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Case No: HQ17M04462

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 11/12/2017

Before :

MR JUSTICE WARBY

Between :

LJY — **Claimant**

- and –

The Person(s) Unknown responsible for the demand for money contained in a letter received by the claimant's representatives on 5 December 2017 — **Defendant(s)**

Jacob Dean (instructed by **Taylor Wessing**) for the **Claimant**
The Defendant(s) did not appear and were not represented

Hearing date: 8 December 2017

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....
MR JUSTICE WARBY

Mr Justice Warby :

1. At a hearing which started at 10.30am on Friday 8 December 2017, I granted an interim injunction sought by the intended claimant ("LJY"), without notice to the intended defendant(s) ("defendants"). The order restrains the defendants from publishing allegations of serious criminal misconduct by LJY. This judgment gives my reasons.

2. This is a public judgment. The claimant is, however, anonymised. That is because the evidence is that he has been targeted for an attempt at blackmail. That is also a principal reason why I granted the injunction. The protection of blackmail victims in both these ways is an important legal policy, which I found prevailed over any competing considerations at this stage of this case.

3. The hearing was in public, subject only to a temporary reporting restriction under s 4(2) of the Contempt of Court Act 1981, which expired at 4pm on the day of the hearing. Although the defendants were not present at the hearing, at which they were accused of blackmail, they have chosen the cloak of anonymity, so there was no unfairness to them in a public hearing, which is the norm.

4. The reporting restriction was designed to protect the rights asserted by the claimant, by ensuring that the defendants could not know of the application until they were served with the injunction in accordance with the terms of my order. The defendants had threatened to publish the information at issue, if the claimant went to the authorities.

5. That is why I accepted that the claimant was justified in applying to the Court without notice to the defendants, despite the provisions of s 12(2) of the Human Rights Act 1998. As my Order records, I was satisfied that the giving of notice would carry a real risk of thwarting the purpose of the application before the Court had the chance to consider it.

The evidence

6. LJY is well-known to the public as a result of his work in the entertainment business. The evidence before the Court comes from LJY, in a witness statement he has approved and undertaken to sign, and a witness statement from his solicitor, Mr Yates of Taylor Wessing. The essence of the evidence is as follows.

7. On Tuesday 5 December 2017 LJY's representative received by post a letter addressed to LJY ("the Letter"). The Letter was marked "Strictly Private and Confidential". A copy is exhibited by LJY.

8. The Letter starts with a "Warning" that only LJY should read it, and that failure to ensure that he does receive it and read it "may damage his career and reputation". It is addressed to LJY by name. It then goes on for eight paragraphs, none of which refer to LJY by name. It concludes with a sentence which addresses LJY by name, and says he has "96 hours in total (or 48 hours if you want us to offer you a reduced settlement)."

9. The Letter does not identify the writer, or give any clue as to their identity. It purports to be from a "highly discreet organization". It claims that one of the organisation's "clients" has alleged that LJY has committed a "very serious" criminal offence against her. The writer of the Letter says that the story of the "client" is highly convincing to the organization, and "would be similarly convincing to the authorities or the press".

10. This necessarily implies that the "organization" knows the details of the alleged offence, and has assessed them. But the Letter does not specify the alleged offence, other than by its general nature and its alleged gravity and the fact that it took place "some years ago". It does not give any details of the offence, or state when, or where, or in what circumstances it is alleged to have taken place.

11. The Letter refers to the "client" as "she", and implies that she is an adult who is making decisions about potential disclosures. But it contains no further description of the alleged victim, nor any other identifying details. It does not name her, or identify her by age, occupation, appearance, geographical location or in any other way. The Letter states that the 'client' wishes, "on advice", to remain anonymous but it goes on to say, "we are very aware that the incident mentioned herein will very likely suggest who the client is." This is hard to understand, as there are no details given of any "incident."

12. The Letter suggests that the alleged offence has caused the "client" to lose out on financial opportunities, and seeks "financial recompense" of £50,000, continuing:

> "Therefore, should you not choose to settle this matter financially the details of the case will be released via a number of news agencies and online resources."

13. It goes on:

> "In the current political and social environment we feel sure you will understand that this will have lasting damage to your career, your reputation and your personal life. This would in turn almost certainly hurt you more than the modest financial settlement we are seeking. "

14. A four day deadline is given for LJY to comply with the demand. A discount is offered for early settlement: "Our client has also authorized us to negotiate a reduced settlement if, and only if, you respond within 48 hours."

15. In order to make contact, "an unregistered and untraceable phone number has been established for communication". LJY is to text a certain word to the specified number and "will then be advised of the next steps". LJY is warned that to bring the Letter to the attention of "lawyers, police, agents, employers" would be a "mistake" which would lead to "the files being released".

16. At his request, LJY's representatives contacted the police on the day the Letter was received. They also contacted his solicitors, Taylor Wessing. One police force interviewed LJY near his current place of work, on the morning of Thursday 7

December 2017. The officers who questioned LJY told him the Letter was "a clear blackmail attempt". They judged it a scam "because of its generic content". That was the officers' assessment of the content of the Letter.

17. Another police force is presently investigating the matter on suspicion of blackmail. Mr Yates has spoken one of the investigating officers, who told him that identically worded letters have been sent to other individuals in that area, although this is the first time the police are aware of a well-known person being targeted as a victim.

18. I was told at the hearing that the police are aware of 6 letters in this form, 5 of which have been sent to people in London. I was given some details in the evidence of the lines of enquiry being pursued. I shall not mention them in this judgment, for fear of prejudicing the investigation. At the time of the hearing before me, however, the position was that the identity of the defendants was unknown to LJY and his legal team, and unknown to the police.

The claim for an injunction

19. LJY says he wants to try and stop the defendants from carrying out their threats as "there is no justification for them". He also wants to remove the defendants' "leverage to blackmail" him. LJY's evidence is that he has "never been responsible for" any such offence as that alleged. He points to the threat in the Letter to disclose via "a number of news agencies and online resources" and maintains that this would "destroy my reputation and entire career". He describes himself as "angry and distressed that someone could do this to me". He goes on to say that if the defendants were to carry out their threats "the anxiety, alarm and distress that I would suffer would be multiplied many times over."

20. The claim is for an interim non-disclosure order ("INDO") against persons unknown. Its wording largely follows that of the Model Order attached to the Master of the Rolls' *Practice Guidance* [2012] 1 WLR 100. The central provision is in these terms:

"... the Defendant must not:

> "(a) use, publish or communicate or disclose to any other person (other than (i) by way of disclosure to legal advisers instructed in relation to these proceedings (the Defendant's legal advisers) for the purpose of obtaining legal advice in relation to these proceedings or (ii) for the purpose of carrying this Order into effect or (iii) to an officer of a United Kingdom police force) all or any part of the information referred to in Confidential Schedule 2 to this Order (the Information);
>
> (b) publish any information which is liable to or might identify the Claimant as a party to the proceedings and/or as the subject of the Information or which otherwise contains material (including but not limited to the profession or age or nationality of the Claimant) which is liable to, or might lead to, the Claimant's identification in any such respect, ..."

21. The Confidential Schedule describes the nature of the information as "an allegation that the Claimant has committed [the serious criminal offence] or any substantially similar allegation."

22. It is perhaps worth emphasising that this is not a "super-injunction". It is not one which prohibits disclosure of the existence of the proceedings. On the contrary, it is an injunction made in a form which allows the public to know a great deal about what the case is about, what has been decided, and why; but without linking that information to an identified individual claimant. I also draw attention to the fact that the injunction carves out an express right to communicate the information to a police officer. There is, in addition, a public domain proviso in standard form.

23. Mr Jacob Dean, who has presented the case for LJY with conspicuous skill, expertise, and fairness, submits that the Letter is an obvious and blatant blackmail threat, and that what the police know about this and other cases may be only the tip of an iceberg. He argues that the injunction he seeks is justified on each of three separate bases. He relies on the statutory tort of harassment, misuse of private information, and the law of defamation.

Reasons for granting the Order

24. The injunctions sought affect the right to freedom of expression, so s 12 of the Human Rights Act applies. I have no power to grant an injunction unless I am satisfied that the claimant "is likely to establish that publication should not be allowed". In this context, the word "likely" generally means more likely than not: *Cream Holdings Ltd v Banerjee* [2004] UKHL 44 [2005] AC 253. That is a minimum threshold. But in misuse of private information and harassment proof that success is likely is normally enough to justify the Court in exercising its discretion to grant an interim injunction.

25. In recent years, injunctions have quite often been granted to restrain blackmail of the kind that is complained of here. Up to now, the cases have generally been presented as claims to restrain the misuse of private information: see for instance *AMM v HXW* [2010] EWHC 2457 (QB) and *YXB v TNO* [2015] EWHC (QB). A claimant in that tort must establish, first of all, that he has a reasonable expectation of privacy in respect of the information at issue. If a reasonable expectation of privacy is established, the court must then consider how the balance between privacy and freedom of expression should be struck, in the particular circumstances of the case.

26. The test for a reasonable expectation of privacy is an objective one, which depends on all the circumstances: *Murray v Express Newspapers Ltd* [2008] EWCA Civ 446 [2009] Ch 481. Relevant circumstances are identified in paragraph [36] of *Murray*. The methodology by which the necessary balance should be struck was explained by Lord Steyn in *Re S (A Child)* [2005] 1 AC 593 [17]. Where the values protected by Articles 8 and 10 of the Convention are in conflict,

> "an intense focus on the comparative importance of the specific rights being claimed in the individual case is necessary … the justifications for interfering with or restricting each right must be taken into account … [and] Finally, the proportionality test must be applied to each."

27. Here, the information at issue clearly falls within the scope of the claimant's private life. Information of such a personal and intimate nature is generally afforded stronger protection. Further important factors from the *Murray* list are "the nature and purpose of the intrusion … the effect on the claimant and the purposes for which the information came into hands of the publisher".

28. Blackmail is defined by s 21(1) of the Theft Act 1968: "A person is guilty of blackmail if, with a view to gain for himself or another .... he makes any unwarranted demand with menaces". The subsection goes on to explain that "a demand with menaces is unwarranted unless the person making it does so in the belief – (a) that he has reasonable grounds for making the demand; and (b) that the use of the menaces is a proper means of reinforcing the demand."

29. Generally, the Court has taken the view that blackmail represents a misuse of free speech rights. Such conduct will considerably reduce the weight attached to free speech, and correspondingly increase the weight of the arguments in favour of restraint. The Court recognises the need to ensure that it does not encourage or help blackmailers, or deter victims of blackmail from seeking justice before the court. All these points are well-recognized: see *YXB* [17]. It can properly be said that the grant of a privacy injunction to block a blackmail serves the additional legitimate aim of preventing crime.

30. Under the modern law, the Court is highly likely to find that the mass publication of a false allegation that a person has committed a serious criminal offence in the area of their private life is a misuse of private information. The publication of true allegations of crime may be justifiable in the public interest. But here, as I shall explain, I believe I can be confident that LJY will succeed on any issue of truth. In any event, where an allegation is being used to blackmail someone, its truth would not necessarily or even ordinarily be considered an obstacle to the grant of an interim injunction based on the misuse of private information. In such a case, the most likely outcome at trial would often be a restraint on general publication, even if publication to a relevant authority or some limited audience might be justified. I find the claimant has shown that he is likely to establish a right to an injunction to restrain misuse of private information.

31. But Mr Dean suggests that this case falls most naturally within the boundaries of the tort of harassment, which is provided for by s 1 of the Protection from Harassment Act 1997 ("the PHA"):

> **"Prohibition of harassment"**
>
> (1) A person must not pursue a course of conduct—
>
> (a) which amounts to harassment of another, and
>
> (b) which he knows or ought to know amounts to harassment of the other…"

32. A single individual alleging harassment must prove a "course of conduct" involving conduct on at least two occasions in relation to that person: PHA s 7(3). It is clear that publication can be conduct for these purposes. Conduct is not harassment unless it crosses the boundary from the regrettable to the unacceptable, to such an extent that it would sustain criminal liability: *Majrowski v Guy's and St Thomas's NHS Trust* [2006] UKHL 34 [2007] 1 AC 224 [30] (Lord Nicholls).

33. There must, therefore, be conduct on at least two occasions which is, from an objective standpoint, calculated to cause alarm or distress and oppressive, and unacceptable to such a degree that it would sustain criminal liability: see *Dowson v Chief Constable of Northumbria Police* [2010] EWHC 2612 (QB) [142] (Simon J). Another definition or summary of the tort is that harassment is a persistent and deliberate course of unreasonable and oppressive conduct, targeted at another person, which is calculated to and does cause that person alarm, fear or distress: *Hayes v Willoughby* [2013] UKSC 17 [2013] 1 WLR 935 [1] (Lord Sumption SC).

34. Defendants who engage in conduct that might otherwise amount to the tort of harassment may escape liability by reliance on one of the defences provided for by s 1(3) of the PHA. This provides that s 1(1) "does not apply to a course of conduct if the person who pursued it shows— (a) that it was pursued for the purpose of preventing or detecting crime,… (c) that in the particular circumstances the pursuit of the course of conduct was reasonable."

35. I am dealing with an application to restrain threatened conduct on the grounds that, if the threat was carried out, it would amount to the tort of harassment. It is not necessary to show that the tort has already been committed.

36. Here, I consider it a great more likely than not that the court would conclude at any trial that publication would involve all the necessary elements of the tort of harassment; and that the Court would reject any attempt to rely on one of the statutory defences.

37. The threat is of multiple publication, through several different media. The clear evidence is, therefore, that there would be a course of conduct as required by the PHA. There can be no doubt that the conduct is deliberate. I consider that LJY would satisfy a trial Court that he has already suffered significant distress, and that publication would cause further, very substantial, distress.

38. The evidence before the Court is that the allegation is untrue. If that is accepted, it is easy to conclude that the defendants' threatened behaviour would be oppressive and unacceptable to a degree that would justify criminal liability. I need to be careful, as this is an application without notice. But approaching the case realistically, the overwhelming likelihood is that the claimant will establish that the allegation is false. I do not say that just because that is what he says in his witness statement. There are two further reasons.

39. The first is that there is no reason to doubt the claimant's evidence. The Letter is not on its face a document of any persuasive value. I have pointed out already that it contains no detail at all about the "very serious" crime that is alleged. The only excuse offered for the absence of any detail is that the "client" has accepted advice that she should remain anonymous. But no explanation is offered for giving that "advice". The obvious explanation is that the name and details cannot be given; the Letter has not truly been written on behalf of a genuine victim of serious criminality by this claimant; it is a generic document and the story (such as it is) has been invented by the writer(s) of the Letter as a vehicle for making an unwarranted demand with menaces, that is to say, the criminal offence of blackmail. The second reason is related to the first. It is hard to foresee the defendants coming forward to defend the claim. To do so they would have to identify themselves. I find that hard to envisage.

40. I add that if there was a trial, I would expect the Court to find for the claimant, even if it were not persuaded that the allegation was false. Truth is not a defence to a charge of blackmail. Indeed, much blackmail gains its persuasive power from the fact that the allegation is true. Nor is truth a defence to harassment. Depending on the circumstances, it may or may not be relevant to the existence of one of the statutory defences under s 1(3) of the PHA: see the discussion in *Hourani v Thomson* [2017] EWHC 432 (QB) [187]-[188]. But the defence under s 1(3)(a) of the PHA could not be argued here: there is no question of publication serving the purpose of preventing or detecting crime. On present information, it seems unlikely that a Court would be persuaded that the truth of the allegation, if established, would be enough to satisfy s 1(3)(c) and justify the defendants in carrying out their blackmail threat. The considerations already canvassed at [29] above are persuasive in the context of harassment, as they are in misuse of private information.

41. The threshold test of likely success is not always the right one to apply. In defamation, the rule has for a long while been that the Court will not grant an injunction if there appears to be any real prospect that the claim might fail (the rule in *Bonnard v Perryman,* or "the defamation rule"). In *Holley v Smyth* [1998] QB 727 (CA) the defamation rule was held to preclude the grant of an injunction to restrain an alleged libel, even though the claimant asserted not only that the allegations were false but also that the defendant's motive for the threatened publication was blackmail. Because the claimant could not satisfy the court that the allegations were plainly untrue the Court decided, by a majority, that the injunction should be discharged.

42. As a matter of legal policy, the Court applies the more demanding defamation rule if it detects "cause of action shopping". By that I mean that the rule will be applied in cases where, although another cause of action is relied on, the Court concludes that the claimant's true purpose is to prevent damage to reputation. The policy was described in this way in the breach of confidence case, *McKennitt v Ash* [2006] EWCA Civ 1714 [2008] QB 73 [79] (Buxton LJ):

> "If it could be shown that a claim in breach of confidence was brought where the nub of the case was a complaint of the falsity of the allegations, and that that was done in order to avoid the rules of the tort of defamation, then objections could be raised in terms of abuse of process."

43. The authorities do not reveal any touchstone or any very clear criteria by which the Court is to discern whether a claimant is engaging in abuse of this kind. A claimant who engages specialist Counsel and expressly relies on defamation as a basis for his injunction is not an obvious candidate. But Mr Dean fairly recognises that his client is concerned about reputation, and has said so clearly in his evidence. He acknowledges that the Court might conclude that the defamation rule applies, whichever cause of action he advances.

44. Mr Dean's answer is that if the defamation rule applies, his case meets the necessary standard. For the reasons I have already given, I agree. It follows that in my judgment the injunction I am granting is also justified on the basis that the threatened publication would be libellous. The allegation is plainly likely to cause serious harm to the claimant's reputation, and damages could not be an adequate remedy. There is

nothing in the material before me to indicate any sufficient basis for a defence of truth or public interest.

45. It has never been enough, for this purpose, for a defendant merely to assert the truth, or a belief in the truth, of the allegation which it threatens or intends to publish. Some credible basis for the assertion has to be put forward. In *ZAM v CFW* [2011] EWHC 476 (QB), the defendant had responded to an interim injunction by sending a fax to the Court: see [19]. Tugendhat J held that this was "devoid of the sort of detail which would be required before the Court could treat it as giving rise to a sufficient basis upon which a defence could credibly be advanced to the highly defamatory publications complained of, whether on the basis of justification or on any other basis.": [24]. The same is true of the Letter in the present case.

46. For these reasons, I am satisfied that the evidence justifies the injunctive relief that is sought. The most likely scenario is that this case will go undefended. If there was a trial, LJY would be likely to succeed. Indeed, on the evidence before me I am clearly satisfied that he would succeed. There is no credible reason to doubt it.

47. There is another point. It is not one taken by Mr Dean, and is not a ground of my decision at this stage, but it does seem worthy of mention. The evidence does in my judgment disclose a good arguable case of blackmail, at least. Having reviewed the three judgments in *Holley v Smyth* it seems that the defamation rule may not apply in such a case. This is not the time at which to conduct any detailed analysis, but I note the following:

(1) Staughton LJ dissented in the result. He did not agree that the only exception to the defamation rule is where the material is shown to be manifestly untrue or unfounded. He concluded that the defendant's concern was to obtain money for himself or others. He said (at 734-5):

> "It is in my opinion a case of demanding money with menaces, although whether or not it would be an offence under section 21 of the Theft Act 1968 would be for a jury to decide. .... It is conceded that there may lawfully be restrictions on defamation; these would be permitted as being for the protection of the reputation or rights of others: article 10(2). It is likewise conceded that there can be a prohibition on the making for gain of an unwarranted demand with menaces. I suppose that such a prohibition can be justified as a measure for the prevention of disorder or crime; but at all events it is not conduct which strikes one very obviously as the exercise of a human right or fundamental freedom ...
>
> If it is proper under the Convention to restrain the publication of matter which is proved to be defamatory, or the making of what are proved to be unwarranted demands with menaces, I do not see that it must always be improper to restrain pending trial conduct which may later be found to fall within one or other description ... in my judgment there remains a discretion to grant an interlocutory injunction pending trial in rare cases, of which this is one."

(2) Sir Christopher Slade agreed with Auld LJ that the injunction granted by the lower court should be discharged; but he said (at 748) that he

> "... would be inclined to accept that a plaintiff who ... established a triable case that the defendant, in threatening to publish a statement defamatory of the plaintiff, was guilty of the criminal offence of blackmail could successfully argue that this situation constituted an exception to the rule in *Bonnard v Perryman*, even though the defendant proclaimed his intention to justify the statement".

(3) Sir Christopher Slade did not consider that this argument was open to the claimant, Mr Holley, given the evidential and procedural background. It appears that if he had taken a different view on that point, the Court might well have found by a majority that on this ground the injunction was rightly granted.

Service and the form of order

48. There can be difficulties serving proceedings, applications, or orders on those who choose to hide their identities behind the cloak of anonymity, or whose identities are unknown for other reasons. That presents difficulties of case management. One approach favoured by some claimants, has been to allow the action to drift or lie dormant for an indefinite period of time, with an INDO in place meanwhile. A variety of procedural mechanisms has been adopted or proposed with that overall aim in view.

49. The Master of the Rolls' *Practice Guidance* makes clear that this is not an acceptable way to proceed once an INDO has been granted. Some method must be found to ensure the case is brought to a conclusion. The Guidance says this, at [41] in a section headed "Active Case Management":

> "Where an interim non-disclosure order, whether or not it contains derogations from open justice, is made, and return dates are adjourned for valid reasons on one or more occasions, or it is apparent, for whatever reason, that a trial is unlikely to take place between the parties to proceedings, the court should either dismiss the substantive action, proceed to summary judgment, enter judgment by consent, substitute or add an alternative defendant, or direct that the claim and trial proceed in the absence of a third party (*XJA v News Group Newspapers* [2010] EWHC 3174 (QB) at [13]; *Gray v UVW* [2010] EWHC 2367 (QB) at [37]; *Terry* at [134] – [136]). "

50. Where the defendants are unknown at the outset, it may nevertheless be possible to identify them at some later stage, and serve them. *Kerner v WX* [2015] EWHC 128 and 178 (QB) was a case of harassment by persons unknown. I directed that the order be posted in locations close to the home of the claimants, who sought protection from harassment. I required the claimants to give an undertaking to use reasonable endeavours to trace and serve the defendants, about whom some information was available. If within 3 months they had been unable to achieve that, they were required

to apply for directions as to the progress of the claim. In the event, information obtained from the DVLA meant that the defendants could be traced.

51. It may sometimes be possible to make an order for service by an alternative method, such as by email to anonymous or "front" addresses which there are reasonable grounds to believe will serve as a conduit for bringing matters to the defendants' attention: see *Brett Wilson v Persons Unknown* [2015] EWHC 2628 (QB) [2017] 4 WLR 69 [11]-[12].

52. In the present case, it was initially proposed that I should order the defendants to identify themselves, and to provide an address for service. Failing that, it was suggested, I should direct that the claimant should be under no obligation to progress the matter. I was content to do the former, but not the latter.

53. The central difficulty was that although there was at the time of the hearing an address that could be used for service, it was very much a temporary address. The phone number provided in the Letter was to be available for 4 days, but no longer. It was practicable to direct, as I did, that the injunction should be served by a series of texts to that number on the day the order was made. (It had to be a series, as there was a per-text character limit on the facility – or so the claimant's solicitors believed). The texts, of which there were to be four, contained enough information to enable the defendants to know the key features of the order and, if they chose, to receive all the documentation required. They were alerted to their right to apply to discharge or vary, and given contact information for the claimant's solicitors.

54. One could see that if the defendants received and complied with the order to identify themselves and provide addresses for service, all would be well and good. But once the deadline had passed or, it might be, once service had been effected, the phone number would no longer be available. In the event of non-compliance with the order for self-identification it was hard to see how any further documents could be served on the unknown defendants. For obvious reasons, there seemed to be a real possibility that the defendants would not comply. The privilege against self-incrimination was expressly drawn to their attention in the order.

55. Alongside this conundrum there arose the question of what date to select for the return date. Mr Dean urged me to fix a date well into the future, in order to avoid a needless expensive hearing at a time when the defendants would still be concealing their identity and whereabouts. In all the circumstances, I was prepared to set the date of 18 January 2018, some six weeks ahead. That was not, of course, a solution to the problem of service. The risk was that there would be a further hearing in six weeks time, at which little could be achieved other than the continuation of the order I was to make that day. What provision could then be made for a trial, or progress towards one?

56. The solution eventually devised was an order that, if the defendants did not identify themselves and provide an address for service, LJY could serve the Claim Form and Particulars of Claim by the alternative method of filing them at Court. The order provided that in the absence of a response by 27 December 2017, an application for default judgment would be heard on the return date of 18 January 2018. Notice of this was given to the defendants by means of a fifth text in these terms:

"The Court has ordered that service of the Claim Form and Particulars of Claim will be deemed to have taken place by their filing on 13 December 2017. If you do not respond there will an application for default judgment on 18 January 2018 (5/5)"