PTA Template 269C1 - First Appeal

IN THE COURT OF APPEAL, CIVIL DIVISION

REF: **CA-2025-002099**

MOHAMAD HEGAB –v– THE SPECTATOR (1828) LIMITED AND ANOTHER

ORDER made by the Rt. Honourable Lord Justice Warby

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal and for a stay of execution

Decision: Applications refused

Reasons

1. No tenable basis has been identified for accusing the judge of bias (Ground 5). The terms of the judgment are incapable of causing a fair-minded and informed observer to suspect bias. The processes complained of were plainly legitimate, giving rise to no arguable complaint of impropriety.

2. The judge's determination of meaning is not challenged. His conclusion that the meaning he found was defamatory at common law is a finding in Mr Hegab's favour. It is not challenged and is plainly correct. But it is in no way inconsistent with the judge's finding that the meaning was substantially true, as Mr Hegab suggests (under Ground 1). That is a legally mistaken view.

3. At common law a statement is defamatory of a person if "it bears a meaning which (a) attributes to that person behaviour or views that are contrary to common shared views of society and (b) would tend to have a substantially adverse effect on the way that people would treat the person": *Blake v Fox* [2025] EWCA Civ 1321 [2]. It is irrelevant for this purpose whether the statement is true or not. That question arises only if the defendant pleads that the statement is substantially true. In that event, the court must decide whether the defence of truth has been established on the balance of probabilities.

4. In this case, the defendant did plead truth and the judge did find that truth was established. Mr Hegab has not identified any arguable flaw in the judge's approach to this issue. The judge's conclusion was properly reasoned from legitimate findings of fact based on admissible evidence to which he gave proper consideration. The judge's approach to the survey evidence was cogently reasoned and in line with authority and principle. Mr Hegab's challenge to that decision (Ground 3) is hopeless. His attempt to adduce the survey material on appeal is doomed for the same reason. Having heard Mr Hegab give evidence the judge was plainly entitled to find that his evidence was "worthless" and to make findings of dishonesty. The attempt to challenge that conclusion (Ground 4) amounts to no more than disagreement with the judge's reasoning. It identifies no legal error and has no chance of being upheld by the Court of Appeal. There is no other arguable basis for the challenge to the judge's finding of substantial truth (Ground 1).

5. The remaining issues arise under Ground 2, which is a challenge to the judge's conclusion on the issue of serious harm. Some of the sub-grounds here are further challenges to findings of fact, which would inevitably fail on an appeal. Other sub-grounds would have some prospects of being upheld. It is open to argument that the judge should have inferred serious harm, and that his approach to the parties' online followings and the response of those who followed Mr Hegab involved legal errors similar or comparable to those identified in *Blake v Fox,* in particular at [68] and [83]-[86]. But the bigger point is that it does not matter whether the judge erred in relation to serious harm. His unchallengeable findings on the defence of truth mean that the claim must fail in any event.

6. For all these reasons an appeal would have no realistic prospect of success. There is no other compelling reason for the court to hear an appeal. In the light of these conclusions the basis for the stay application falls away. There is no appeal to stifle.

Signed: BY THE COURT

Date: 23 October 2025

Notes

(1) Rule 52.6(1) provides that permission to appeal may be given only where –

a) the Court considers that the appeal would have a real prospect of success; or

b) there is some other compelling reason why the appeal should be heard.

(2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.

(3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).

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