



IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
**2011 EWHC 981 (QB)**

Case No.IHJ/11/0183

Royal Courts of Justice  
Wednesday, 30<sup>th</sup> March 2011

Before:

MR. JUSTICE HENRIQUES

BETWEEN :

(1) STEPHEN ROBINS  
(2) GABBITAS ROBINS SOLICITORS

Claimants

- and -

(1) RICK KORDOWSKI  
(2) TIM SMEE

Respondents

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MR. N. SINGLA appeared on behalf of the Claimants.

BOTH RESPONDENTS/ DEFENDANTS appeared in Person.

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**JUDGMENT**

(As approved by the Judge)

MR. JUSTICE HENRIQUES:

1 The first claimant is a solicitor in the town of Marlow in the Thames Valley, where he has practised for the last 30 years of his 32 in practice. He is a founding partner in the second claimant firm, which is a four partner firm. This is a claim for an interim injunction to remove defamatory words and references to the claimants from the website, Solicitorsfromhell.co.uk. This is by no means the first such application. In *Farrall v. Kordowski* [2010] EWHC 2436 (QB), Tugendhat J made for an interim injunction in a case in which the claimant had been described on that same website as “downright crooked”. The claimant has subsequently been successful in a defamation action before Lloyd-Jones J in which she recovered damages of some £10,000 and her costs.

2 The first defendant is the owner of the website, Solicitorsfromhell. The home page states in large letters:

“Have you been let down by your Solicitor or Barrister?”

Its stated purpose is to permit former clients:

“... to name and shame those shady Solicitors, no need to register or even leave your name, click on the link below and add them to our list of Solicitors from Hell.”

3 The second defendant, Tim Smee, is not a client of the first and second claimants, but rather was the opposing party in litigation against a client of the first and second defendant, one Simon Bonwick. The litigation between Mr. Smee and Mr. Bonwick involved a claim by Tim Smee for the repayment of a loan and a counterclaim by Mr. Bonwick for damages against Tim Smee based on an agreement. The matter was to be heard in the Slough County Court earlier in 2011, but settled shortly before trial. I will turn to the circumstances of that litigation in due course.

4 This claim for an interim injunction differs in two significant ways from earlier claims, in particular from *Farrall v. Kordowski*, in that the information placed upon the website did not originate from a client or former client of the named solicitor; and secondly, Mr. Kordowski has attended to oppose this application.

5 On 4<sup>th</sup> March 2011 the alleged defamatory publication was published on the website on its home page entitled “Solicitors from Hell, corrupt, neglect, dishonest, crooked, fraudulent lawyers”. These words appeared on 4<sup>th</sup> March:



“This man is the most dishonourable, unscrupulous professional I have ever met. He consistently lied and bullied his client into pursuing a ludicrous, fictitious claim racking up extortionate costs in the process. There was never any attempt to provide proper advice. He acted in his own best interests, totally disregarding those of his client. Rate this solicitor: Gabbitas Robins Solicitors, Marlow.”

The same page home page also states in large letters that the website:

“Will expose the shameless, corrupt, money grabbing, incompetent specimens of humanity and it will make you feel better. Guaranteed.”

- 6 Having learned of the publications a series of communications followed between the claimants and the first defendant, during which the first defendant informed the claimants that a complaint had been received about them and they had a right of reply. As Mr. Singla points out in argument, publication had already taken place, with no steps taken to verify the truth of the publication.
- 7 When the claimants wrote to the first defendant and requested the removal of the entry, the first defendant replied that he had asked the author of the posted complaint to expand on the comments and perhaps give reasons. Meanwhile the entry remained posted and indeed remains posted on the website, as I understand it, to this very moment.
- 8 Further correspondence followed in which the first defendant stated that, “both the author and I have a moral and social duty to expose wrongdoing”. On 6<sup>th</sup> March he informed the claimants that the author of the listing complained of has expanded their complaint and supplied new wording.
- 9 On 6<sup>th</sup> March new wording was indeed published on the website. It read as follows:

“Solicitors from Hell, Gabbitas Robins Solicitors, Marlow. It is of my honest opinion that this man is the most dishonourable, unscrupulous professional I have ever met. Stephen Robbins acted for the defendant and served a counterclaim against me, the claimant, for over five times what I was owed by his client. This was entirely spurious and had no possible chance of being upheld in court. Five days before the case was due to be tried, Stephen Robbins called a meeting at which he offered to accept a lower figure from me in settlement. He went on to say that if the case went to court and I won his client would not have a penny with which to pay me anyway. The very next day his client verbally offered me what I was owed in settlement of my claim, plus part of my costs. I accepted. The defendant then spoke to Stephen Robbins and came back to me to say all offers are withdrawn. We then met in court two days later incurring further costs

each, and I then accepted an out of court settlement. Stephen Robins clearly lied to me about the client's ability to pay. It seems that Robins then talked his client into withdrawing his offer. The next result was increased costs for both parties (and of course more fees for Stephen Robins). He acted in his own best interests totally disregarding those of his own client. Rate this solicitor, Gabbitas Robins Solicitors, Marlow."

There was on the same home page as before the words, "Corrupt, negligent, dishonest, crooked, fraudulent lawyers".

10 The pleaded defamatory meanings of the words published on 4<sup>th</sup> March 2011 and 6<sup>th</sup> March 2011 are as follows:

(1) In respect of the first claimant that:

(i) he had perpetrated a fraud on Simon Bonwick, the client of the claimants in respect of the litigation between the second defendant and Simon Bonwick and had acted fraudulently and dishonestly in the litigation;

(ii) he had lied to and bullied Simon Bonwick against his voluntary will into pursuing his counterclaim in the proceedings;

(iii) he had deliberately and fraudulently omitted to advise Simon Bonwick and instead acted only in his best interests at the expense of his own client;

(iv) he had acted corruptly and dishonestly in the litigation and is to be shunned and avoided by any potential future client or any existing clients."

(2) In respect of the second claimant:

(i) it is connected to, complicit with and otherwise involved with the fraudulent and dishonest instances pleaded in relation to the first claimant;

(ii) by virtue of the dishonesty, fraud and corruption of one of its founding partners in the litigation between the second defendant and Simon Bonwick, it should be shunned and avoided by any potential future client or any existing clients."

11 It is of note, albeit not critical to the resolution of this application, that the first defendant has made provision on his website for the removal of any entry on the website on payment of a one-off fee for life of £299. No doubt many firms of solicitors or individual solicitors will find that to be a simpler remedy, albeit thoroughly unpalatable. The claimants have preferred to seek relief from the court



requiring the first defendant to do what he is plainly able to do upon payment of a fee.

- 12 The first defendant's factual submissions can be summarised in a few sentences. He began by asking me to adjourn the application for a period of two weeks so that he might prepare more fully his defence. I have borne in mind that application. He contended that his website provided a service to the community. There are, he contends, a significant number of incompetent and/or dishonest lawyers, and the public have a right to know so that they may avoid the experiences suffered by those who have gone before. He asserted justification and honest comment, together with qualified privilege, asserting that both defendants have a moral and social duty to expose a wrongdoing on the part of solicitors, together with negligent advice.
- 13 He also seeks to rely upon s.1 of the Defamation Act 1996, and places significant reliance on the witness statement of Tim Smee, the second defendant, whose witness statement he concedes he drafted. He is a litigant in person, is familiar with some, at least, of the Civil Procedure Rules, and he invites me to draw no adverse inference from the fact that he drafted that statement. He was merely performing the function that a solicitor would otherwise have performed. Indeed, I draw no adverse inference from the fact that he composed or set down the statement, as opposed to Mr. Smee himself.
- 14 Tim Smee's statement contains a reassertion of everything said in the publication of 6<sup>th</sup> March 2011, together with reference to the Civil Procedure Rules. He seeks to support a plea of justification or fair comment. He reasserts that he cannot recall ever being so blatantly lied to by any other professional. He asserts that the first claimant led his client down a path and submitted a spurious counterclaim that had no chance of being upheld. He asserts that the first claimant said to him that if the case went to and his client he would not have a penny with which to pay him, and asserted that the first claimant talked Simon Bonwick into withdrawing his offer thereby increasing costs for both parties, accordingly acting in his own best interests, as opposed to his client's.
- 15 The claimants for their part rely upon the evidence both of the first claimant and of Simon Bonwick. Simon Bonwick is wholly supportive of the claimants. He asserts that the first claimant acted professionally throughout. The counterclaim was not spurious, it was settled by counsel. The first claimant never talked him into withdrawing any offer, nor ever bullied him, nor misled him about his ability to satisfy any settlement. He never lied about Mr. Bonwick's ability to pay.
- 16 On 24<sup>th</sup> February the second defendant had contacted him and asked if he would join him in making a complaint to the Legal Ombudsman. Mr. Bonwick indicated to Mr. Smee that he had no intention of doing so, as he had no complaint to make



against his solicitor, he was happy with the way that matters were dealt with and he had no criticism of his solicitors' professional standards.

- 17 Against that background I have to consider whether to grant an interim injunction in the terms sought. Jurisdiction to grant injunctive relief derives from s.37(1) of the Supreme Court Act 1981:

“The High Court may, by order (whether interlocutory or final) grant an injunction in all cases in which it appears to be just and convenient to do so.”

- 18 As Tugendhat J said in *Farrall's* case:

“It is well known that it is rare for the court to grant injunctions on interim applications in defamation actions. However, the court has jurisdiction to do so and will do so in accordance with the Human Rights Act s.12 in an appropriate case.”

- 19 I begin by considering whether these statements are unarguably defamatory. I am reminded by Mr. Singla of the tension between the fact that ordinarily a judge will not trespass on the function of the jury to resolve issues of fact. However, as the editors of **Gatley** indicate, para.27.5, a customary solution is for there to be some evidence, even if limited, to assertions by the claimant of the falsity of the allegations. The words published, when conjoined with the particulars of claim, the statements of the first claimant and Simon Bonwick, in my judgment, satisfy this pre-condition.

- 20 I next consider whether there are any grounds for concluding that the statements may be true. It need hardly be said that the first defendant published these statements without any personal knowledge of whether they were true or not, and only sought a witness statement and reasons from the second defendant on 14<sup>th</sup> March, some ten days post-publication. Further, there is a point made by Mr. Singla that in an email of 6<sup>th</sup> March from the second defendant to the first defendant, in which the second defendant wrote:

“We had all but agreed settlement when Simon suddenly announced (having spoken to you) that he was withdrawing all offers.”

That email is to be contrasted with what was published on the website, namely:

“His client offered me what I was owed in settlement of my claim plus part of my costs. I accepted. The defendant then spoke to Stephen Robins and came back to say: ‘All offers are withdrawn’.”



Further, the fact that counsel drafted the pleadings militates against the contention that the counterclaim was entirely spurious.

- 21 On the information before me, I am satisfied that there are no grounds for concluding that the statements published are true. It is to be noted that the second defendant was never a client of the claimants', and privilege not having at any time, or indeed now, been waived, the knowledge of the second defendant, and through him the first defendant, must necessarily be very limited, wholly insufficient to describe a professional man as "dishonourable, unscrupulous, consistently lying and bullying his client". Had those words been true, it is inconceivable, in my judgment, that Simon Bonwick would have spoken of the first claimant in such favourable terms. Accordingly, I conclude there is no defence of justification.
- 22 I must consider whether there is any other defence that might succeed. So far as fair comment is concerned, I am perfectly satisfied that the statements published were statements of fact and not comment. As Mr. Singla points out, it may be that the publication of 6<sup>th</sup> March 2011 was preceded by the words "It is my honest opinion", with a view to attempting to create a defence of fair comment. That does not turn a statement of fact into an opinion for the purposes of fair comment. In any event, so far as the first defendant is concerned, fair comment does not apply if the defendant has simply regurgitated the opinions of others without knowledge of the underlying facts upon which those opinions are based. It is plain that the first defendant published the material on 4<sup>th</sup> March with no knowledge whatsoever of any underlying facts. I am satisfied that there is no defence of fair comment that might succeed.
- 23 As to qualified privilege, it is the defendants' case that this is a serious journalistic endeavour in the public interest with the intention of exposing dishonesty and incompetence in the legal profession. The claimants' case is that the website is not an attempt at fair or sensible reporting, but rather as a way of holding lawyers to ransom by demanding and extorting a fee of £299 to remove the entry. I agree that the contention of qualified privilege cannot prevail in the light of such a removal fee. Nor would the absence of such a fee remedy the situation in the event of the first defendant being open to negotiating any removal fee.
- 24 Further, it is significant that the publication of 4<sup>th</sup> March was made before the claimants were even contacted. I have been referred by Mr. Singla to Lord Nicholl's non-exhaustive list of circumstances relevant in a case of qualified privilege in a media case. This clearly is a media case. Those observations are, of course, to be found in the case of *Reynolds v. Times Newspapers* [2001] 2 AC 127.
- 25 On several fronts the defendants' claim stands to be defeated. No steps were taken to verify the information prior to publication on 4<sup>th</sup> March. There was no urgency to publish. No comment was sought from the claimants. The article did not



contain the gist of the claimants' story, and the tone of the publication was gratuitously offensive and did not raise any query or call for any investigation.

26 As Eady J said in *Shahid Malik v. Newpost Limited* [2007] EWHC 3063 (QB):

“If a defendant is to be spared the burden of proving the truth of such defamatory imputations and to avail himself of a public interest defence, certain conditions must be fulfilled. As Lord Nicholls explained, this is because the public interest itself requires that some filter must be applied to allegations which are liable to damage the reputation of those who are attacked and to undermine their rights under Article 8 or the European Convention on Human Rights. The public interest in protecting the reputation of those in public life has been emphasised in Strasbourg on a number of occasions.”

27 There is also a public interest in protecting the reputation of professional men of over 30 years high standing in a local community, a consideration to which I will return shortly.

28 Finally, by way of defence, the defendants seek to rely upon s.1 of the Defamation Act 1996. Section 1 commences:

“In defamation proceedings a person has a defence if he shows that:

(a) he was not the author, editor or publisher of the statement complained of;

(b) he took reasonable care in relation to its publication; and

(c) he did not know and had no reason to believe that what he did caused or contributed to the publication of a defamatory statement.”

There are further sub-sections of no immediate relevance to this case.

29 The defendants clearly cannot show either (a), (b) or (c). Indeed, the very contrary is the case. This is a classic case of publication rather than distribution and this defence cannot conceivably avail either of these defendants.

30 I have regard to s.12(3) of the Human Rights Act 1998. I conclude that a permanent injunction is, at the very least, likely to be obtained at trial, or earlier, should the claimant decide that an action for damages is unlikely to bear fruit by reason of the impecuniosity of the defendants.

31 I, finally, have regard to the balance of convenience. The first claimant, as I have said, practises law in a small town in the Thames Valley, where a personal



reputation is hard won and much valued. Word of mouth prevails in such a community and Mr. Robins in his statement asserts that the website entries are extremely damaging and are now affecting his firm's standing and his own standing, not only within the profession but within the local community. The use of Google is now commonplace to obtain any detail. To many Google is now a telephone directory. Anyone Googling Stephen Robins or Gabbitas Robins is likely to read the material published in this case. A person reading it would be most unlikely to entrust his or her personal affairs to either defendant.

- 32 There is evidence before me that an action for damages will prove fruitless, by reason of the first defendant's impecuniosity. He has judgments against him, I am told, in excess of £130,000, and no meaningful assets to his name. He has been appointed a director in the past of numerous companies that have been dissolved. The first defendant points out, and I bear in mind, that he is seeking to appeal against all four judgments presently against him. He does not have permission to appeal, but is seeking it.
- 33 Be that as it may, the only effective and immediate remedy for Mr. Robins and his firm is for an injunction to be granted as of now. It is, in my judgment, a practical necessity, and without such a remedy the law will have failed him and his firm.
- 34 I make the order and I fix the return date two weeks hence at the request of the first defendant, who may wish to amplify his defence, as he told me it was his intention to do so.
- 35 I would add only this: the time has surely arrived for the Law Society and the Bar Council to consider some effective response to the conduct complained of in this case and in other similar cases. No doubt the legal profession does, on occasion, fail those who seek its services. However, many conscientious and highly reputable firms and individuals have found themselves as objects of offensive abuse and defamatory publication at the behest of disappointed litigants. Indeed, the first defendant conceded readily that he was dependent upon the veracity of those who made complaints to him. Disappointed litigants frequently have little regard for the truth.
- 36 Several of the firms featuring on the website are of the highest standing and repute and will be able to ignore the website protected by their size and national reputation. The same cannot be said of Mr. Robins and Gabbitas Robins, not by reason of the lack of any reputation but by their size and the fact that their reputation is a local one. They lack the size and strength of some of the leading City firms featuring on the website. Those firms will no doubt disregard the entries on the website and may even laugh at them. Mr. Robins and his firm are unable to do so, they require an injunction and thus I make the order sought.