



Neutral Citation Number: [2024] EWHC 543 (KB)

Case No: KB-2023-003104

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 11/03/2024

Before :

THE HON. MRS JUSTICE STEYN DBE

Between :

SIMON SCHOFIELD
- and -
(1) POLITICALITE LIMITED
(2) JORDAN JAMES KENDALL

Claimant
Defendants

Gemma McNeil-Walsh (instructed by **Brandsmiths**) for the **Claimant**
The Defendants did not appear and were not represented

Hearing dates: 23 February 2024

Approved Judgment

This judgment was handed down remotely at 12.00pm on 11 March 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

.....
THE HON. MRS JUSTICE STEYN DBE

Mrs Justice Steyn DBE :

A Introduction

1. This judgment deals with remedies in this claim for libel, malicious falsehood and misuse of private information, following the entry of judgment in default of acknowledgment of service. For the reasons given below, I have awarded the claimant damages, an injunction and made an order pursuant to s.12 of the Defamation Act 2013.
2. The claimant, Simon Schofield, is an award-winning theatrical producer, actor, and creative director, well-known for his roles in various West End productions, including *The Sound of Music*, *Joseph and the Amazing Technicolour Dreamcoat* and *Les Misérables*. In 2010, he co-founded The 2 Faces Theatre CIC (previously known as The 2 Faced Theatre Ltd) ('the Company'). The idea behind the Company was to bring London's West End to the North West of England, offering students the ability to attend workshops led by industry professionals. The Company enjoyed success for many years, however, when the claimant decided to move to London in 2020, to focus on his performing and producing career, he was unable to find anyone to take over the Company. Consequently, he closed it, and the Company was formally dissolved on 29 September 2020. In 2016, the claimant founded Sisco Entertainment Ltd ('Sisco'), a production company, specialising in the creation and execution of theatrical shows in the UK and internationally.
3. The first defendant, Politicalite Ltd, is the publisher of an influential online news publication Politicalite (www.politicalite.com) ('the Website'), which is a popular source of news and opinion for those in the entertainment and media industries in the UK. The second defendant, Jordan Kendall, is the founder and sole director of the first defendant, and Editor-in-Chief of the Website.
4. The claim arises from the defendants' publication on the Website of an article on or about 24 September 2022, written by Mr Kendall, with the headline "*EXCLUSIVE: Phillip Schofield and best pal Simon 'groomed' [X], claim Telly insiders*" ('the Article'). I have not referred to X by name, as it would not be right to embed his name in a public judgment in circumstances where he could have no recourse. X was a student of the Company and someone the claimant knew through his previous relationship with X's sister. The claimant put it gently in explaining that this historic link appears to have contributed to "*some misconceptions or mixed-up stories and speculation*" about himself, Phillip Schofield and X.
5. The claimant has known Phillip Schofield for about 20 years, since they met when the claimant joined the cast of *Dr Dolittle*, at the age of 16, playing the role of Tommy Stubbins while Phillip Schofield held the title role of *Dr Dolittle*. Although they share the same surname, they are not related. The claimant asked Phillip Schofield if he would become "*a Patron and what we called a 'Famous Friend' of the Company*", which he did. The role of the Company's famous friends was to provide help, insight and the benefit of their professional experience to the students. Phillip Schofield's role in the Company was limited to delivering one or more talks to the students when he was in Manchester.
6. The natural and ordinary meaning of the Article was that:

“The claimant is involved in grooming children, or is an accomplice to someone who grooms children, and through his position and work in the theatre and entertainment industry, builds up relationships with children or young adults for the purposes of manipulating, exploiting or abusing them.”

Those allegations are untrue and seriously defamatory of the claimant.

7. The Article alleged: (a) that the claimant is involved in grooming children and/or young people; and (b) that the claimant uses his position in the theatre and entertainment industry as a means of building relationships with children or young adults for the purposes of manipulating, exploiting or abusing them. The claimant has established that those allegations are untrue: they are malicious falsehoods.
8. The claimant has succeeded in his claim for defamation, malicious falsehood and misuse of private information. The defendants have not, at any stage, sought to defend their publication of the Article. They were notified of the remedies hearing, and that the court would be likely to proceed in their absence if they failed to attend. The defendants did not attend, and were not represented. For the reasons given in the *ex tempore* judgment I gave on 23 February 2024 (*Schofield v Politicalite Ltd* [2024] EWHC 415 (KB)), I decided to proceed in their absence.

B The history of the proceedings

9. The Article was first published on the Website on 24 September 2022. The defendants shared it on their Twitter account the same day, and then again on 14 May 2023. Around the end of May or beginning of June 2023 news broke that Phillip Schofield had allegedly been having an affair with a younger colleague, X. The Article was given a prime spot on the Website and, in a reply tweet dated 4 June 2023, the defendants shared the Article a third time.
10. The claimant first complained to the defendants about the Article in a letter from his solicitors sent on 8 June 2023. The claimant proposed an amicable resolution involving the giving of an undertaking and apology, the making of a statement in open court, and payment of £3,500 legal costs, but no payment of damages. Within about 20 minutes of receipt of the claimant’s solicitors’ letter, Mr Kendall (on behalf of both defendants) responded in three emails sent between 3.45pm and 3.49pm on 8 June 2023:

“Bring it on!
See you in court.”

“You pay us £3,500 and we’ll take it down, how does that sound?”

“Nonce enablers”

11. The defendants did not remove the Article. The claimant’s solicitors wrote again on 29 June 2023, indicating the claimant’s intention to bring proceedings if he did not receive the relief identified in the letter of 8 June. The defendants’ one line response, by email the same day, said:

“We have taken the article offline.”

12. On 29 June 2023, the Article was taken offline. On 4 July 2023, the claimant’s solicitors wrote to the defendants that removal of the publication alone was far from sufficient to rectify the damage. The letter identified the relief required to avoid this claim being brought. The defendants did not respond.
13. On 3 August 2023 the claimant’s solicitors served the claim form, particulars of claim and response pack on the defendants. Within about half an hour of receipt of those documents, in three emails sent between 4.40pm and 4.44pm on 3 August 2023, Mr Kendall (on behalf of both defendants) wrote:

“Stop emailing me spam, or we’ll re-upload the article and publish new details about your client. This will be our next steps.”

“Your not getting a penny from us, so keep sending your spam, it will be marked in our spam folder. NONCE”

“Thanks for the correspondence, the article and truthful claims are now back online. [Article link]”
14. As threatened in the first of those emails, and indicated in the last, the defendants re-published the Article on the Website on 3 August 2023. It remained on the Website for a further day or two before again being removed.
15. On 21 August 2023 the deadline for the defendants to file an acknowledgement of service or defence passed without them filing any acknowledgment or defence.
16. On 6 September 2023 the claimant applied for default judgment. On 29 November 2023 Nicklin J granted the claimant judgment in default and gave directions for this hearing (‘the Order’). The defendants were informed of their right to apply to set aside the default judgment. They have not sought to do so. The defendants were given directions for filing and service of evidence and skeleton arguments to which they have not responded. As I have said, they failed to attend the remedies hearing.

C Damages

The legal principles

17. In accordance with CPR 12.12(1), the court should assess damages on the basis of the claimant’s unchallenged particulars of claim. The claimant has succeeded in his claim based on three separate causes of action, namely, defamation, malicious falsehood and misuse of private information.
18. General compensatory damages for defamation must compensate the claimant for (i) the damage to his reputation, (ii) vindicate his good name and (iii) take account of the distress, hurt and humiliation which the defamatory publication has caused. It should be no more than is justified by the legitimate aim of protecting reputation necessary in a democratic society in pursuit of that aim, and proportionate to that need: *Barron v Vines* [21(8)]. Warby J (as he then was) addressed the legal principles applicable in assessing general compensatory damages for defamation in *Sloutsker v Romanova*

[2015] EWHC 2053 (QB) [2015] EMLR 27 at [74]-[82]. Of particular relevance to the assessment in this case are the following observations:

“74. In cases such as this, where there is no claim for punitive or exemplary damages, the purpose of a damages award is compensatory. The aim as in all tort cases is to restore the claimant so far as money can do so, to the position he would have been in had the libels not been published. That requires compensation for the injury done by the libels to the claimant’s reputation. Where the claimant is an individual it also requires compensation for the injury to his feelings.

75. In arriving at an appropriate figure for injury to reputation the court must take account of the gravity of the defamation, and the extent of its publication (*Gatley on Libel and Slander* 12th ed para 9.4 p.333). Republication by third parties, where this is a likely result of the original publication, is included in this; in the modern era the court will take into account the tendency of damaging statements to percolate via the Internet: *Cairns v Modi* [2012] EWCA Civ 1382, [2013] 1 WLR 1015 [27].

76. Damages for injury to feelings may be significant. The court must take account of what the claimant ‘thinks other people are thinking of him’: *Cassell & Co Ltd v Broome* [1972] AC 1027, 1125 (Lord Diplock). Damages for injury to feelings may be mitigated by a retraction or apology, or they may be aggravated by the way the defence of the action is conducted, subject to some qualifications mentioned below.

77. The sum awarded must also be enough to serve as an outward and visible sign of vindication. Vindication is sometimes identified as a purpose of damages separate and distinct from that of compensation. I prefer to see it as an intrinsic part of compensation for this tort, the gist of which is the effect on the claimant’s reputation and standing in the eyes of others. Damages which serve to restore the claimant’s reputation to what it was by vindicating his reputation serve a compensatory purpose. If the award fails to achieve vindication it fails properly to compensate. ... The approach is well summarised in the often-cited words of Cory J in the Supreme Court of Canada in *Hill v Church of Scientology* [1995] 2 SCR 1130 [166]:

‘Not merely can [the claimant] recover the estimated sum of his past and future losses, but, in case the libel, driven underground, emerges from its lurking place at some future date, he must be able to point to a sum awarded by a jury sufficient to convince a bystander of the baselessness of the charge.’

...

79. Having said this much, I need to bear in mind some restraints on damages awards in this area. ...

80. Secondly, it is notable that in *Hill* Cory J referred to a sum awarded by a jury. Now that jury trial is very much the exception, in this jurisdiction the award will be made by a judge in the vast majority of cases. Depending on the circumstances, a claimant may obtain some measure of vindication from the judge's reasoned judgment. This possibility should be taken account, whilst keeping in mind that the ordinary bystander is more likely to pay attention to the sum awarded than to the details of a reasoned judgment... As Eady J observed in *Cruddas v Adams* [2013] EWHC 145 (QB) [43], 'What most interested observers will want to know is, quite simply, 'how much did he get?'

81. Thirdly, it is necessary to be a little cautious about aggravated damages claims.

i) ... Compensatable damage may continue because the defendant has not withdrawn or apologised for the defamation; but the court must be careful not to treat assertions that an allegation is true as conduct that in itself increases harm to reputation, or otherwise aggravates damages. Persistence in asserting the truth can aggravate injury to feelings. However, ... it is wrong in principle to award aggravated damages on account of a good faith defence of truth. ...

82. Finally, the court's overall award must not be more than is required to achieve the legitimate aims of compensating the claimant and, if this is a separate requirement, vindicating his reputation; the court's approach is constrained by the Convention requirements of necessity and proportionality... The judge will normally arrive at a global figure by way of award: *Cairns v Modi* [2013] 1 WLR 1015 [38]. ..."

19. In a claim for malicious falsehood, it is necessary for the claimant to prove not only that the statement about him published by the defendant was untrue, but also that it was published maliciously and that the claimant has thereby been caused actual pecuniary damage or is exempted from doing so by the provisions of s.3 of the Defamation Act 1952. The latter provision states, so far as material:

“(1) In an action for slander of title, slander of goods or other malicious falsehood, it shall not be necessary to allege or prove special damage –

(a) if the words upon which the action is founded are calculated to cause pecuniary damage to the plaintiff and are published in writing or other permanent form; or

(b) if the said words are calculated to cause pecuniary damage to the plaintiff in respect of any office, profession, calling, trade or business held or carried on by him at the time of the publication.”

20. It is relevant to the assessment of damages for malicious falsehood that the gist of the claim is that the defendants’ publication has caused the claimant actual or probable pecuniary damage, and that the publication was made maliciously: see *Duncan and Neill on Defamation* (5th ed., 2020), 29.01, 29.11-29.12 and 29.17.

21. The principles applicable to the assessment of damages in misuse of private information were summarised by Warby J in *Sicri v Associated Newspapers Ltd* [2020] EWHC 3541 (QB) [2021] 4 WLR 9 at [138]-[144]. Of most direct relevance to the assessment of damages in this case are the following passages:

“138. The aim is to compensate the claimant for material and non-material damage sustained by him as a result of the tort. ...

(2) General damages for misuse of private information may be awarded to compensate for distress, hurt feelings and any loss of dignity (or indignity) caused by the wrongful disclosure. Damages may be increased by other conduct of the publisher which is related to that wrongful act and aggravates the injury to the claimant’s feelings. An award may also be made for the commission of the wrong itself, in so far as it impacts on the values protected by the right, provided that the purpose of such an award is compensatory, rather than having deterrent or vindictory in nature. Such compensation reflects the loss or diminution of a right to control private information. ...

143. Three considerations relevant to the assessment of damages were identified by Mann J in *Richard* [350], and adopted and applied by Nicklin J in *ZXCI* [147], [155]. I shall apply them likewise:

‘(c) The nature and content of the private information revealed. The more private and significant the information, the greater the effect on the subject will be (or will be likely to be). ...

(d) The scope of the publication. The wider the publication, the greater the likely invasion and the greater the effect on the individual.

(e) The presentation of the publication. Sensationalist treatment might have a greater effect, and amount to a more serious invasion, than a more measured publication.’

144. Any award of damages must be proportionate in amount; it must be no more than is necessary to achieve the aim of compensation. The court should have regard to the levels of award in claims for personal injury, ensuring some reasonable relationship between the two to maintain coherence and uphold confidence in the impartiality of the justice system ... Whether the right course is to make a single award or multiple awards depends on the facts, and is a matter for the judge’s discretion; but a single global award is likely to be appropriate for a single wrongful act: *Gulati* [68]-[69].”

Single or multiple awards where there are multiple causes of action?

22. The question whether there should be separate awards in relation to the three causes of action depends on the facts and is a matter for the court’s discretion. If separate awards of damages are awarded for each cause of action, the court must avoid double-counting: see, for example, *Cooper v Turrell* [2011] EWHC 3269 (QB), [107].
23. I agree with the claimant that a single global award should be made in this case given that all three causes of action arise from a single wrongful act, namely publication of the Article, and there is a complete overlap between the matters relied on as constituting the libel, malicious falsehood and misuse of private information. It would be artificial to try to separate out the harm caused by each separate cause of action. I note that the same approach was taken, albeit not in relation to all three of the causes of action established in this case, in *Blackledge v Person(s) Unknown* [2021] EWHC 1994 (QB), Saini J, [34] and *Glenn v Kline* [2021] EWHC 468 (QB), Richard Spearman QC, [95].
24. I have adopted the approach followed by Ms McNeil-Walsh, Counsel for the claimant, in her submissions, of assessing damages primarily by reference to the claim for libel, adjusted to account for factors that emerge from the claimant’s success in his claims for malicious falsehood and misuse of private information.

Gravity

25. I have set out the meanings complained of by the claimant at paragraph above. CPR 12.12(1) enables the court to proceed on the basis of the claimant’s unchallenged particulars of claim, including his pleading meanings: *Sloutsker*, Warby J [84]-[86]. This is not a case where the claimant’s interpretation of the words complained of is “wildly extravagant, and impossible” or the words are “clearly not defamatory in their tendency” (*Sloutsker*, [86]). On the contrary, the claimant’s meanings represent, at the least, reasonable interpretations of the offending words which are obviously defamatory of the claimant.
26. In *Monir v Wood* [2018] EWHC 3525 (QB), the meaning of the publication was that the claimant had been involved in the sexual abuse of children ([94]). Nicklin J observed:

“That is a very seriously defamatory allegation. The conduct alleged is a serious criminal offence that, following conviction, would be likely to lead to the imposition of a substantial term of imprisonment.” ([205])

“In this case, the gravity of the defamatory allegation puts it towards the top end of seriousness.” ([209])

27. Nicklin J observed that if the libel been published in a national newspaper, “*an award of £250,000 or more could easily have been justified*”. However, in circumstances where the publication, although “*life-changing*”, had been “*very limited*” ([229]), and there were causation difficulties, the appropriate award was £40,000 ([236]).
28. I agree with Ms McNeil-Walsh that the meaning of the Article, imputing that the claimant is guilty of complicity in child grooming (a *Chase* level 1 meaning), and that he has actively used his position to manipulate, exploit or abuse children and young people, is inherently very serious. It is similar to that considered by Nicklin J in *Monir v Wood*, and it is at the upper end of the scale of gravity; albeit not as grave (as Ms McNeil-Walsh acknowledged) as the allegation in *KC v MGN* (which was considered by the Court of Appeal together with *Cairns v Modi* [2012] EWCA Civ 1382, [2013] 1 WLR 1015) that the claimant was a convicted child rapist.
29. In assessing the gravity, I also bear in mind the nature and content of the *private* information was such that it amounted to a significant intrusion into the claimant’s private and family life, causing serious worry and stress not only for the claimant, but also for his wife, which itself had a detrimental impact on the claimant.

Extent of publication: primary readership

30. As regards the extent of publication, the claimant is entitled to rely on his pleaded case, supplemented with evidence, provided the evidence fills in the detail rather than going beyond the boundaries of the pleaded case (*Sloutsker* [87]). The evidence from which an inference can be drawn as to the number or extent of those who read the Article is as follows.
31. First, as the defendants have not engaged with this claim, the claimant does not know the readership of the Website. But on the Website, it states that:

“Politicalite is an established source of news, entertainment and opinion in the UK and has become increasingly influential in British politics and Western popular culture.

...

Additionally, Politicalite has become a popular source of news and opinion for those in the entertainment and media industries, as well as those in the political sphere. ...”

32. Secondly, the Article was published on the Website on 24 September 2022 where it remained published for about 9 months, until it was removed on 29 June 2023. It was later re-published on 3 August 2023, before being removed again a day or two later.

The visibility of the Article was maintained as a topic labelled “*Schofield Scandal*” and was pinned to the home page of the Website immediately next to “*Top 10*”.

33. Thirdly, at the time of pleading (19 July 2023), the Website indicated that the Article had been *shared* from the Website 4,300 times.
34. Fourthly, the defendants’ Twitter (now X) account, from which the Article was shared on at least three separate occasions, had about 18,300 followers. The first tweet sharing the Article, dated 24 September 2022, indicates that (by 19 July 2023) it had been commented on 9 times, re-tweeted 60 times and liked 96 times. The second tweet sharing the Article, published on 14 May 2023, indicates that (by 19 July 2023) it had been commented on 6 times, re-tweeted 31 times, liked 51 times, and the impression status was given as 6,251 (i.e. the tweet had been visible to 6,251 Twitter accounts). The third tweet sharing the Article, in a reply tweet dated 4 June 2023, indicates that (by 19 July 2023) it had been viewed 2,528 times, re-tweeted twice and liked 11 times.
35. I agree with the claimant that it is reasonable to infer that, first, at a minimum the 4,300 shares of the Article reflect at least that number of individual readers of the Article, and second that the number of readers who *shared* the Article is likely to be a small proportion of the number of individuals who read the Article but did not go on to share it. Taking into account the length of time the Article was visible on the Website, the nature of the Website, the evidence of the extent to which it came to the public’s attention through the defendants’ tweets, and the degree of public interest in the story regarding Phillip Schofield from late May 2023, I find that the primary readership of the Article is likely to have been in the region of about 20,000-30,000 readers.

Percolation effect

36. Beyond these primary recipients, the evidence demonstrates the inevitable operation of the “*grapevine effect*”, in which scandalous allegations “*percolate*” by way of the internet. In *Cairns v Modi*, the Court of Appeal recognised that:

“as a consequence of modern technology and communication systems any such stories will have the capacity to ‘go viral’ more widely and more quickly than ever before. Indeed it is obvious that today, with the ready availability of the world wide web and of social networking sites, the scale of this problem has been immeasurably enhanced, especially for libel claimants who are already, for whatever reason, in the public eye. In our judgment, in agreement with the judge, this percolation phenomenon is a legitimate factor to be taken into account in the assessment of damages.” (Lord Judge CJ, giving the judgment of the court, [27]; and see *Barron v Vines*, [21(3)].)

37. The claimant’s evidence shows that the allegations were published widely and quickly, the effect of which was an “*onslaught of social media abuse and*

speculation”, the toll of which I address below. The evidence of the percolation effect includes (but is not limited to):

- i) Three YouTube videos made by a user called “Penny Bunny” who had 14,500 subscribers (which have since been taken down):
 - a) A video dated 19 May 2023 which captured the headline of the Article and contained a link to the Article, which was described as the “*source*” of the video. This video was viewed 117,793 times and liked 1,900 times;
 - b) A video with the title “*Phillip Schofield: who is Simon Schofield? Let’s take a look shall we?*”, which states that it “*Premiered on 29 May 2023*”. The Article is referred to in the body of the video. It was viewed 87,981 times and liked 2,500 times.
 - c) A video with the title “*Phillip Schofield | [X] timeline of events*”. The date of this video is unclear but it is apparent it was published around the same time. Again, the Article was referred to in the body of the video. It was viewed 98,000 times and liked 1,700 times.
- ii) There are tweets which contain screenshots from the Article and make allegations to the same effect as the Article. For example:
 - a) A tweet and reply tweet from a Twitter user on 28 May 2023 stated, “*The grooming plot thickens: This is Simon Schofield. Best Pals with Phillip Schofield & Co founder of the theatre company [X] attended. Simon also ‘mentored’ [X] (pic) & guess what he as the one to introduce him to Phillip. It really does stink...*” “*...Simon knows. Simon was involved.*” The reply was viewed 154,000 times, re-posted 124 times, quoted 4 times and liked 1,577 times.
 - b) A tweet on 28 May 2023 which accused the claimant of being “*a lying, immoral, filthy, degenerate peadophile (sic)*” and of having “*abused many young boys*”. It was viewed 36,000 times, re-posted 11 times, quoted twice and liked 71 times.
 - c) Other tweets on 21 May and 28 May 2023 to similar effect were viewed 32,000 times and 22,000 times, respectively.
- iii) In another instance, the photographs in a tweet derived from the Article can be seen to have been acquired via one of the Penny Benny videos.
- iv) Other tweets simply shared the Article. For example, one posted on 13 June 2023 had 3,200 views and many others had hundreds or thousands of impressions.
- v) Another tweet dated 5 July 2023 described the claimant (and “*his brothers*” (sic)) as “*sexual criminals*”, and received 687,000 views, 6,000 likes, 266 re-tweets and 118 comments.

38. The extent of publication of the allegations made in the Article increased exponentially as a result of the percolation effect. In addition, while the Article has been removed from the Website (as have the Penny Bunny videos), as a result of the allegations made by the defendants having spread online, they remain accessible in ways that hard copy publications never did, with the effect that a person's reputation may be "*damaged forever*": *ZAM v CFW* [2013] EWHC 662 (QB), Tugendhat J, [61]-[62]. Even if deleted, webpages remain accessible via republications, screenshots and internet archives.
39. The extent of publication is also relevant in considering the seriousness of the intrusion into the claimant's private and family life. The scope of publication and the sensationalist treatment which the defendants gave it amounted to a significant intrusion.

Evidence of harm

40. The claimant's pleaded case on harm, which provides the primary basis for the assessment of damages, is in the following terms:

"12. Given the extent of publication of the Article, and the inherently serious nature of the allegations, for the purposes of section 1 of the Defamation Act 2013 the Claimant will invite the inference that serious harm has been caused to his reputation by the publication of the Article. In further support of his contention for serious harm the Claimant relies on the following facts and matters:

12.1 The allegations were inherently serious and struck at the Claimant's reputation generally as well as his professional reputation and standing within the theatre and entertainment industry.

12.2 The allegations would have been seen and read by people within the same industry as the Claimant and/or people with an interest in theatre, on whose estimation the Claimant depends in order to gain respect and trust, to gain support for his theatrical and creative productions, and to build relationships within the theatre and entertainment industry.

12.3 As a result of the publication of the Article and the defamatory allegations therein, a number of prominent businesses and brands have ceased to do business within the Claimant including, but not limited to:

12.3.1 Live Nation, which is an entertainment company with whom the Claimant has worked for 2 years. As a result of the Article, Live Nation pulled funding in the region of £55,000 from one of the Claimant's theatrical productions.

12.3.2 Celebrity Cruises, with whom the Claimant had a production booked, worth in the region of \$4,000, and which was cancelled as a result of the Article.”

41. In respect of the malicious falsehood claim, the claimant’s pleaded case is that the “*publication of the Article, as it relates to the Claimant, was calculated to cause pecuniary damage*”:
- i) “*to the Claimant by damaging his reputation such that the publishees would withdraw their business and/or custom from theatrical and creative productions involving the Claimant*”; and
 - ii) “*to the Claimant in respect of his office, profession, calling, trade or business in the theatre and entertainment industry, carried on by the Claimant at the time of the publication of the Article.*”
42. Moreover, he has pleaded:
- “This was more likely than not to occur because publishees involved or interested in the theatre and entertainment industry would not want to engage in the Claimant’s theatre business and/or be involved in or attend his theatrical and creative productions and/or engage his creative services and/or work generally with him, in circumstances where he was alleged to be involved in the grooming of children and young people.”
43. The claimant has supplemented his pleading with a witness statement that he has given. The claimant has given compelling evidence that he finds it “*extremely distressing*” that he has been falsely accused of being a “*groomer*”. He describes the strength of his fear that his reputation has suffered damage which may be irreparable, and that this is something he is “*struggling to come to terms with*”.
44. He has explained that initially the impact of the Article seemed manageable but then in around June 2023 “*the narrative exploded over social media and despite the Article’s inaccuracies, it gained widespread circulation creating a distorted perception which I feared looked real to the public*”. He has described the severe degree of distress this caused him, to an extent that he sought professional help from a therapist but even in that setting felt unable to talk about what was happening as he found it too distressing. At his lowest, he stopped going out, feeling scared to even leave the house. He stopped doing usual activities such as going to the gym several times a week as he feared he would suffer abuse.
45. A further source of deep distress was the impact the Article, and the consequent furore on social media, had on his family and friends, and in particular on the claimant’s wife and on their relationship. She received several anonymous telephone calls at work accusing her of being “*the wife of a child groomer*” and feared she would be fired due to her relationship with the claimant.
46. The claimant says the publication of the Article has had a profoundly damaging impact on his friendship with Phillip Schofield, who has been a close friend of the claimant’s for over 20 years, because they both feel as a result of the grooming

allegations levied against them that they cannot be seen together in public for fear of further such false allegations being levied against them. As a result, they are no longer as close as they once were.

47. The claimant's fears regarding how he is perceived are manifest. He states:

“Even now, although the abuse has died down, I worry that people see me as a ‘groomer’. Truthfully, the damage has been done and I do not believe my reputation can ever be fully restored.”

48. The claimant has given evidence as to the effect on his business relationships. He has described “*The Barricade Boys*” as one of the proudest achievements of his production company, Sisco. The show has “*achieved remarkable success, boasting two sold out residencies at the prestigious, The Other Place, Lord Andrew Lloyd Webber’s theatre in London*”, “*three sold out shows at the renowned London Charing Cross Theatre and a highly successful month-long tour in New Zealand*”, as well as being performed in the United States. Cuffe and Taylor, a theatre production company, dropped their backing of “*The Barricade Boys*”, and it is apparent from contemporaneous emails and the claimant's evidence regarding Zoom calls he was on, that the loss of backing was as a result of wishing to disassociate from the claimant in view of the online pressure as a consequence of the Article. The claimant has estimated his losses as a result of the loss of financial backing from Live Nation for *The Barricade Boys* as approximately £55,000.

49. The claimant has described being put forward for other parts by his agent and eyebrows being raised at the mention of his name, and ultimately his name being

“dismissed as there was concern that the show would be impacted by my involvement following the allegations levied against me. It was a blow to be so easily dismissed from being considered for the role based on baseless allegations. It made me question if my reputation will ever fully recover. I do not believe I would still be working in theatre if I was dependent on winning roles from third parties.”

50. He has also provided detailed evidence of the loss of a contract with Celebrity Cruises worth \$4,000, which I accept was a consequence of the UK Office of Carnival Plc, who run Celebrity Cruises, hearing about the allegations made against the claimant online.

51. The claimant's apprehension that the false story may have a resurgence has a continuing impact. It is clear it is a very real fear.

Aggravating factors

52. The damage and distress caused to the claimant has been seriously exacerbated by the aggravating conduct of the defendants.

53. In *Barron v Vines*, Warby J observed at [21(4)] and [22] that damages may be aggravated if the defendant acts maliciously. The harm for which compensation

would be due in that event is injury to feelings. The issue is not the actual state of mind of the defendants. It is whether the claimant has suffered additional injury to feelings as a result of the defendants' outward behaviour. It is enough if the defendants have behaved in a way which leads the claimant reasonably to believe they have acted maliciously.

54. In this case, the claimant relies, first, on the fact that he has established malicious falsehood. Secondly, the defendants failed to contact the claimant prior to publication of the Article. He was given no opportunity to comment, refute the allegation, or respond to any of the matters the defendants then published. Thirdly, the claimant relies on the defendants' email responses to the pre-action correspondence and service of the claim, to which I have already referred, as showing that the defendants repeated their allegations in abusive terms (e.g. calling the claimant's solicitors "*nonce enablers*"), from which it may be inferred they were calling the claimant a "*nonce*"), asked for money to take the Article down, and failed to take his complaint seriously, belittling the serious damage they have caused, which has caused the claimant significant further distress. Fourthly, the defendants threatened to put the Article back on their Website, and they did so in response to the service of the claim on them. They have maintained their allegations – but never put forward a good faith, or indeed any, defence of truth – which exacerbates the claimant's fear that he may in future be subject to a resurgence of the allegations.

Assessment

55. The claimant is entitled to a sum that will vindicate him in the eyes of interested third parties who are unlikely to read this judgment. Adopting the approach I have indicated above, and taking account of all the factual matters I have identified, including the defendants' aggravating conduct, I have reached the conclusion that the appropriate global award of damages to compensate for the injury to reputation, and to feelings, and to ensure adequate vindication in respect of these serious allegations is £90,000.

D. Injunction

56. An injunction is a discretionary remedy. An injunction to restrain publication is one which represents an interference with freedom of expression and must therefore be no more than is necessary or proportionate in pursuit of the legitimate aim pursued.
57. In this case that aim is the protection and vindication of the claimant's reputation. The claim for misuse of private information, and the gravity of the allegations, means that article 8 of the European Convention on Human Rights is engaged. As Warby J observed in *Sloutsker* at [94], in many publication cases there are strong countervailing considerations, usually including freedom of expression, giving rise to a difficult balancing exercise when determining whether to grant an injunction. But the position is simpler where a default judgment has been entered. I proceed on the basis that there is no defence and hence no justification for interfering with the claimant's right to a good reputation.
58. The defendants have re-published the Article once in response to service of the claim, and they have threatened to publish the same or similar allegations. It is, therefore,

apparent that there is a real prospect that the defendant will re-publish the allegations complained of. In the circumstances, it is a clear case for the grant of an injunction.

E. Publication of a summary of the judgment

59. S.12 of the Defamation Act 2013 provides:

“(1) Where a court gives judgment for the claimant in an action for defamation the court may order the defendant to publish a summary of the judgment.

(2) The wording of any summary and the time, manner, form and place of its publication are to be for the parties to agree.

(3) If the parties cannot agree on the wording, the wording is to be settled by the court.

(4) If the parties cannot agree on the time, manner, form or place of publication, the court may give such directions as to those matters as it considers reasonable and practicable in the circumstances.

(5) This section does not apply where the court gives judgment for the claimant under section 8(3) of the Defamation Act 1996 (summary disposal of claims).”

60. In *Monir v Wood* [2018] EWHC 3525, Nicklin J said at [239]-[240]:

“The purpose of this section is to provide a remedy that will assist the claimant in repairing the damage to his reputation and obtaining vindication. Orders under the section are not to be made as any sort of punishment of the defendant.

Orders under s.12 are discretionary both as to whether to order the publication of a summary and (if the parties do not agree) in what terms and where. Exercising the power to require a defendant to publish a summary of the Court’s judgment is an interference with the defendant’s Article 10 right. As such, the interference must be justified. The interference may be capable of being justified in pursuit of the legitimate aim of ‘the protection of the reputation or rights of others’. Whether an order under this section can achieve this aim will be a matter of fact in each case. If the interference represented by a s.12 order is justified, then the Court would then consider whether (if the parties agree) the terms of the summary to be published is proportionate. The Court should only make an order that the defendant publish a summary of the Court’s judgment if there is a realistic prospect that one or other of these objectives will be realised and that the publication of a summary is necessary and proportionate to these objectives.”

61. In *Monir v Wood* Nicklin J refused to make an order because there was no realistic prospect of such an order causing the summary to come to the attention of those to whom the original libel was published.
62. Ms McNeil-Walsh submits that if a summary were to be published on the Website and the defendants' X (formerly Twitter) page, it would be likely to come to the attention of those who read the Article, and so would be justified as a measure designed to protect the claimant's reputation, in circumstances where he has succeeded in his claim. I agree. A short statement along the following lines would be no more than a factual account of the Court's decision:

“On [date] Politicalite Ltd and Jordan James Kendall were ordered by the High Court in London to pay Simon Schofield £90,000 in damages for libel, malicious falsehood and misuse of private information, plus his legal costs, on the grounds that we have made a number of false, defamatory and unlawful statements about him. The full judgment is available here [link].”

63. I therefore propose to make an order that (a) the defendants are to publish a summary of this judgment; (b) the claimant and the defendants should endeavour to agree the wording of that summary and the time, manner, form and place of its publication; and (c) if the parties cannot agree on the wording, this will be settled by the Court. For the assistance of the parties, in the absence of any agreement to the contrary, the Court is presently minded to order the publication of a summary in the form quoted above.

F. Costs

64. In accordance with the general rule that the unsuccessful party should pay the successful party's costs (CPR 44.2(a)), the claimant is entitled to an order that the defendants should pay his costs. There is plainly no reason in this case to depart from the usual rule.
65. The claimant seeks summary assessment of his costs. He has provided three form N260s, one addressing the costs of obtaining default judgment and two (reflecting a rate change) dealing with the costs since then. The total sum claimed is £39,875.50. I agree that it is appropriate to summarily assess the costs. I make some reduction first, to ensure the overall figure is reasonable and proportionate, and secondly as the rates, particularly for the Grade A solicitor, are unreasonably high. I summarily assess the costs in the sum of £35,000.

G. Conclusions

66. For the reasons I have given: (a) I award the claimant damages in the sum of £90,000 to be paid by the defendants; (b) I grant the claimant injunctive relief; (c) I will make an order pursuant to s.12 of the Defamation Act 2013; and (d) the defendants must pay the claimant's costs, summarily assessed in the sum of £35,000.
67. The Defendants have the right to apply under CPR 39.3(3) to set aside my orders. Alternatively, they may apply to stay enforcement of my award of damages, or seek

permission to appeal against it, and/or against my grant of an injunction, s.12 order and costs.