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Case No. HQ13D03256

**IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION**

Royal Courts of Justice
29th October 2014

B e f o r e :

SIR DAVID EADY
(Sitting as a Judge of the High Court)

RICHARD JOHNSON

Claimant

- and -

(1) GRAHAM STEELE
(2) LIFECOTE EUROPE LIMITED
(3) DAMP PROOFING ASSOCIATION LIMITED **Defendants**

MR. H. SPOONER (instructed by Sahota Solicitors) appeared on behalf of the Claimant.
THE DEFENDANTS did not attend and were not represented.

HTML VERSION OF JUDGMENT

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SIR DAVID EADY:

1. Because the defendants in this case were in breach of an unless order made by Warby J on 16th October, they were thereby debarred from defending the claim and I gave leave to enter judgment in respect of those defendants on 27th October. My sole function now is to determine the appropriate remedies following from that.

2. The claimant, Mr. Richard Johnson, has explained his background to some extent in his evidence, which he has gone into the witness box to confirm. He had a City & Guilds qualification when he began his career in the building industry and he then had a remedial wall tie business for some 20 years from 1990. He became a specialist in dispute resolution in the building industry, and also a building contract co-ordinator. Also part of his skill is as a party wall surveyor.
3. He has a diploma in English law at the Open University and is an Associate of the Chartered Institute of Building. He intends to complete, in due course, a law degree and to qualify as a solicitor.
4. As I said a moment ago, he has gone into the witness box and told me of the huge impact on him of the publications complained of in these proceedings, the stress, the anxiety that he has suffered and how it has impacted on his family over many, many months.
5. In the course of his work, Mr. Johnson came across one of Mr. Steele's twitter accounts which was linked to a website. That was his first introduction to Mr. Steele, of whom he had never heard before. Mr. Johnson soon gathered that the blog purporting to be a helpline was really a means of promoting Mr. Steele's own damp-proofing business. He was also using it to make scurrilous statements about others under the cloak of anonymity. Mr. Johnson set about attempting to identify who was behind this, and managed to trace the source of the allegations eventually to Mr. Steele.
6. In the background was the fact that Mr. Steele had an ongoing dispute with a body called the Property Care Association ('PCA'). Mr. Steele regularly made anonymous attacks on the PCA and Mr. Johnson took up the defence of the PCA online. Mr. Steele has been carrying on a campaign against members of the PCA over the years since about 2007. This was addressed in evidence for the hearing from two witnesses, Mr. Hindle and Mr. Hodgkin.
7. Mr. Johnson found himself the victim of a sustained attack by way of blogs and twitter accounts, which were authored and published by Mr. Steele, attempting again to use various means of anonymity, or obscuring his identity.
8. The central part of the claim focuses upon two blogs. I need not identify those. Various serious allegations of dishonesty, misconduct, criminal offences, and so on, were made, which had no basis and which I do not propose to repeat in the course of this judgment, which would only give them further currency. Suffice to say they are allegations of the most serious and distressing kind.
9. Mr. Steele launched two twitter accounts in addition attacking Mr. Johnson. In July 2012 he launched another twitter attack upon him. Similar serious allegations of dishonesty and misconduct were made. As was pointed out in the course of the evidence, during 24 hours between 26th and 27th January 2013, there were no less than 129 defamatory tweets on one of the accounts.
10. It has been made clear by Mr. Spooner in the course of his submissions that although the claim focuses upon the period, broadly speaking, of November 2011 to June 2013, those are essentially samples, albeit many samples, of a wider pattern of conduct. In order to keep the action down to reasonable proportions, the claim was limited to the period which I have identified, but it was a continuing onslaught via the internet, characterised by Mr. Spooner as "cyber bullying".
11. When it comes to assessing damages in any defamation case, the court is concerned to consider the gravity of the allegations and the scale of publication. Mr. Johnson provided evidence and gave his own estimate as best he could in the light of his experience over the last two or three years. I think it is safe to say that the readership of these allegations will have been numbered in the thousands and possibly more, possibly in the tens of thousands, but certainly many thousands. There is also coverage of this topic in the evidence of Mr. Brian Hindle.
12. Mr. Spooner has been emphatic in his application for aggravated damages in this case, which are, of course, concerned to compensate a claimant for rubbing salt in the wound - aggravation to hurt feelings caused by the original publications. In this case, the conduct of the defendant has been quite extraordinary over many, many months, as I have already made clear. He has done everything he can to cause the maximum damage to Mr. Johnson's reputation, while hiding behind anonymity as best he could. There has been no question of any apology or anything to mitigate the effect of the damaging

allegations made. He has done everything he can to make matters worse. It is, therefore, entirely appropriate that there should be in this case an award of aggravated damages, not separately, but as part of the overall compensatory figure.

13. I discussed with Mr. Spooner in the course of his submissions the appropriateness of one award of damages, and it is clear, I think, in the light of the modern authorities - in particular *Hayward v Thompson* in 1982, summarising the earlier authorities - that it is a matter for the trial judge's discretion where there are multiple libels, whether or not there should be separate awards or one only. It seems to me in this case, from the point of view of common sense and practicality, that the only possible approach is to scoop it all up into one award.
14. Mr. Spooner drew my attention to a number of particular aggravating factors, all of which have validity. For example, there was the fact that Mr. Steele started up what has been called a "copycat mirror site" in the United States two days after the claimant managed to get some of the United Kingdom sites suspended for defamatory publications. In other words, it was an act of defiance and spite, because Mr. Steele thought that if he were to do that he would be beyond the reach of the law in this country.
15. He has continually denied his own authorship and necessitated the obtaining by Mr. Johnson of two *Norwich Pharmacal* orders in order to trace the identity and origin of these publications. The second and third companies feature regularly in those publications.
16. There was also the creation of fake accounts in Mr. Johnson's name, a particularly distressing feature of the campaign against him, people thinking that he was, in fact, responsible for these publications in some instances. Of course, when people Googled him or his business they came upon this bogus site attributed to him - another plainly aggravating feature of the case.
17. Despite the gravity of the allegations there has been no attempt on Mr. Steele's part to justify or in any way defend the allegations he has made. The only *quasi* defence he put up from time to time was the suggestion that he was not responsible for publication, and eventually that was demonstrated to be untrue.
18. There was also the feature of a counterclaim in these proceedings making life even more difficult for Mr. Johnson, necessitating the expense and effort of defending that.
19. There was the hiding of computers. Some six computers were involved as far as we know, and some of those were hidden, some were destroyed, and I think two were found in his daughter's shed at one stage; all of this despite warnings in February of this year by Master Leslie at a hearing that it was important that he should co-operate and maintain the availability of those computers.
20. There is of course the trouble and expense to which Mr. Johnson has been put in conducting this litigation, distressing in itself. There were feeble attempts to prevent Mr. Johnson adducing expert evidence pursued before Parker J, and then even before the Court of Appeal. Those attempts got short shrift, but they inevitably added to the stress and worry of this litigation.
21. Another aspect of the conduct of Mr. Steele is the fact that he made false allegations to the police which resulted in Mr. Johnson being arrested. The matter was not proceeded with, but of course that, in itself, was an aggravating and distressing feature which impacted adversely on his own family life, as he explained in the witness box.
22. Damages can never, of course, compensate truly for wrongdoing on this scale, but it is the best that the law can do to provide a remedy. I will discuss in a moment with Mr. Spooner the terms of a suitable injunction, but for the moment I award £70,000 by way of compensatory and aggravated damages.