

In the Supreme Court of the United Kingdom

Notice of appeal

(or application for permission to appeal)



On appeal from

The Court of Appeal

(1) Craig Joseph
(2) Jason Joseph
(3) Anthony Raymond

Claimants/Respondents

— V —

(1) Jason Spiller
(2) 1311 Events Limited

Defendants/Appellants

Appeal number

Date of filing

1	9	/	1	1	/	2	0	0	9
D	D		M	M		Y	Y	Y	Y

Appellant's solicitors

David Price Solicitors & Advocates

Respondent's solicitors

Howard Kennedy

1. Appellant

Appellant's full name

(1) Jason Spiller (2) 1311 Events Limited

Original status

- Claimant Defendant
 Petitioner Respondent
 Pursuer Defender

Solicitor

Name

David Price Solicitors & Advocates

Address

21 Fleet Street
London

Telephone no. 020 7353 9999

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DX no. n/a

Postcode

E C 4 Y 1 A A

Ref. 1961.1.DP/JV

Email

enquiries@lawyers-media.com

How would you prefer us to communicate with you?

- DX Email
 Post Other (please specify)

Is the appellant in receipt of public funding/legal aid?

- Yes No

If Yes, please give the certificate number

Counsel

Name

David Price - Solicitor Advocate

Address

As above

Telephone no.

Fax no.

DX no.

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dprice@lawyers-media.com

Counsel

Name

Address Telephone no.
Fax no.
DX no.

Postcode

Email

2. Respondent

Respondent's full name

Original status Claimant Defendant
 Petitioner Respondent
 Pursuer Defender

Solicitor

Name

Address Telephone no.
Fax no.
DX no.

Postcode Ref.

Email

How would you prefer us to communicate with you? DX Email
 Post Other (please specify)

Is the respondent in receipt of public funding/legal aid? Yes No

If Yes, please give the certificate number

Counsel

Name

Address

Telephone no.

Fax no.

DX no.

Postcode

Email

Counsel

Name

Address

Telephone no.

Fax no.

DX no.

Postcode

Email

3. Decision being appealed

Name of Court

Names of Judges

Date of order/
interlocutor/decision / /
D D M M M Y Y Y Y

4. Permission to appeal

If you have permission to appeal complete **Part A** or complete **Part B** if you require permission to appeal.

PART A

Name of Court granting permission

Date permission granted

<input type="text"/>	<input type="text"/>	/	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	/	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
D	D		M	M	M			Y	Y	Y	Y

Conditions on which permission granted

PART B

The appellant applies to the Supreme Court for permission to appeal.

5. Information about the decision being appealed

Please set out

- Narrative of the facts
- Statutory framework
- Chronology of proceedings
- Orders made in the Courts below
- Issues before the Court appealed from
- Treatment of issues by the Court appealed from
- Issues in the appeal

In accordance with what was discussed with the Registry the relevant matters are set out in the attached written submissions.

6. Grounds of appeal

1. The Court of Appeal was wrong to hold that the "Bibis breach of contract" (as set out in paragraphs 9.3 to 9.10 of the Amended Defence) was not referred to (within the meaning of section 6 of the Defamation Act 1952) in the words complained of and could not therefore be relied on as a factual basis for all or any of the comments set out in paragraph 10.1 of the Amended Defence ("the comments").

2. The Court of Appeal ought to have asked itself whether the Appellants were entitled to rely on the entire contents of the email of 27 March 2007 (as set out in paragraphs 9.11 to 9.12 of the Amended Defence) in support of the comments and ought to have concluded that, as the email was referred to in the words complained of, they should be permitted to do so.

3. The Court of Appeal was wrong to hold that the misquotation of the email of 27 March in the words complained of was fatal to the defence of fair comment.

4. The Court of Appeal was wrong to hold that the "Landmarc breach of contract" (as set out in paragraphs 9.13 to 9.15 of the Amended Defence) was not referred to in the words complained of and could not therefore be relied on as a factual basis for the comments.

5. The Court of Appeal was wrong to have decided this aspect of the appeal against the Appellants without any argument as to whether the matters set out in paragraphs 9.4 to 9.15 of the Amended Defence (on which the Appellants relied in order to support the comments) were referred to in the words complained of.

6. The proposed appeal raises the following points of law of general public importance:-

6.1. Whether paragraph 19 of *Tse Wai Chun Paul v Albert Cheng* [2001] EMLR 31 is an accurate statement of English law. In particular, whether it is a requirement of the defence of fair comment that a publishee should be in a position to judge for himself how far a comment is well founded and whether any obligation to "explicitly or implicitly indicate, at least in general terms, what are the facts on which the comment is being made" is a qualification on or an additional hurdle to section 6, which merely requires the facts to be "alleged or referred to in the words complained of".

6.2. The extent to which it is necessary for a defendant to particularise the supporting facts in the words complained of in order to take advantage of section 6.

6.3. Whether a material or fundamental inaccuracy in the facts stated in the words complained of is fatal to the defence of fair comment where there are other facts stated or referred to in the words complained of which can be proved and on which an honest person could hold the relevant opinion.

Counsel's name or signature:



7. Other information about the appeal

Are you applying for an extension of time?

Yes No

If Yes, please explain why

Order being appealed

What order are you asking the Supreme Court to make?

set aside vary

Original order

set aside restore vary

Does the appeal raise issues under the:

Human Rights Act 1998?

Yes No

Are you seeking a declaration of incompatibility?

Yes No

Are you challenging an act of a public authority?

Yes No

If you have answered Yes to any of the questions above please give details below:

The appeal does not raise any issue as to the construction of the 1998 Act, nor is there any claim under the Act. However, insofar as is necessary, it will be submitted that sections 3 & 12 of the Act are relevant to the construction of section 6 of the Defamation Act 1952.

Court's devolution jurisdiction?

Yes No

If Yes, please give details below:

Are you asking the Supreme Court to:

depart from one of its own decisions or from one made by the House of Lords?

Yes No

If Yes, please give details below:

make a reference to the European Court of Justice of the European Communities?

Yes No

If Yes, please give details below:

Will you or the respondent request an expedited hearing?

Yes No

If Yes, please give details below:

8. Certificate of Service

Either complete this section or attach a separate certificate

The date on which this form was served on the

1st Respondent

1	9	/	1	1	/	2	0	0	9
D	D		M	M		Y	Y	Y	Y

2nd Respondent

		/			/				
D	D		M	M		Y	Y	Y	Y

I certify that this document was served on

Howard Kennedy, solicitors for the Respondents


by

David Price Solicitors & Advocates, solicitors for the Appellants

by the following method

email and by personal service

Signature



9. Other relevant information

Neutral citation of the judgment appealed against e.g. [2009] EWCA Civ 95

2	0	0	9	/	E	W	C	A		C	I	V		/	1	0	7	5	
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				/										/					

References to Law Report in which any relevant judgment is reported.

The Times, 30 October 2009

Subject matter catchwords for indexing.

Defamation, Fair Comment, Section 6 of the Defamation Act 1952

Please return your completed form to:

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email: registry@supremecourt.gsi.gov.uk

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