

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

B E T W E E N :

(1) PHILIP TURVEY
(2) PETER TURVEY

Claimants

- and -

(1) FINDERS GENEALOGISTS LIMITED
(2) DANIEL CURRAN

Defendants

STATEMENT IN OPEN COURT

Solicitor/Counsel for the Claimants

1. May it please your Lordship, I appear for the Claimants, Philip Turvey and his father Peter Turvey.
2. The Turveys are both directors of Anglia Research Services Limited, a leading genealogical research company, which is based in Ipswich. In addition to other professional services, the company offers probate research services including the tracing of missing heirs to estates which are advertised on the "Bona Vacantia" list maintained by the Government Legal Department. This industry is colloquially known as "heir hunting". Anglia Research has grown to be one of the leading and most prominent heir hunting companies in the United Kingdom, and both of the Claimants are widely known within the sector.
3. The First Defendant, Finders Genealogists Limited, is a genealogical research company based in London. Trading under the name "Finders International", it is a competitor of Anglia Research for tracing the heirs to missing estates. The Second Defendant, Daniel Curran, is the managing director of Finders International.
4. Both Anglia Research and Finders International advise broadcasters on prominent entertainment shows about tracing ancestors and those who have inherited property.
5. It is important, for context, that I summarise the background to the present proceedings, to demonstrate the Defendants' record of publishing false and defamatory statements and of seeking to conceal their responsibility for having done so.
6. In July 2016, Philip Turvey brought proceedings ("the First Libel Action") for defamation against the Defendants in relation to a series of false and defamatory statements that had been made about him:

- (i) in postings on the internet by Mr Curran – some made anonymously and others made using a false name and address;
 - (ii) in an email sent by Mr Curran's assistant to a number of Finders International's sales representatives; and
 - (iii) in numerous emails sent between November 2014 and August 2015 by seven employees of Finders International, to a number of potential clients of Anglia Research.
7. In October 2016, the First Libel Action was settled on terms that included the making of a public Joint Statement, in which Mr Curran and Finders International accepted responsibility for the false statements complained of (including those published anonymously or under a false name) and apologised unreservedly to Phillip Turvey for making them. At Mr Turvey's request, Mr Curran and Finders International made a payment to a charity of his choosing in lieu of damages. They also paid his costs.
 8. Shortly after this settlement the Claimants received, from an unknown source, a package containing printed copies of a series of emails, that had apparently been sent by Mr Curran, or at his request, to Finders International's sales representatives throughout the UK. The package included two emails dated 8 June 2015 and 1 June 2016, which were seriously defamatory of the Claimants ("the Emails").
 9. Given Mr Curran's previous conduct which had been the subject of the First Libel Action, and the terms of settlement of those earlier proceedings, the Claimants were extremely concerned to learn of the apparent publication of these further serious libels by Mr Curran and the First Defendant. Accordingly, in December 2016, they instructed their solicitors, Carter-Ruck, to send a Letter of Claim to Mr Curran. Carter-Ruck also sought urgent assurances that, in compliance with their disclosure obligations, the Defendants would preserve all emails and other documents relating to those publications.
 10. The Emails contained false claims, including imputations to the effect that the Claimants had run an abusive Twitter account, on which they posted photographs taken unlawfully from the personal social media accounts of Finders International's employees in order to cause them embarrassment or distress; and which had "followed" the Twitter account of the primary school of Mr Curran's 7 year old daughter in order to observe or "stalk" her and to cause him anxiety or distress; and that the Claimants had caused Anglia Research to make, or to attempt to make, a fraudulent claim for an estate of about £1m.
 11. All of these allegations were and are totally untrue, and the Defendants did not put forward any Truth defence in respect of them.
 12. In response to the Letter of Claim, Mr Curran admitted the Emails had been written but denied that they had been sent outside Finders International, asserting, in essence, that they had existed only as drafts sent internally for checking by his assistant and also sent by him to his own e-mail address as a personal reminder. Mr Curran nevertheless confirmed that he would "freeze the internal systems" of Finders International in order to preserve the evidence pending resolution of the Claimants' complaint, an assurance that was later repeated by the Defendants' solicitors.
 13. The Defendants subsequently produced what purported to be an internal IT report carried out by Finders International's IT manager. This report was said to have located one of the Emails – that dated 1 June 2016 – and supposedly corroborated Mr Curran's assertion that it had only been sent to himself. The report also stated that no record of the 8 June 2015 email had been found on the Defendants' IT systems.

14. Understandably, the Claimants were not satisfied with the explanations provided by the Defendants, or their denials that the Emails had been sent outside Finders International, which the Claimants regarded as wholly implausible. Indeed, given Mr Curran's admitted, deceitful conduct in relation to the First Libel Action – the full extent of which was only brought to light by Court-ordered disclosure – the Claimants had no confidence that the Defendants were being truthful or forthcoming in their disclosure of information. They therefore brought an application for pre-action disclosure, in order to put to the test the Defendants' unconvincing denials. In May 2017, Mr Justice Dingemans made an order for disclosure by the Defendants, to be overseen and conducted by an external, independent IT consultant.
15. When those forensic searches were carried out, they found no trace on Finders International's IT systems (including back-up systems), of either of the Emails, despite the fact that the Defendants *themselves* had previously said they had located that dated 1 June 2016. This simply compounded the Claimants' concerns as to the Defendants' conduct in the time since they had first received the libel complaint. Over many weeks, the Claimants' solicitors pressed the Defendants to explain this inconsistency. Eventually, the Defendants admitted that they had in fact caused or allowed documents to be deleted, including the 1 June 2016 email, in what they termed a "purge" of their back-up systems. That deletion process, or "purge", was later revealed to have been implemented within weeks of the Defendants having received Carter-Ruck's Letter of Claim, and of Mr Curran having given his personal assurances that documents would be preserved.
16. In light of this extraordinary admission – which meant that the Defendants had breached both their disclosure obligations to the Court and had failed to adhere to their repeated assurances that they would preserve relevant documents – the disclosure process was fatally undermined and its results had been rendered wholly unreliable by the Defendants' conduct. Consequently, the Defendants paid the Claimants' costs that had been wasted by that process.
17. With the pre-action disclosure exercise having been derailed by the Defendants' deletion of relevant documents, in their continuing attempts to get to the truth, the Claimants' solicitors notified the Defendants' solicitors in July 2018 that they wished to contact a selection of the likely recipients of the Emails complained of – namely sales representatives of Finders International – asking whether they recalled receiving either of the Emails.
18. Although a number of responses were received from the sales representatives which claimed to deny possession or knowledge of the Emails, on 3 October 2018 there was a further extraordinary development. The Claimants received by post, again from an unknown source, a further bundle comprising redacted, printed copies of emails, none of which they had seen before. All but one of these documents bore a reference indicating that they were printed from a webmail account external to Finders International's IT systems. Among the documents to contain such a reference was a further copy of the 1 June 2016 email, which had therefore apparently been sent outside of Finders International. These further documents also demonstrated that the earlier, internal IT report produced by Finders International had not been properly conducted.
19. This batch of email printouts also included a series of email exchanges: between employees of Finders International and its sales representatives; between the Defendants' solicitors and such representatives; and between individual representatives themselves. Among other things, the documents revealed that in July and August 2018 – that is, when the Defendants knew that the Claimants' solicitors were planning to contact the sales representatives about the Emails – Finders International's sales representatives had been instructed by the Defendants to undertake a wholesale deletion of any emails that those representatives had received from Finders International prior to May 2018.

That instruction – made under the guise of compliance with the General Data Protection Regulation (GDPR) – was subsequently acknowledged by the Defendants to have ultimately come from Mr Curran himself.

20. Given the timing of this deletion instruction, and the fact that the instruction cannot possibly be characterised as a conventional or necessary GDPR request, the Claimants have no doubt that the reference to the GDPR was a spurious pretext employed by Finders International and Mr Curran when in fact the true purpose of the instruction was to ensure that sales representatives destroyed any emails which would support the Claimants' libel complaint and which would demonstrate Mr Curran's denials of publication to have been false and dishonest. Indeed, one such deletion instruction was given on the very same day that the Claimants' solicitors sought permission to approach Finders International's sales representatives about their receipt of the Emails.
21. Alarming, had it not been for the fact that one individual had seen fit to tip-off the Claimants as to what the Defendants had been doing (by sending them the documents anonymously), the Claimants may never have discovered conduct which bore, and bears, all the hallmarks of a serious attempt to pervert the course of justice.
22. The Claimants' solicitors wrote to the Defendants' solicitors on 17 October 2018, notifying them of the receipt of the further batch of email printouts, and of the contents of those emails. This letter further stated that notwithstanding the Defendants' apparent efforts to obfuscate and indeed to deceive, the Claimants were now confident, in light of the further, significant evidence which had become available, that the Court would conclude that the libellous Emails had indeed been published by the Defendants to third parties.
23. In response, the Defendants conceded, despite their previous protestations to the contrary over a period of many months, that it appeared the email dated 1 June 2016 had indeed been sent outside their servers. Nevertheless, Mr Curran and Finders International were still not prepared to accept responsibility or finally come clean about their conduct and the true extent to which the Emails had been published. Nor were they willing to offer any form of apology.
24. This left the Claimants with no choice but to commence proceedings for libel, which they did on 23 November 2018. The claim asserted that Finders International and Mr Curran had engaged in a sustained and dishonest attempt to conceal evidence of publication, including failing to comply with the Civil Procedure Rules, failing to comply with Orders of the Court, requiring the recipients to destroy the Emails and instructing their solicitors to write misleading correspondence.
25. The Defendants have not advanced any substantive defence to the claim. Instead, despite the overwhelming evidence of their conduct, they continued to deny that the Emails complained of had been published to third parties; disputed that the emails caused, or were likely to cause, sufficient reputational harm to be considered defamatory; and contested the meanings of the words complained of. The Defendants denied also having acted dishonestly or misleadingly in the context of the dispute.
26. In spite of such denials, the Defendants have now settled this action in its entirety by making a very substantial damages payment to the Claimants rather than choose to oppose the claim at a contested hearing, where the evidence, as outlined above, concerning the concealment of the Emails' publication, would be heard and assessed by a Judge. Mr Curran and Finders International have paid the Claimants £40,000 in libel damages, as well as giving their undertaking not to publish the words complained of in the future and agreeing to pay the Claimants' legal costs.
27. Given the very substantial damages which have now been paid over publications to only a relatively small number of people, the Claimants consider their reputations to have

been fully vindicated. They also have no doubt that the level of the compensation offered by the Defendants reflects a realisation by the Defendants that, had the matter proceeded to trial, it was overwhelmingly likely that a Judge would have made findings not only that the Defendants had indeed published the Emails, but that their denials of having done so were dishonest and that they had sought to conceal their publication, including by deleting or procuring the deletion of evidence.

28. My Lord, on that basis, I ask for leave to withdraw the record.