

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
MEDIA & COMMUNICATIONS LIST

BEFORE THE HONOURABLE MR JUSTICE NICKLIN

DR ERICA SMITH

Claimant

-and-

DR CHRISTOPHER BACKHOUSE

Defendant

STATEMENT IN OPEN COURT

Adham Harker, Solicitor for the Claimant

1. My Lord, I appear for the Claimant.
2. The Claimant Dr Erica Smith is a physicist and a post-doctoral fellow at Indiana University in the United States.
3. The Defendant Dr Christopher Backhouse is a Royal Society University Research Fellow in the Department of Physics and Astronomy at University College London in the United Kingdom.
4. Both parties conduct research at Fermilab, an international collaborative research facility operated by Fermi Research Alliance LLC.

5. Between 9 November 2020 and 25 May 2021, a number of Twitter accounts were set up in Dr Smith's name. The operator of these accounts published a substantial number of tweets which purported to be from Dr Smith. In these tweets the individual purporting to be Dr Smith discussed her sex life and sexual fantasies in graphic detail (albeit inaccurately). A number of the tweets solicited sex from strangers and included Dr Smith's actual telephone number. The tweets were frequently accompanied by explicit pornographic images purporting to be of Dr Smith (although they were not in fact of Dr Smith).
6. As a result of the tweets, Dr Smith received a number of SMS or WhatsApp messages from members of the public seeking sex.
7. The operator of the Twitter accounts 'followed' several of Dr Smith's colleagues to make them aware of the accounts' existence. This was done to humiliate and besmirch her. These individuals then brought the existence of the accounts to Dr Smith's attention.
8. During the same period, Dr Smith received a number of anonymous electronic messages, including death threats and a threat to deceive the police into sending an armed response team to her address.
9. Additionally, during the same period, Dr Smith's home address, email address and phone number, were used to sign her up to various unwanted services and groups, including far-right hate groups, fetish websites and to arrange for unwanted goods and services to be supplied, including the delivery of adult diapers and babyproofing services.

10. Finally, attempts were made to access and/or close down Dr Smith's own social media accounts.
11. These egregious breaches of privacy and harassment had a profound effect on Dr Smith. She has suffered significant distress which has affected all aspects of her personal and professional life. This was particularly so during the period of time when she was unaware of who the perpetrator of the campaign was. She was unable to trust anyone and lived in fear of what might happen next.
12. The anxiety Dr Smith suffered affected her ability to concentrate and thus her performance in the workplace. It led to her withdrawing from social media and limited her participation in public-facing activities, including her work supporting female victims of sexual harassment in academia.
13. Moreover, the acts committed against Dr Smith were a gross intrusion into her private life. Graphic accounts of her sex life and sexual desires were published to the world at large, and communicated directly to friends and colleagues. The accounts falsely portrayed Dr Smith as a nymphomaniac, exhibitionist and sex worker.
14. In an attempt to identify the individual responsible for the campaign, Dr Smith instructed Andrew Stebbins, a lawyer in the USA, to seek and obtain subpoenas against Twitter and Google. Documents disclosed by these companies showed that the perpetrator had gone to great lengths to cover their tracks by using proxy servers around the world. Notwithstanding this, an IP address operated by BT plc from London was identified.

15. Dr Smith subsequently instructed Brett Wilson LLP to seek *Norwich Pharmacal* relief against BT plc. The disclosure from BT plc identified Dr Backhouse as the customer associated with the IP address. It was this disclosure, amongst other reasons, that led Dr Smith to believe Dr Backhouse must be the individual responsible for the matters set out above.
16. Dr Backhouse was known to Dr Smith as they had worked together at Fermilab and she had previously made a complaint to Fermilab about an alleged sexual assault (although no finding of fact had been made against Dr Backhouse).
17. On 19 August 2021, Brett Wilson LLP sent a Letter of Claim to Dr Backhouse on behalf of Dr Smith asserting claims for misuse of private information, libel, harassment and breach of her data protection rights.
18. On 20 September 2021, Lewis Nedas Solicitors provided a Letter of Response. This did not deny or admit responsibility, instead putting Dr Smith to proof – a stance which was both aggravating to Dr Smith and in breach of the pre-action protocol.
19. On 23 December 2021, Dr Smith issued proceedings in the High Court against Dr Backhouse for the misuse of private information, harassment and breach of the [UK] General Data Protection Regulation. The claim sought general and aggravated damages and an injunction to restrain Dr Backhouse from continuing to misuse her private information or harass her.
20. On 10 February 2022, Dr Backhouse filed and served a Defence, but it was unsatisfactory, leading to the Dr Smith seeking further information pursuant to Part 18 of the Civil Procedure Rules. Despite, promising to provide this information, it was not

forthcoming and it was necessary for Dr Smith to seek a formal order from the Court. This was unopposed and granted by Deputy Master Bagot on 21 June 2022. Regrettably, Dr Backhouse failed to properly comply with this order, or the resultant costs order, and on 17 August 2022 Master Thornett granted an unless order (again unopposed) compelling compliance, failing which Dr Backhouse's Defence stood to be struck out.

21. On 24 August 2022, Dr Backhouse accepted a Part 36 Offer that had been made by Dr Smith at the point she had issued proceedings. Under the terms of that offer, Dr Backhouse has agreed to pay Dr Smith £49,975 in damages as well as her legal costs. He has also agreed to provide various undertakings to the court that he will, inter alia, refrain from further publishing information relating to Dr Smith, impersonating her, monitoring her or her friends and family's online activities, contacting her, approaching her or otherwise harassing her.

22. To this date, Dr Backhouse has not apologised for his conduct and both interim costs orders remain unsatisfied. His defence of the claim put Dr Smith to unnecessary cost and anxiety as she had to prepare for trial. This compounded the distress and injury to feelings Dr Smith has suffered. Nevertheless, she is relieved that this ordeal has now come to an end and that she has had this opportunity to secure vindication for the infringement of her rights and the hurt and damage caused by Dr Backhouse.

23. My Lord, in the circumstances, Dr Smith is prepared to let the matter rest.

BRETT WILSON LLP
Solicitors for the Claimant

11 September 2022