that he narrowly avoided jail. The Articles referred to the fact that Mr Emanuel had been charged and convicted of an offence by a Magistrates' Court. There was no truth in any of these allegations.
- 8.
9. In order to be clear about which Publishers made which allegations, I will now provide further detail about the articles in question.

Express Newspapers

10. On 9 February 2018, Express Newspapers published two articles in the print edition of the Daily Express and Express online, entitled "*City banker posed as motorbike policeman to get to work on time*" and "*Banker 'commuted more than 1,000 miles' dressed as a policeman on an old police motorbike*".
11. Both of these headlines are sensationalist and inaccurate. Mr Emanuel is not and never has been a banker. He is a financial consultant whose clients are banks.. Mr Emanuel did not pose as a policeman nor was he dressed as a policeman.
12. The Express Articles featured the following false statements:

That Mr Emanuel:
 - (i) speeded up his daily commute by dressing as a policeman and riding a motorbike with a blue light;
 - (ii) donned a high-visibility police jacket, and
 - (iii) was found guilty of wearing a police uniform with intent to deceive,
and that Mr Emanuel's motorcycle:
 - (iv) had a raised blue emergency light although it was no longer working, and
 - (v) had sides which were decorated with a police-style black-and-white Battenberg check.
13. The Express Articles conveyed the defamatory meaning that Mr Emanuel intentionally impersonated a police officer by purchasing and wearing a police uniform and purchasing and using an imitation police motorcycle with a blue light in order to deceive members of the public and speed up his daily commute.
14. The photographs used in the Express Articles included genuine police motorcyclists riding genuine police motorcycles, conveying the false and defamatory impression that this was the way in which Mr Emanuel had presented himself.
15. The Express online Article has since been removed. No apology has been published in hard copy or online.

MGN Limited

16. On 8 and 9 February 2018, MGN Limited published an article online entitled "*Banker wore cop uniform and rode ex-police motorbike on commute to fool public*".

17. This headline is sensationalist and inaccurate. Mr Emanuel is not a banker, but a financial consultant. Mr Emanuel did not wear police uniform, whether to fool the public or otherwise.

18. The MGN Article featured the following false statements:

That Mr Emanuel:

- (i) wore an old police uniform on his daily commute to fool the public into thinking he was an officer;
- (ii) wore a former police high-visibility jacket, and
- (iii) denied wearing a police uniform with intent to deceive,

and that Mr Emanuel's motorcycle had a raised rear blue light.

19. The MGN Article conveyed the defamatory meaning that Mr Emanuel intentionally impersonated a police officer by purchasing and wearing a police uniform and purchasing and using an imitation police motorcycle with a raised blue light in order to deceive members of the public.

20. The MGN Article has since been removed. MGN Limited made a settlement offer which included an offer to publish a correction, but this settlement offer did not include any element of compensation. The parties have now reached a financial settlement, but MGN Limited has refused to publish an apology either in hard copy or online.

Telegraph Media Group Limited

21. On 9 February 2018, Telegraph Media Group Limited published an article in the print edition of the Telegraph, entitled "*Banker beat the traffic by riding ex-police bike bought on eBay*".

22. This headline is sensationalist and inaccurate. Mr Emanuel is not a banker, but a financial consultant. Mr Emanuel did not "*beat the traffic*" by riding an ex-police motorcycle, nor did he ride a police motorcycle wearing a police jacket, or do either of those things.

23. The Telegraph Article featured the following false statements:

That Mr Emanuel:

- (i) sped through central London on a police motorcycle, causing motorists to slow down or move out of his way;
- (ii) wore a former police high-visibility jacket, and
- (iii) was charged with wearing a police uniform with intent to deceive,

and that Mr Emanuel's motorcycle featured a raised rear blue light.

24. The Telegraph Article conveyed the defamatory meaning that Mr Emanuel intentionally impersonated a police officer by purchasing and wearing a police uniform and purchasing and using an imitation police motorcycle with a blue light in order to deceive members of the public, and in fact deceived members of the public as he travelled through central London above the speed limit.

25. The Telegraph Article failed to include the statement from the Chairman of the Magistrates at the hearing that Mr Emanuel did not intend to deceive through his

actions, a fact which was of crucial importance in view of the claims made in the Article.

26. The Telegraph made a settlement offer which included an offer to publish a correction, but this settlement offer did not include any element of compensation. The parties have now reached a financial settlement but The Telegraph has refused to publish an apology.

Times Newspapers Limited

27. On 9 February 2018, Times Newspapers Limited published two articles in the print edition of The Times and online, entitled, "*Commuter on police bike is spared jail*".
28. This headline is sensationalist and inaccurate. Mr Emanuel was not riding a "*police bike*", nor was he "*spared jail*". The offence with which Mr Emanuel was charged was not one for which he even *could* have received a custodial sentence.
29. The Times Articles featured the following false statements:

That Mr Emanuel:

- (i) commuted on a police motorcycle;
- (ii) was wearing a high visibility police jacket;
- (iii) was spared a jail sentence;
- (iv) was found guilty of wearing a police uniform with intent to deceive,

and that Mr Emanuel's motorcycle:

- (v) featured black and white Battenberg stickers along either side, and
- (vi) had a raised rear blue light which was no longer working.

30. The Times Articles conveyed the defamatory meaning that Mr Emanuel intentionally impersonated a police officer by purchasing and wearing a police uniform and purchasing and using a police motorcycle with a blue light in order to deceive members of the public.
31. The Times Articles were exacerbated by the wholly inaccurate and defamatory statement that Mr Emanuel was "*spared jail*". The clear implication from this statement is that Mr Emanuel was charged and convicted of an offence which provided for the possibility of a custodial sentence. There was no possibility of a custodial sentence for the offence in question, a fact which was belatedly acknowledged by Times Newspapers Limited when, following a complaint from our client, the online Times Article was amended and an apology published. In fact, Mr Emanuel was not even fined (the relevant punishment for the offence in question).
32. The Times Articles failed to include the statement from the Chairman of the Magistrates at the hearing that Mr Emanuel did not intend to deceive through his actions, a fact which was of crucial importance in view of the claims made in the Article.
33. A correction and apology were published in the print edition of The Times on 19 February and online on 20 February. The published apologies were not in terms agreed by Mr Emanuel, and failed to include the Chairman's statement from the hearing that Mr Emanuel did not intend to deceive. The online Times Article remains online with headline "*Commuter on police bike spared a fine*".

True facts

34. The true facts are as follows. On 6 May 2017, Mr Emanuel purchased an ex-police motorcycle which had been de-commissioned by South Yorkshire Police for civilian use. Mr Emanuel used this motorcycle for commuting from his home in Buckinghamshire to his place of work in Central London, a round trip of approximately 60 miles each day. The police use shaft driven BMW motorcycles which are relatively low maintenance and reliable vehicles, and it was these qualities that attracted Mr Emanuel to the vehicle for commuting purposes.
35. All of the Publishers referred to the motorcycle that Mr Emanuel had been riding despite the fact that this was a perfectly legal decommissioned civilian bike and no charges at all were brought in relation to the motorcycle. In particular, Mr Emanuel's motorcycle did not feature any kind of police marking or anything that resembled the Battenberg blue and yellow pattern used exclusively by the police in order to distinguish their vehicles from any other on the road. No charges were brought in relation to Mr Emanuel's motorcycle.
36. When riding his motorcycle Mr Emanuel habitually wore a high visibility jacket with reflective bands together with a white crash helmet, as is advised for motorcyclists by Rule 86 of the Highway Code. Mr Emanuel is very conscious of road safety and the risks of motorcycle riding: he has very sadly lost two friends and a third has been confined to a wheelchair all as a result of motorcycle accidents.
37. Mr Emanuel bought the high visibility jacket with the motorcycle. As was clear in the photographs presented to the court, only the sleeves of the jacket were visible because a tabard marked "POLITE NOTICE: THINK BIKE", which will be familiar to London road users, had been permanently stitched over the jacket. The prosecution was not able to prove that the jacket was former police uniform and to Mr Emanuel's knowledge, neither the jacket nor any of the other clothing worn by him was police issue, nor resembled police uniform.
38. On the evening of 23 June 2017 Mr Emanuel was driving his motorcycle home from work when he was stopped by a police traffic officer. The police officer told Mr Emanuel that his appearance resembled that of a police officer, but having taken Mr Emanuel's details, allowed him to ride away without any modifications to either his clothing or to his motorcycle.
39. Mr Emanuel was subsequently charged with a summary offence under section 90(2) Police Act 1996, the offence of wearing an article of police uniform in circumstances where it gives an appearance of so nearly resembling a member of the police force as to be calculated to deceive. The maximum punishment for this offence is a fine not exceeding level 3 on the standard scale (capped at £1,000). The charge was brought by the police unilaterally without reference to the Crown Prosecution Service (CPS) (a method of charge limited to less serious summary offences). No charges were brought under the Police Act 1996 for possession of police uniform, which is a strict liability offence. Mr Emanuel was not charged with any driving or road traffic offence and has no penalty points on his driving licence. Mr Emanuel was not charged with any secondary offence, which would ordinarily accompany a charge of impersonating a police officer in one form or another.
40. On 8 February 2018, Mr Emanuel attended Hendon Magistrates Court for the trial in relation to the charge. Mr Emanuel was erroneously convicted of the offence despite the Magistrates' judgment stating that they were satisfied that he had not "*calculated to deceive*", an essential component of the offence. The Magistrates also remarked that Mr Emanuel had not intended to impersonate a police officer. Despite this clear statement in Court, this point failed to be or was inadequately reported by the Publishers when they reported on the court proceedings.

41. On legal advice, Mr Emanuel immediately appealed his conviction and two weeks' later, his conviction was overturned and he was acquitted. The Crown Court recorded that Mr Emanuel had been riding lawfully and that no secondary charge was made in respect of any purpose for which Mr Emanuel might be impersonating a police officer (for example, a speeding offence). At the conclusion of that appeal, the prosecution stated: *"I think that this is a case where I am rather grateful that the police were not required for today. This is a case where perhaps words of advice in June might have saved the State a considerable amount of money."* Recorder Weston, presiding over the appeal, agreed.
42. The effect of these publications on Mr Emanuel was devastating. Friends, family, acquaintances and people within his professional network read that he had committed a crime of deception for which he ought to have been jailed. His previously agreed work contract renewal was revoked, and he was out of work for almost 6 months. Mr Emanuel's landlord immediately served notice for possession of his home where he had been a reliable tenant for six years, requiring Mr Emanuel, his wife and his young children to find a new home at short notice. His three children were subjected to taunts at school from other children. Mr Emanuel has also been involved in coaching youth football on a voluntary basis for many years but the adverse newspaper publicity caused him to have to cease this activity.
43. Those of the articles which remain online continue to be brought to the attention of Mr Emanuel by people that he knows, including business acquaintance – not only in this jurisdiction but also in countries including, but not limited to, the Netherlands, Thailand, South Africa, United States and Australia.
44. Having attempted to resolve matters himself, Mr Emanuel had to instruct legal representatives to assist him in seeking proper vindication. As a result of the articles, the fact of Mr Emanuel's short-lived conviction was publicised far more widely than it would have been otherwise.
45. Upon Mr Emanuel's legal representatives sending Letters of Claim, the Publishers sought to defend the Articles on the basis that the matter was in the public interest, and that any inaccuracies in the reporting were not sufficiently material to deprive them of statutory privilege for reporting the trial or to seriously damage his reputation. Despite the Publishers all having reported Court proceedings on a second hand basis in reliance on the report of a third party, none of them sought to validate their accounts of the matter prior to publication, nor was Mr Emanuel given any opportunity to comment prior to publication. Consequently, the publications were erroneous and unbalanced. None of the Publishers reported Mr Emanuel's intention to appeal, nor did they subsequently publish articles regarding his acquittal in the Crown Court. The result, of course, is that only the first half of the story was ever told.

Settlement

46. Each of the Publishers made a Part 36 offer in the sum of £7,500, which Mr Emanuel has accepted. Mr Emanuel has therefore received a total of £30,000 in damages from the Publishers and legal actions remain ongoing against other publishers on similar grounds.
47. The Publishers have refused to agree to a joint Statement in Open Court. Three of the Publishers have not published apologies. Where an apology was published it was done without Mr Emanuel's agreement to the wording and, he believes, without due prominence. The Publishers have also refused to remove the Articles that remain online, or assist in contacting third party republications.

Conclusion

48. My Lord, it only remains for me to ask for leave that the record be withdrawn.

Carter-Ruck

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Carter-Ruck
Solicitors for Mr James Darren Emanuel

Dated: *10 May 2019*