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IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 8 November 2010

Before :

THE HONOURABLE MR JUSTICE EADY

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Case No: HQ09X03310

BETWEEN :

(1) ERNST & YOUNG LLP
(2) ALAN BLOOM
(3) FRASER GREENSHIELDS
(4) PATRICK BRAZZILL
(5) MARGARET MILLS
(6) TOM BURTON

Claimants

- and -

(1) CHRIS COOMBER
(2) C2H LIMITED

Defendants

("the Libel Claim")

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Case No: HQ10X02806

BETWEEN :

(1) CHRIS COOMBER
(2) DAWN BURRUS
(3) GREYSTONE HOUSES LTD
(4) COOMBER CONTEMPORARY HOMES LTD

Claimants

- and -

(1) ERNST & YOUNG LLP
(2) GERALDINE PROUDLER
(3) OLSWANG LLP
(4) ALAN MICHAELSON

(5) MICHELE MICHAELSON
(6) GENE LEIBU
(7) RICHARD SACKER
(8) IAN LERNER
(9) [NAME REDACTED FROM CLAIM FORM]
(10) ANDREW BLOCH
(11) ROBERT BLOCH
(12) BARRY MCGRATH
(13) JOHN TANSLEY
(14) PSPF RADLETT LLP
(15) PSPF 100 LLP

Defendants

("the Conspiracy Claim")

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Adam Wolanski (instructed by **Olswang LLP**) for the **Claimants in the Libel Claim** and for the **First, Second and Third Defendants in the Conspiracy Claim**

Hearing dates: 27-28 October 2010

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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.

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THE HONOURABLE MR JUSTICE EADY

Mr Justice Eady :

1. There are now before the court two actions which have been referred to, respectively, as "the libel claim" (HQ09X03310) and "the conspiracy claim" (HQ10X02806). In the libel claim, the Claimants are Ernst & Young LLP and five individuals, all of whom are either partners or employees of Ernst & Young. The Defendants are Mr Coomber and C2H Ltd.

2. In the conspiracy claim, the Claimants are Mr Coomber and his partner Dawn Burrus, together with Greystone Houses Ltd and Coomber Contemporary Homes Ltd. In that action, there are no less than 15 Defendants, of whom only the first three are represented before me; namely, Ernst & Young LLP, Geraldine Proudler and Olswang LLP. Ms Proudler is the solicitor for Ernst & Young in both actions, being a partner of Olswang.

3. In the libel action, there is before me an application on behalf of all Claimants dated 24 February 2010. This originally sought permission to amend the particulars of claim but, for reasons I will shortly explain, that is no long pursued. The principal application is for summary disposal of the claim and for relief under the provisions of ss.8 and 9 of the Defamation Act 1996. There is also an application to strike out the rather inchoate counterclaim.

4. There is another application on behalf of the Claimants dated 26 July 2010 for a final injunction restraining the Defendants from further publication of the words complained of. This would be in the same terms as an interim order granted by Stadlen J on 22 July of this year.

5. In addition, there is formally before me an application on behalf of the Defendants in the libel action, dated 11 May 2010, seeking further particulars of the claim and an order compelling Olswang to stand down as the Claimants' solicitors. These applications are no longer effective as they have been overtaken by events. On 19 October, Mr Coomber notified Olswang that he no longer had any intention of defending the libel claim and that he would not be attending the hearing. The Claimants nonetheless proceeded with their pending applications despite his absence and developed their submissions, through Mr Wolanski, on 27 and 28 October.

6. In the conspiracy claim there is an application on behalf of the First, Second and Third Defendants, all represented by Mr Wolanski, for an order striking out the claim against them and for summary judgment. The application notice, dated 6 October, also seeks an extended civil restraint order against Mr Coomber. On 22 October, Mr Coomber wrote to all the Defendants in the conspiracy claim to inform them that it was to be withdrawn. Nevertheless, the First to Third Defendants continued with their applications in his absence.

7. The applications in the libel action are supported by three witness statements from Ms Proudler and she has provided a further statement in support of those made in the conspiracy claim.

8. It is necessary briefly to summarise the background to this litigation.

9. Mr Coomber is a director of Greystone Houses Ltd ("Greystone") which is, as I have said, the Third Claimant in the conspiracy action. Its purpose was property development. It had been offered, in March 2007, a loan of approximately £3.5m by Kaupthing Singer & Friedlander ("the Bank") with a view to financing the building of two houses in Radlett, Hertfordshire. I understand that £1.95m was advanced at that stage and that it was a term of the loan that it would be repayable on demand. Greystone charged the Radlett site to the Bank by way of security on 2 May 2007. It was a term of the charge that the power of sale arose immediately and that the Bank was entitled to appoint a receiver forthwith. The facility was increased to £4.725m in July 2008.

10. Unfortunately, however, during the financial crisis, the Bank went into administration. It seems that, at about the same time, a new instalment was approved for payment, but that Greystone was reluctant to accept a further draw-down unless an assurance was given that future instalments would also be honoured. At the beginning of November of that year the Bank indicated that it was unable to give any such assurance. On 7 January 2009 repayment of the loan was demanded in accordance with the contractual arrangements. By that stage the outstanding balance was of the order of £3.6m. The next day, Messrs Haines and Skinner of Edward Symmons LLP were appointed receivers to realise the value of the Radlett property in accordance with the charge. It was sold to the highest bidder available.

11. The Second, Fourth, Fifth and Sixth Claimants in the libel action are the joint administrators of the Bank. The Third Claimant is Head of Real Estate Finance at Ernst & Young.

12. In July 2009 Mr Coomber and Ms Burrus brought proceedings in the Chancery Division against the joint administrators of the Bank and other persons involved with the disposal of the Radlett property. On 20 January 2010, that litigation came before Lewison J, by which time the Claimants had formulated a large variety of claims and causes of action, which included allegations of conspiracy. It was said that those involved had participated in a conspiracy to deprive Mr Coomber and Ms Burrus of monies due to them from the sale of the Radlett property.

13. Lewison J delivered a comprehensive judgment, running to some 39 pages, in which he explained why he was striking out the claim as having no real prospect of success. He considered each of the pleaded permutations and ruled that none was viable. I was shown the judgment, from which it is clear that the learned Judge addressed several "versions" of the alleged conspiracy, which he described as having "developed and mutated as the case has gone on". He concluded with these words:

> "101. Of course, in a case where conspiracy is alleged the victim of the conspiracy will rarely, if ever, have direct evidence of the making of the agreement of which he complains. That will usually have to be a matter of inference. The inference will be drawn from overt acts which are capable of supporting the allegation of conspiracy. In this case, the overt acts are not, in my judgment, capable of supporting the varied and inconsistent conspiracies that are alleged. Moreover, as is so often the case with allegations of conspiracy,

> each time an innocent explanation is given for the overt acts that are relied upon, the response is to widen the network of conspirators so that the net of conspiracy grows ever wider and wider. In the present case Mr Coomber has, at one time or another, alleged that the conspirators have included not only the bank, the joint administrators, the receivers and the estate agents but also all the bidders involved in the bid process including the Richland Group, McGrath Homes, the Blochs, Mr Harris, and even two barristers who advised Mr Coomber. When contemporaneous documents have been produced which contradict Mr Coomber's claim, his response was they have been doctored.
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> 102. I am satisfied that the claims in conspiracy have no real prospect of success. They are inconsistent with each other, they do not carry any degree of conviction, they are inherently implausible; and they are contradicted by all the available evidence.
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> 103. I must also consider whether the striking out or summary dismissal of the claim is the appropriate course for me to take or whether some lesser sanction or remedy is appropriate. In the present case, Mr Coomber has now had a number of attempts to formulate his case. I am entirely unpersuaded that given another chance he could formulate a case that has a real prospect of success. In my judgment, to prolong this action would serve no useful purpose and would only increase the costs for all concerned. In my judgment, the time has come to strike out or dismiss the claim and that is what I shall do."

14. An application was made to appeal that decision which was refused, on paper, by Mummery LJ on 13 May 2010. On 9 July, having refused an adjournment of Mr Coomber's renewed application, Gross LJ addressed in his absence the material he relied upon as "new evidence". He nonetheless rejected the application and summed up the position by saying that the Radlett exercise has simply been a business venture which had gone wrong, with serious financial consequences for the applicants. That was all there was to it. He described them as having developed "increasingly irrational conspiracy allegations". He concluded his remarks in these very strong terms:

> "Examples include bias and corruption of the judiciary, bias of the court in its listing arrangements and what can best be summarised, in the applicant's terms, as a Jewish conspiracy. These allegations should not be dignified by detailed treatment. Suffice it to say they belong in the realm of fantasy and there is no evidence let alone evidence of substance supporting it."

So ended the first conspiracy claim. That is important background because some of the unmeritorious and "fantasy" allegations from that litigation have been revived, and further developed, in the context of the actions now before me.

15. I was shown the publications which gave rise to the libel proceedings, which took place in July and August 2009 on the Defendants' website Bloomgate.co.uk. They consisted of a large number of serious allegations of fraud, corruption and collusion about the Claimants I have identified. There is no need to spell them out. It was part of a campaign by Mr Coomber and Ms Burrus to ventilate their criticisms of the Claimants in relation to the sale of the Radlett property.

16. I understand that the website itself was only live between 17 July and 1 September 2009 and, indeed, that the allegations were displayed only for part of that time. Nevertheless, Mr Coomber has declared his intention to continue defaming the Claimants, as he put it, " … again, and again, and again". It emerges from the evidence that he has also replicated the allegations, originally made on the website, in other publications, some of which were to journalists. That resolve appears to have hardened following the decision of Gross LJ in July of this year. For example, in a number of emails sent shortly afterwards, he threatened that he would direct his future efforts to exposing "fraud" and "bias and corruption". He said on 15 July that it was his intention to expose the fraud "through the international media, by a variety of means". He has also made it clear that he intends to devote his time fully to exposing the alleged conspiracy and fraud. In the words of an email dated 19 August, he claims to be "100% dedicated to this case and [to] undertake no other work or activities".

17. His reaction to the decision of Gross LJ stirred the Claimants to action and on 22 July they obtained an interim injunction from Stadlen J restraining him from publishing the words complained of until trial or further order. There has been no attempt to set the order aside. As I have said, one of the applications before me is to render the injunction permanent.

18. I turn next to the current conspiracy action pending in the Queen's Bench Division (HQ10X02806). This fresh conspiracy claim, launched on 23 July, that is to say the day after Stadlen J's order, embraced no less than 15 defendants. As I have recorded, however, only the first three were represented before me by Mr Wolanski. I do not think it necessary to rehearse all the Defendants in the case or to set out what are alleged to have been their roles in the supposed conspiracy. It is perhaps worth noting, on the other hand, that none of the defendants in the new conspiracy claim was a defendant to the original Chancery action, although Mr Coomber had intended to join some of them by way of amendment.

19. One of the Applicants' primary complaints is that the conspiracy claim overlaps with the various forms of conspiracy alleged in the earlier Chancery proceedings, although in accordance with Mr Coomber's methodology, as described by Lewison J on 26 January, the ground has been shifting and the nature of the conspiracy expanded – albeit still on the basis of speculation and fantasy.

20. Master Eyre noted the commencement of the proceedings and, on 23 July, made an order imposing requirements on the Claimants and directing that a draft amended claim form be filed by 31 August. He recorded in the order that there appeared to be a serious risk of oppression, if proper particulars were not served, and the causes of

action properly identified. He thought that it might emerge, if and when the claims were properly identified, that some at least were time barred. He decided, as a matter of proper case management, that the claim should be stayed and that the Claimants should apply for the stay to be removed once they had complied with the requirements he then imposed. The order has never been complied with: neither a claim form nor a statement of case has ever been served on the Defendants now before me. Mr Wolanski argues that this wholesale failure to comply with the Master's order would be enough in itself to justify the conspiracy claim now being struck out.

21. Before I turn to the substance of the Claimants' application in the libel claim, I should set it in context by referring briefly to the history of the proceedings. The allegations on the website were, as I have said, on the face of them very serious. I was taken through them by Mr Wolanski but there is no need to repeat them in this judgment. I should make clear, however, that the website publications included copies of the claim form in the Chancery action which identified all the Claimants. On 20 July 2009 it was claimed on the website that there had been more than 1,000 visitors to the site. It seems that Mr Coomber was at the time attempting to achieve maximum publicity. The website itself displayed a photograph in which he appeared to be standing outside the premises of News International and there was a caption to the effect that he was "informing the press". This was one of a number of claims that he was in touch with journalists.

22. On 23 July 2009 the *Evening Standard* published an article which appeared to consist of an interview with Mr Coomber, although in a witness statement of 8 May 2010 he claims that he refused to contribute directly to the article. He suggests that the contents must have come from the website, but this is not accepted by the Claimants who argue that the *Evening Standard* piece contained information that was not to be found on the website. This dispute is not significant, however, for disposing of the present applications.

23. The Claimants began proceedings in respect of the website publications on 21 July 2009, the particulars of claim being served the following day. Meanwhile, their solicitor had written on 20 July to the corporate website host, Mr Site Ltd, calling for its removal. A response was received on 22 July 2009 claiming that it was the company's general practice to allow 24 hours to its customers to address third party complaints. At some point prior to 17.45 on 22 July, the Claimants' names were removed from the main part of the website, although the claim form from the Chancery proceedings was still available, so as to enable any reader to identify them. On 23 July, Mr Coomber claimed on the website that he had removed the claim form at the insistence of the website host. Yet, between 23 and 24 July, the *Evening Standard* article was reproduced on the website, identifying Ernst & Young together with the Second Claimant. It was apparently taken down on 24 July.

24. Apart from the home page, the website was finally blocked by the host on about 1 September 2009. In the meantime, however, one further document had been displayed which named the Second, Fourth, Fifth and Sixth Claimants. This was removed after the Claimants' solicitors contacted the host on 28 August 2009.

25. It was the Claimants' intention to supplement their original complaint by serving draft amended particulars of claim. This was done on 25 February 2010, expanding the case on publication and reference and recording further allegations about Mr

Coomber's conduct after the commencement of proceedings, including his threats to continue publishing defamatory material about the Claimants.

26. One of the applications before me was to seek permission to serve the amended particulars of claim, but I raised in argument the point that it would be normal practice, if permission were granted, for the amended pleading to be served and the Defendants given an opportunity to plead to it. It would be an unusual step to grant permission and, immediately thereafter, to give summary judgment on the basis of the new case. Accordingly, Mr Wolanski indicated that his clients were content to proceed on the claim as it had originally been formulated.

27. It is possible to identify the extent of the dispute between the parties from the defence served on 5 October 2009. Some matters are uncontroversial, such as the Defendants' responsibility for publication and the fact that the words complained of bore meanings defamatory of the Claimants. On the other hand, there was what purported to be a plea of justification, although it was defective in that it was unsupported by particulars. It seems that the intention was to incorporate by reference allegations from the Chancery proceedings (which were subsequently struck out by Lewison J on 26 January of this year).

28. It appears that the Defendants in the libel action intended to launch a counterclaim at some point. They only got as far as serving a document on 11 May 2010, which was described as a "draft amended defence and counterclaim", albeit labelled "for information only at this time". It seems that the proposed counterclaim was going to be based on assertions of conspiracy overlapping with those in the Chancery proceedings.

29. The Claimants' application for summary judgment, as eventually argued before me in October, was due to have been heard in July, but it was adjourned by Griffith Williams J on 26 July following an application by Mr Coomber. Strict terms were imposed, however, and in particular the "new evidence" on which Mr Coomber had relied to obtain the adjournment was to be served by 6 August. It was also stipulated that any application to amend the defence or to add a counterclaim was to be issued by 20 August.

30. In the event, no draft amended defence or counterclaim was served: nor was any application launched for permission to amend. What Mr Coomber did on 6 August, however, was to deliver a USB stick to the Claimants' solicitors. When the contents were printed out, they apparently amounted to over 450 documents which were stored in ten lever arch files. It was difficult to make out the purpose they were intended to serve, but Ms Proudler carried out a detailed analysis which she has described in evidence. It seems that there was a degree of duplication in the documents and overlap with those that had already been placed before the court in the Chancery proceedings and considered by Lewison J. When pressed, Mr Coomber refused in an email of 14 August to shed any light by identifying the documents which were supposed to constitute the "new evidence" (i.e. material emerging after the hearing before Gross LJ on 9 July).

31. Ms Proudler established that there were of the order of 309 documents which had not previously been placed before the court. Their significance was unexplained and they consisted for the most part of Companies House records and relatively recent

printouts from the Internet. Ms Proudler's analysis, contained in her evidence, appears to demonstrate conclusively that the material contains nothing substantive which could be classified as "new evidence".

32. As I have already noted, Mr Coomber indicated by letter on 19 October, a few days before the hearing, that it was no longer his intention to defend the libel claim. Curiously however, this was accompanied by another "draft amended defence and counterclaim" which was said to be incomplete. This is hardly material, in view of the fact that the claim is no longer to be defended. On the other hand, it may be that it is Mr Coomber's intention at some stage in the future to try to revive the material for some collateral purpose. It is unnecessary to speculate on these matters, however, and I propose now to address the submissions advanced by Mr Wolanski in support of the Claimants' application for summary disposal in the libel claim.

33. He relies upon the statutory regime introduced by ss.8-10 of the Defamation Act 1996. This derived from recommendations made by Lord Hoffmann and was not supported by the Neill Report of July 1991. There is very little authority on these provisions and it appears that they are rarely used.

34. Under the terms of s.8(2), the court may dismiss the claim if it has no realistic prospect of success and there is no reason why it should be tried. It will be noted that in this respect the test is really the same as that applied to summary judgment applications under CPR Part 24. There would appear to be something of an overlap for historical reasons. Although the summary disposal provisions of the Defamation Act only came into effect at the end of February 2000, the statute had received the Royal Assent in 1996. At that stage, summary judgment was still not available in defamation cases because it had been traditionally excluded from the regime then operative under RSC Ord 14. Meanwhile, however, between their enactment and the s.8 provisions coming into effect, the broader summary judgment rules under CPR Part 24 had come into play (in April 1999). It is not, however, a case of mere duplication, since the remedies available under s.9 of the 1996 Act extend beyond those provided for in the CPR.

35. By reason of s.8(4), it is necessary for the court to have regard, in particular, to the following factors:

a) whether all the persons who are or who might be defendants in respect of the publication complained of are before the court;

b) whether summary disposal of the claim against another defendant would be inappropriate;

c) the extent to which there is a conflict of evidence;

d) the seriousness of the alleged wrong (as regards the content of the statement and the extent of publication); and

e) whether it is justifiable in the circumstances to proceed to a full trial.

Mr Wolanski argues that none of these considerations stands in the way of his clients obtaining relief in the present circumstances.

36. All relevant Defendants are before the court, in the sense that they have been joined as parties to the litigation, although (in accordance with his prior notification) Mr Coomber did not attend the hearing of the application. That was a matter of choice and it need not inhibit the court from granting relief. Furthermore, on the facts of the present case, there is no question of summary disposal being inappropriate in respect of any particular Defendant.

37. To a limited extent, there is a conflict of evidence as between the parties but only, it would appear, as to the extent to which the words have been published and the Claimants identified. Mr Wolanski has drawn my attention, in this context, to the decision of the Court of Appeal in *Downtex v Flatley* [2003] EWCA Civ 1282, at [31], where it was made clear by Potter LJ that it would not be appropriate on such an application to conduct a mini-trial where any defence was fact-sensitive and there was reason to think that further facts might emerge or require investigation at a trial. He went on, however, to point out that:

> " … where there is sufficient material before the court on the pleadings or in evidence to allow the court to form a confident view upon the prospects of success for the defence advanced and the case is not fact sensitive in the sense that the essentials have all been deployed and there is no reason to think that the defendant will be in a position to advance his case to any significant extent at trial, then the court should not shy away from careful consideration and analysis of the facts relied on in order to decide whether the line of defence advanced is indeed no more than fanciful."

38. It is accepted by Mr Coomber that the claim form from the Chancery proceedings, identifying the Fourth to Sixth Claimants, was available on the website for a period of time, although he describes it as being "very short". This contention has been addressed in Ms Proudler's evidence and she has convincingly established that, quite apart from the claim form itself, a draft of it in identical terms had been displayed on the website on or about 20 July 2009. It was replaced by the actual claim form on or about 22 July, and she has confirmed that it was available until at least 17.45 on that day. The Second, Fourth, Fifth and Sixth Claimants were also identified in a draft sale and purchase agreement which was made available on the website on or about 25 August 2009. Access to it was eventually blocked on 28 August.

39. Since Mr Coomber accepts that many people did visit the website at the material times, it seems unlikely that he would be able to resist an inference that the Fourth, Fifth and Sixth Claimants had been identified.

40. Given their professional duties and responsibilities, there can be little doubt as to the "seriousness of the alleged wrong" so far as the Second to Sixth Claimants are concerned. I would also accept Mr Wolanski's submission that there is no justification for proceeding to a full trial. For reasons I have already identified, there is no realistic prospect of a defence of justification, or indeed any other defence, succeeding at trial.

41. Of the forms of relief available under s.9 of the 1996 Act, Mr Wolanski has sought:

i) an order that the Defendants publish or cause to be published a suitable correction and apology;

ii) an award of damages not exceeding £10,000; and

iii) an order restraining the Defendants from publishing or further publishing the matter complained of (in accordance with the interim order of Stadlen J).

42. The statute provides a ceiling for the amount of damages that may be recovered under these provisions. This means that the court should make an assessment of damages, taking into account all the circumstances of the case, including any other remedies that may be granted, as well as the factors in aggravation and mitigation which would fall to be addressed in a traditional assessment of damages. It would be appropriate, for example, to take account of any element of vindication to be found in this judgment or either of those in the Chancery proceedings to which I have already referred. If, when the exercise has been carried out, the court decides that an award of damages above £10,000 would be appropriate, the statutory cap will come into play.

43. Mr Wolanski accepts that factors such as hurt feelings and distress would not fall to be considered in respect of the First Claimant, but they are plainly relevant to the five individuals. So far as each of them is concerned, the gravity of the allegations and the scale of publication would undoubtedly merit an award greater than £10,000 and, accordingly, that is the appropriate figure for each of them. As to the First Claimant, however, taking into account the circumstances I have described, it seems to me that the purpose of damages can be achieved by an award of £5,000.

44. In view of Mr Coomber's conduct hitherto, and in particular his threats to go on libelling the Claimants, it is plainly appropriate in my judgment for the injunction granted by Stadlen J to be continued on a permanent basis.

45. It is generally thought, for understandable reasons, that it is inappropriate to order a defendant to publish an apology or retraction in any particular terms. That concern is addressed in CPR PD 53 paragraph 5.3. Should the parties be unable to agree the content of a correction and apology, as may well happen in this instance, then it is contemplated that the relevant defendant(s) will publish at least a summary of the judgment given by the court. This may be academic in the present circumstances, but that is the statutory safeguard.

46. I will therefore make the orders sought in the terms I have indicated. For the reasons I have given, it does not seem that there subsists any counterclaim in this action that requires to be struck out or otherwise disposed of.

47. It now remains for me to consider the application for summary judgment in the conspiracy claim. The primary contention is that the proceedings constitute an abuse of the process, since they largely replicate the discredited claims already disposed of in the Chancery proceedings. Alternatively, it is said that the "Brief Details of Claim" relied upon disclose no arguable cause of action in any event.

48. Once again, Ms Proudler has carried out a detailed analysis and critique of the conspiracy claim. It emerges from paragraphs 44 to 52 of her witness statement dated 1 October 2010 just how closely the allegations in the conspiracy claim mirror and

overlap with those addressed by Lewison J in the Chancery action. There is no need for me to dissect the newly formulated claim paragraph by paragraph. Suffice it to say that it bears out the learned Judge's conclusion that giving Mr Coomber another chance would not enable him to formulate a case that had any greater prospect of success. It is a relevant consideration for the court to bear in mind, in the exercise of its discretion, how much further time and expense would be involved in contesting the conspiracy claim and also the additional cost to the public purse.

49. Although Mr Coomber indicated shortly before the hearing that he was not intending to pursue the conspiracy claim for the time being, there remains the strong possibility that at some stage in the future he will seek to revive it. In those circumstances, it seems to me to be plainly right that the First, Second and Third Defendants in those proceedings should have the remedy they seek and I will grant them summary judgment.

50. In addition, I am asked to make an extended civil restraint order in accordance with CPR 3.11 and Practice Direction 3C 3.1. Such an order may be made where a party has persistently issued claims or made applications which are totally without merit.

51. The nature of such an order is that the relevant party will be restrained from issuing claims or making applications in the High Court or any county court which concerns " … any matter involving or relating to or touching upon or leading to the proceedings in which the order is made without first obtaining the permission of a judge identified in the order". Where such an order is made, the restrained party may only apply for any amendment or discharge of the order provided he has first obtained the permission of a judge. It has become the practice in the Queen's Bench Division to identify in any such order the Judge in charge of the Lists, who is generally available in London.

52. It is obvious that the reason why the three Defendants now before me seek such an order is to attempt to bring their vexation to a conclusion, at least in so far as it has concerned the subject-matter of the conspiracy claim. They are especially concerned to do so in view of Mr Coomber's threats for the future and his expressed determination to take whatever steps are open to him in that regard.

53. The foundation for the application, as relied upon by Ms Proudler and Mr Wolanski, is to be found in a number of specified claims and applications that are said to be "totally without merit".

54. One might think that this description would be apt both in respect of the conspiracy action itself, in respect of which I have now granted summary judgment, and the Chancery proceedings considered both by Lewison J and Gross LJ. Lewison J made no such finding, but I have no doubt that the characterisation applies to the conspiracy claim following, as it does, his ruling of 26 January.

55. For good measure, my attention has been drawn to the application of 11 May 2010 in the libel claim directed towards obtaining specific disclosure of documents from 18 third parties. Mr Wolanski took me to this very substantial and wide ranging application, from which it is apparent that it was indeed totally without merit. It was later abandoned.

56. Another application of 11 May 2010 was made in the libel claim seeking an order of the court to compel Ms Proudler's firm, Olswang, to stand down and cease to act as solicitors for the Claimants. This too can be seen to have been totally without merit.

57. Thirdly, reliance is placed on an application in the same proceedings, dated 7 June 2010, for specific disclosure against 11 further third parties. This was abandoned in due course and again can be characterised as totally without merit.

58. Since the application for an extended civil restraint order was served, no argument has been raised by Mr Coomber to persuade the court, contrary to all appearances, that any of the claims or applications to which I have referred should not be characterised as totally without merit.

59. In the circumstances, I am persuaded that these particular matters amply lay the foundation for an extended civil restraint order against Mr Coomber. Indeed, it is to deal with circumstances of precisely this kind that this relatively recent remedy was conceived and directed.

60. Reliance has been placed by Mr Wolanski on a number of other complaints and allegations made by Mr Coomber, which he says should be taken into account in deciding whether or not to exercise the court's discretion to grant a restraint order. There was, for example, a complaint to the Office for Judicial Complaints against various judicial office-holders alleging on a fairly indiscriminate basis conflicts of interest, collusion, conspiracy to pervert the course of justice and even doctoring the transcript of a court hearing. There was also correspondence with Lewison J himself, making inappropriate criticisms of him. There have been apparently complaints, or threats of complaints, to the Metropolitan Police, the Bar Council, the Financial Services Compensation Scheme Ltd, the Local Government Association, the Charities Commission, the Serious Fraud Office and the Insolvency Service.

61. I am not persuaded that these matters should, however, be regarded as anything more than background material. The jurisdiction to grant an extended civil restraint order is limited by the language I have set out above. While I can understand that the other complaints could well give Mr Wolanski's clients cause for anxiety as to Mr Coomber's behaviour in the future, it does not seem to me that I can legitimately take them into account in the context of granting an extended civil restraint order. There is nevertheless ample justification for making the order and I will grant it in the terms of the draft placed before me.