

IN THE HIGH COURT OF JUSTICE

Claim No: QB-2019-000608

QUEEN'S BENCH DIVISION

MEDIA AND COMMUNICATIONS LIST

BETWEEN:-

JAMES DARREN EMANUEL

Complainant

- and -

ASSOCIATED NEWSPAPERS LIMITED

Publisher

STATEMENT IN OPEN COURT

Solicitor for the Complainant:

1. My Lord, I appear on behalf of the Complainant, Mr Darren Emanuel, an independent consultant who has worked in the banking and financial sector for over 23 years, for a number of high profile and very reputable international financial corporations.
2. The industry in which Mr Emanuel operates is regulated by the Financial Conduct Authority (FCA). Mr Emanuel is registered with the FCA and performs roles that require him to satisfy the FCA that he is fit and proper to perform controlled functions. Mr Emanuel has always achieved this approved person accreditation when required.
3. Mr Emanuel's career as an independent consultant is reliant upon his specialist expert knowledge, combined with his good name and the reputation that he has earned over more than two decades in his industry.
4. Mr Emanuel was defamed in a series of articles published in national newspapers, including the Daily Mail and MailOnline, on 8 and 9 February 2018.
5. The Articles, which were based on agency copy, reported on Mr Emanuel's trial and conviction before Magistrates on 8 February 2018, for wearing an item of police uniform, or resembling police uniform, in circumstances "*calculated to deceive*" the public that he was a police officer contrary to section 90(2) of the Police Act 1986. The Chair of the Magistrates stated that he was satisfied that Mr Emanuel had no criminal intent, but then went on to convict him of a criminal offence. On legal advice Mr Emanuel immediately appealed the conviction and two weeks later, the conviction was overturned by the Crown Court and he was acquitted. The Crown Court recorded that Mr Emanuel had been riding lawfully.
6. The Publisher is Associated Newspapers Limited (publisher of the Daily Mail and MailOnline).

7. On 8 and 9 February 2018, Associated Newspapers Limited published two articles in the print edition of the Daily Mail and on MailOnline, entitled "*Banker rode a motorbike dressed as a police officer to beat rush hour traffic*" and "*Banker, 46, who drove a motorbike kitted out to look like a police vehicle right down to a blue light avoids jail*".
8. Both of these headlines are sensationalist and inaccurate. Mr Emanuel is not and never has been a banker. He is a financial consultant whose clients are banks. Mr Emanuel did not pose as a policeman nor did he dress as one, or kit out his motorbike to look like a police vehicle. With regard to MailOnline's headline Mr Emanuel was not charged with an offence which provided for the possibility of our client receiving a custodial sentence, let alone convicted having "*avoid[ed] jail*". The offence with which Mr Emanuel was charged was not one for which he even *could* have received a custodial sentence.
9. The Articles featured the following false statements:

That Mr Emanuel:

- (i) wore an old police jacket and rode a former police motorcycle on his daily commute to fool the public into thinking he was an officer;
- (ii) speeded up his daily commute by doing so;
- (iii) was found guilty of wearing a police uniform with intent to deceive despite pleading his innocence, and
- (iv) was spared a jail sentence,

and that Mr Emanuel's motorcycle:

- (v) had a raised blue emergency light although it was no longer working.

10. The Articles conveyed the defamatory meaning that Mr Emanuel intentionally impersonated a police officer by wearing a police uniform and using a police motorcycle with a blue light in order to deceive members of the public.
11. The MailOnline article was exacerbated by the wholly inaccurate and defamatory statement that Mr Emanuel "*avoid[ed] jail*". The clear implication from this statement is that Mr Emanuel was charged and convicted of an offence which provided for the possibility of a custodial sentence. There was no possibility of a custodial sentence for the offence in question, a fact which was belatedly acknowledged by Associated Newspapers Limited when, following a complaint from our client, the online Article was amended. In fact, Mr Emanuel was not even fined (the relevant punishment for the offence in question).
12. The Articles failed to include the statement from the Chairman of the Magistrates at the hearing that Mr Emanuel did not intend to deceive through his actions, a fact which was of crucial importance in view of the claims made in the Articles.
13. A correction was published online on or around 22 March. The published correction was not in terms agreed by Mr Emanuel, did not include an apology, and failed to include the Chairman's statement from the hearing that Mr Emanuel did not intend to deceive. The online Article remains online with headline "*City worker, 46, who commuted on an old police bike avoids fine*".

True facts

14. The true facts are as follows. On 6 May 2017, Mr Emanuel purchased an ex-police motorcycle which had been de-commissioned by South Yorkshire Police for civilian use. Mr Emanuel used this motorcycle for commuting from his home in Buckinghamshire to his place of work in Central London, a round trip of approximately 60 miles each day. The police use

shaft driven BMW motorcycles which are relatively low maintenance and reliable vehicles, and it was these qualities that attracted Mr Emanuel to the vehicle for commuting purposes.

15. The Publisher referred to the motorcycle that Mr Emanuel had been riding despite the fact that this was a perfectly legal decommissioned civilian bike and no charges at all were brought in relation to the motorcycle.
16. When riding his motorcycle Mr Emanuel habitually wore a high visibility jacket with reflective bands together with a white crash helmet, as is advised for motorcyclists by Rule 86 of the Highway Code. Mr Emanuel is very conscious of road safety and the risks of motorcycle riding: he has very sadly lost two friends and a third has been confined to a wheelchair all as a result of motorcycle accidents.
17. Mr Emanuel bought the high visibility jacket with the motorcycle. As was clear in the photographs presented to the court, only the sleeves of the jacket were visible because a tabard marked "POLITE NOTICE: THINK BIKE", which will be familiar to London road users, had been permanently stitched over the jacket. The prosecution was not able to prove that the jacket was former police uniform and to Mr Emanuel's knowledge, neither the jacket nor any of the other clothing worn by him was police issue, nor resembled police uniform.
18. On the evening of 23 June 2017 Mr Emanuel was driving his motorcycle home from work when he was stopped by a police traffic officer. The police officer told Mr Emanuel that his appearance resembled that of a police officer, but having taken Mr Emanuel's details, allowed him to ride away without any modifications to either his clothing or to his motorcycle.
19. Mr Emanuel was subsequently charged with a summary offence under section 90(2) Police Act 1996, the offence of wearing an article of police uniform in circumstances where it gives an appearance of so nearly resembling a member of the police force as to be calculated to deceive. The maximum punishment for this offence is a fine not exceeding level 3 on the standard scale (capped at £1,000). The charge was brought by the police unilaterally without reference to the Crown Prosecution Service (CPS) (a method of charge limited to less serious summary offences). No charges were brought under the Police Act 1996 for possession of police uniform, which is a strict liability offence. Mr Emanuel was not charged with any driving or road traffic offence and has no penalty points on his driving licence. Mr Emanuel was not charged with any secondary offence, which would ordinarily accompany a charge of impersonating a police officer in one form or another.
20. On 8 February 2018, Mr Emanuel attended Hendon Magistrates Court for the trial in relation to the charge. Mr Emanuel was erroneously convicted of the offence despite the Magistrates' judgment stating that they were satisfied that he had not intended to deceive or impersonate a police officer. Despite this clear statement in Court, this point failed to be reported by the Publisher when it reported on the court proceedings.
21. On legal advice, Mr Emanuel immediately appealed his conviction and two weeks later, his conviction was overturned and he was fully acquitted. The Crown Court recorded that Mr Emanuel had been riding lawfully and that no secondary charge was made in respect of any purpose for which Mr Emanuel might be impersonating a police officer (for example, a speeding offence). At the conclusion of that appeal, the prosecution stated: *"I think that this is a case where I am rather grateful that the police were not required for today. This is a case where perhaps words of advice in June might have saved the State a considerable amount of money."* Recorder Weston, presiding over the appeal, agreed.
22. The effect of these publications on Mr Emanuel was devastating. Friends, family, acquaintances and people within his professional network read that he had committed a crime of deception for which he ought to have been jailed. His previously agreed work contract renewal was revoked, and he was out of work for almost 6 months. Mr Emanuel's landlord immediately served notice for possession of his home where he had been a reliable

tenant for six years, requiring Mr Emanuel, his wife and his young children to find a new home at short notice. His three children were subjected to taunts at school from other children. Mr Emanuel has also been involved in coaching youth football on a voluntary basis for many years but the adverse newspaper publicity caused him to have to cease this activity.

23. The Article which remains online continues to be brought to the attention of Mr Emanuel by people that he knows, including business acquaintances – not only in this jurisdiction but also in countries including, but not limited to, the Netherlands, Thailand, South Africa, United States and Australia.
24. Having attempted to resolve matters himself, Mr Emanuel had to instruct legal representatives to assist him in seeking proper vindication. As a result of the Articles, the fact of Mr Emanuel's short-lived conviction was publicised far more widely than it would have been otherwise.
25. Upon Mr Emanuel's legal representatives sending Letters of Claim, the Publisher sought to defend the Articles on the basis that the matter was in the public interest, and that any inaccuracies in the reporting were not sufficiently material to deprive them of statutory privilege for reporting the trial or to seriously damage his reputation. Despite the Publisher having reported Court proceedings on a second hand basis in reliance on the report of a third party, none of them sought to validate their accounts of the matter prior to publication, nor was Mr Emanuel given any opportunity to comment prior to publication. Consequently, the publications were erroneous and unbalanced. The Publisher did not report Mr Emanuel's intention to appeal, nor did it subsequently publish an article regarding his acquittal in the Crown Court. The result, of course, is that only the first half of the story was ever told.

Settlement

26. The Publisher made an offer in the sum of £7,500, which Mr Emanuel has accepted.
27. The Publisher has refused to agree to a joint Statement in Open Court, but will publish apologies in the Daily Mail and on MailOnline contemporaneously with this Statement.

Conclusion

28. My Lord, it only remains for me to ask for leave that the record be withdrawn.



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Carter-Ruck
Solicitors for Mr James Darren Emanuel

Dated: 14 January 2021