



Neutral Citation Number: [2013] EWHC 1868 (QB)

Case No: HQ10D02588

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 04/07/2013

Before: Mr Justice Simon

Between :

David Hunt

Claimant

and

Times Newspapers Limited

Defendant

Mr Hugh Tomlinson QC and **Ms Sara Mansoori** (instructed by **Hughmans**) for the Claimant
Mr Gavin Millar QC and **Mr Anthony Hudson** (instructed by **Simons Muirhead & Burton**)
for the **Defendant**

Hearing dates: 29-30 April, 1-3, 7-10, 13, 16-17 May 2013

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.

.....
MR JUSTICE SIMON

Mr Justice Simon:

Introduction

1. On 23 May 2010 an article, written by Michael Gillard, was published in the Sunday Times under the headline: ‘Underworld Kings Cash in on Taxpayer Land Fund’. The main picture captions were (a) a photograph of ‘Terry Adams, whose family, along with David Hunt, far right, is said to be involved in land deals near the 2012 site...’; (b) a photograph of the Claimant; and (c) a small map of part of East London showing the geographical relationship of the Olympic Park and Canning Town, and an area marked ‘Gangland bosses fight for government regeneration funds.’

2. The article was in the following terms, with numbers added for convenience:

[1] Some of Britain’s most notorious crime syndicates have been seeking millions of pounds of taxpayers’ money for their stake in a strip of derelict land in east London.

[2] Their target was a share of a £20m government fund used to acquire land for regeneration projects in the district. One criminal family has received nearly £2m.

[3] Other would-be beneficiaries have been implicated in murder, drug trafficking and fraud. They include David Hunt, whose criminal network is allegedly so vast that Scotland Yard regards him as ‘too big’ to take on. His involvement in the land triggered a violent turf war and a large-scale police corruption inquiry.

[4] The chase after the money began when the two-hectare site in Canning Town, about two miles from the site of the 2012 Olympics, was placed under a compulsory purchase order by the London Development Agency (LDA), an arm of the Greater London Authority.

[5] The site, which runs alongside the Jubilee Underground line, is divided up into about 30 plots. Criminals have been linked to the ownership of 75% of them.

[6] Like the Olympic site, the area is one of those designated for regeneration by the Thames Gateway Development Corporation, which says it was ‘once identified as among the worst 10% in the UK, measured by poor health, low education and poverty’. For years much of the area has been in the grip of a handful of East End families, with Hunt at the top.

[7] Among them are the Bowers brothers, who are boxing promoters; the Matthews family, who run a scrap metal and storage business; and the Allens, who were in the car trade before moving into property.

[8] The Thames Gateway regeneration project presented opportunities for them to cash in and develop the land themselves. The Bowers brothers, Martin and Tony, wanted to tear down their Peacock pub and replace it with a hotel and casino. To raise finance they plotted a series of lorry hijackings and an audacious Gatwick heist involving £1m. The two men and a third brother were later jailed for a total of 25 years.

[9] The site remained rundown but it has now emerged that the LDA paid £1.85m to Abbeycastle Properties, a company owned by the Bowers, for their plot of land.

[10] The LDA said ‘Compulsory purchase is a statutory process governed by a compensation code, which means any recognised interests in the land are entitled to compensation.’

[11] So far it has paid out a total of £17m for plots on the site, but the identities of the other recipients have not been revealed.

[12] The ownership of one plot has been at the centre of a fight between Charles ‘Chic’ Matthews, a robber turned drug trafficker, and Billy Allen, a property developer and convicted fraudster. Both claimed ownership and initially tried to resolve the matter through the courts. But Matthews raised the stakes when he suggested Allen was a police informant and enlisted the help of Hunt.

[13] Allen had reason to be concerned. In a separate case in 1999 ‘the main witness against Hunt [who he believed was an informant] had his face slashed and withdrew his statement due to pressure on his family’, says a police intelligence report.

[14] Police sources believe Hunt would benefit from the sale of some of the land to the LDA in return for helping Matthews.

[15] Underworld sources have also told detectives that Hunt was planning to take the entire plot and sell it to the Adams family, the north London gang, who are believed to be buying up land in the area.

[16] Last year the ‘Long Fella’ - as Hunt is known in gangland circles - arrived at a court hearing in central London with a group of heavies and allegedly attacked Allen and his minders.

[17] Hunt, who has legitimate business interests in waste management and entertainment venues, was arrested for blackmail, witness intimidation and threatening to kill Allen. Officers raided his mansion near Bishops Stortford, Hertfordshire, and a golf club he owns in Epping, Essex.

[18] The case against him was later dropped because none of the alleged victims would provide a witness statement.

[19] When police raided London City Storage, Matthews's business on the disputed plot of land, officers found stolen goods worth more than £1m, which they traced to lorry hijackings and robberies across Britain.

[20] Matthews's son, Charles Jr, was charged but his trial was abandoned amid allegations that three police officers involved in the case were in a corrupt relationship with Allen. Operation Kayu, a £3m inquiry by the Metropolitan police, exonerated the officers.

[21] Hunt declined to comment.

3. On 8 July 2010 the Claimant, David Hunt, issued the present proceedings. At §4 of the Particulars of Claim it was pleaded that in their natural and ordinary meaning the words meant and were understood to mean,

(1) that the Claimant was a 'crime lord' who controlled a vast criminal network, involved in murder, drug trafficking and fraud;

(2) that when the Claimant was prosecuted in 1999 he was responsible for a violent assault on the main witness against him and the intimidation of that witness' family;

(3) that in order to obtain a financial benefit from the sale of land to the London Development Agency, the Claimant attacked and threatened to kill a property developer at a court hearing, and avoided prosecution for his attacks and threats by intimidating witnesses.

4. On 22 May 2012 the Defendant served its Re-Amended Defence pleading justification and a Reynolds defence (responsible reporting on a matter of public interest). The plea of justification admitted that the words were true if they had the meaning alleged in §4 of the Particulars of Claim, or alternatively, the words meant,

(1) that the Claimant was a violent and dangerous criminal and head of an organised crime group ('OGC') involved in murder, drug trafficking and fraud;

(2) the Claimant was, alternatively there were reasonable grounds to suspect that the Claimant was, responsible for the intimidation of the main prosecution witnesses against him when being prosecuted in 1999 for a violent assault; and

(3) the Claimant, alternatively there were reasonable grounds to suspect that the Claimant, threatened to kill Billy Allen and

attacked Billy Allen and his minders at a court hearing and then avoided prosecution for the same through intimidation of his victims,

and were true.

5. It is convenient to refer to these as the First, Second and Third Meanings.
6. A number of particulars of justification were provided in the original form of the Defence. On 2 December 2010, following a hearing before Tugendhat J, 49 subparagraphs of the plea of justification were struck out (effectively by consent).
7. A separate action was then brought by the Commissioner of Police for the Metropolis and the Serious Organised Crime Agency ('SOCA') against the Sunday Times and Mr Gillard. That was a claim to restrain the Defendants from relying on (and disclosing) documents which were said to have been handed to Mr Gillard in breach of confidence. A trial took place in July 2011 (in the absence of the Claimant) and two judgments were delivered by Tugendhat J in October 2011. The first was an open judgment (*Commissioner of Police for the Metropolis and another v. Times Newspapers Ltd and another* [2011] EWHC 2705 QB); the second was a closed judgment. The effect of Tugendhat J's Order was to confine the use that the Defendant could make of leaked documents in the present action.
8. On 8 December 2011 the Defendant served an amended Defence; and the Claimant again applied to strike out the pleading. Eady J permitted the Defendant to rely on some, but not all, of the pleaded particulars of justification and the Reynolds defence (*Hunt v. Times Newspapers Ltd (No.1)* [2012] EWHC 110 QB).
9. In the light of this ruling the Defendant sought to reformulate its Defence and, following argument in March 2012, Eady J again allowed some but not all of the proposed paragraphs, particularly the pleas which dealt with the justification and Reynolds defence (*Hunt v. Times Newspapers (No.2)* [2012] EWHC 1220 QB).
10. This was not the end of the applications to amend. On the first day of the trial, following a further application to amend, I allowed the Defendant to add new particulars to the plea of justification (*Hunt v. Times Newspapers Ltd (No.3)* [2013] EWHC 1090 QB).

The meaning

11. There is not a significant difference between the meanings which the parties ascribe to the words of which complaint is made.

12. The principles to be applied in determining the meaning have been the subject of many decisions, see for example *Gillick v. Brook Advisory Centres and another* [2001] EWCA Civ 1263; and were summarised by Sir Anthony Clarke MR in *Jeynes v News Magazines Limited* [2008] EWCA Civ 130 at [14]:

The legal principles relevant to meaning ... may be summarised in this way: (1) The governing principle is reasonableness. (2) The hypothetical reasonable reader is not naïve but he is not unduly suspicious. He can read between the lines. He can read in an implication more readily than a lawyer and may indulge in a certain amount of loose thinking but he must be treated as being a man who is not avid for scandal and someone who does not, and should not, select one bad meaning where other non-defamatory meanings are available. (3) Over-elaborate analysis is best avoided. (4) The intention of the publisher is irrelevant. (5) The article must be read as a whole, and any ‘bane and antidote’ taken together. (6) The hypothetical reader is taken to be representative of those who would read the publication in question. (7) In delimiting the range of permissible defamatory meanings, the court should rule out any meaning which, ‘can only emerge as the produce of some strained, or forced, or utterly unreasonable interpretation...’ ... (8) It follows that ‘it is not enough to say that by some person or another the words *might* be understood in a defamatory sense.’

13. If a summary of this summary were appropriate, it would be that the Court should give the words the natural and ordinary meaning it would have conveyed to the ordinary reasonable reader of the publication, reading the article once.
14. I have concluded that the First Meaning is that the Claimant was the head of a crime organisation who had been shown to be concerned with murder, drug trafficking and fraud. This meaning gives proper effect to the word ‘implicated.’ So far as the Second and Third Meaning are concerned, I have concluded that that the Defendant’s pleaded meaning is correct.
15. Where a claimant complains that the words amount to an allegation of wrong-doing, the Court examines the meaning by reference to levels of seriousness, see *Chase v. News Group Newspapers Ltd* [2003] EMLR 218 at [45] per Brooke LJ. A Chase level 1 meaning is that a serious offence had been committed; a Chase level 2 meaning is that there were reasonable grounds to suspect that a claimant had committed such an act; and a Chase level 3 meaning is that there were grounds for investigating whether the claimant was guilty, see also Lord Phillips PSC at [8] in *Flood v. Times Newspapers* [2012] 2 AC 273.
16. Where the meaning is at Chase level 1, in order to establish a defence of justification, a defendant must prove the truth of the allegation of guilt. At Chase level 2, strong

circumstantial evidence can contribute to reasonable grounds for suspicion, and a defendant may rely upon facts subsisting at the time of publication even if unaware of them at that time, although it may not rely on post-publication events, see *King v. Telegraph Group Ltd* [2004] EMLR 429, per Brooke LJ at [22].

17. It is common ground that on any view of the matter the First Meaning is a Chase level 1 meaning, and the Second and Third Meanings were Chase level 2 meanings.

An outline chronology

18. It is convenient to start with what is intended to be an uncontroversial outline chronology.

The Claimant's early life

19. The Claimant was born in April 1961 in the Canning Town area of East London, the youngest of 13 children; and was therefore aged 52 at the date of the trial. Some of his brothers, Colin, Raymond and Stephen Hunt, figure in the events which follow.
20. The Claimant was not unusual in getting into trouble with the law as a young man. However, his evidence was that, as he matured in the late 1970s to 1988, he was occupied as a successful amateur boxer, and made his living providing security at pubs, and as a part-time scaffolder and scrap-metal dealer. It is the Defendant's case that during this time the Claimant was a successful criminal who managed to avoid being charged, and (when charged) contrived to avoid prosecution and conviction.
21. In September 1984 a police intelligence report described a gang of men from Canning Town (known as 'the Snipers'), who were said to be involved in serious crime, including taking lorries and stealing the contents. By 1985 police reports were speaking of the Claimant, 'moving up the ladder.' The Claimant's evidence was that these reports were false.
22. In April 1986 he was arrested and charged with conspiracy to handle, and with possession of a sawn-off shotgun which was found at Colin Hunt's business address. He was subsequently sentenced to a term of 9 months imprisonment suspended for 2 years for the handling offence and discharged from the shotgun offence. He was aged 26 at the date of this conviction, which was his last.
23. It is the Claimant's case that by the late 1980s his name was being 'abused', in the sense that he was being falsely associated with criminality without any proper factual basis. It was one of his complaints in the trial that he had acquired a reputation for dishonesty and as a man of violence, that this reputation had been fostered by the police, and that it was false and without foundation. He accepted in evidence that people had used his name to threaten others, but explained:

I think this is where the situation has got out of hand ... because I had a good name in my area as being a good person and a

gentleman, and I believe people took that out of context, in their advantage in maybe doing drugs etc, and this is where the reputation has come from without me knowing.

1988-1993

24. In 1988 the Claimant moved out of the Canning Town area to 20 Rahn Road in Epping.
25. It was at around this time that the police ran an investigation targeting people believed to be leading criminals in the Plaistow area, named 'Operation Tiger'. A Spider diagram prepared from police intelligence in the course of this operation showed the Claimant at the centre of a web with involvement in the protection of clubs and pubs. It also indicated a close association with a man named Jimmy Holmes, and involvement with prostitution from an address at 2 Green's Court in Soho. The Claimant's evidence was that he had been introduced to Holmes in the late 1980s, at a time when he was looking at property development in the West End, and had acquired an interest in 2 Green's Court through a Jersey company, Galleons Reach Ltd ('GRL'); that he had no involvement with prostitutes in Soho or any criminal partnership with Holmes. According to his evidence, his business continued to be focussed on the East End of London, running security for social clubs and pubs, and developing his scrap-metal business. 'Operation Tiger' concluded with the arrest of a number of people, although not the Claimant.
26. In addition to 'Operation Tiger', the police were engaged in a number of other operations from the late 1980s: (1) 'Operation Haddock', an investigation into an armed robbery at St. Pancras station, which resulted in the conviction of Raymond Hunt for handling stolen cheques; and (2) 'Operation Fairway' targeting a man named Terry Sabine who figures later in this judgment.
27. In March 1992 a young journalist on the 'Sunday Mirror', Peter Wilson, decided to investigate the Claimant's involvement in the unsolved murders of Maxine Arnold and Terry Gooderham whose bodies had been found in Epping Forest in December 1989, and went to the Claimant's house. The Defendant's case is that Mr Wilson was head-butted by the Claimant. The Claimant denied that there was any violence, and that he had done no more than ask Mr Wilson to leave and was surprised by an unfounded and untruthful complaint against him. It is common ground that the Claimant was arrested for the assault, and that Mr Wilson subsequently withdrew his complaint.

1993-1996

28. In September 1993 the Claimant purchased 'The Morleys', an attractive house with a large garden near Bishops Stortford.
29. On 3 March 1994 the Claimant was arrested and charged with an offence of Causing Grievous Bodily Harm to a man named Stuart Everitt at a Racing-Pigeon Federation event at Chingford Assembly Rooms. In November 1995 he was acquitted of the

offence by the verdict of a jury at Snaresbrook Crown Court. Although the matter was investigated in the course of cross-examination, it did not figure in the particulars of justification or in the Defendant's final speech, and it is unnecessary to say anything further about it.

The Claimant's businesses

30. The Claimant gave evidence that by 1994 he had built up a scrap-metal business, which was later run through a company named Hunts Iron and Steel Limited ('HISL'), trading from 75-77 Chequers Lane in Dagenham. The freehold interest in the Chequers Lane premises was held by a Panamanian company, Yalco, which had granted a lease to a Jersey company Welbury Limited. According to the Claimant's evidence, a man named Joseph Chamberlain, who held an interest in Yalco, recommended a Jersey chartered accountant, Peter Michel, as someone who would be able to assist him purchase the land.

31. In April 1995 the Claimant and his solicitor, Chris Williams, visited Mr Michel in Jersey. According to the Claimant and Mr Williams, Mr Michel advised them that it would be 'tax effective' for the Claimant to form his own off-shore company to acquire the land; and on 21 June 1995 GRL was incorporated as a Jersey company. The Claimant gave evidence that it was another friend of his who had dealings with Mr Michel (Bill Smith) who suggested that he put forward the name 'Fernando Purser' as the beneficial owner of GRL. The documents lodged with the States of Jersey showed GRL as a company which was exempt for the purposes of Jersey Income Tax and the beneficial owner of the company as,

the Purser Settlement, a trust settled by Fernando Purser of 25
Rua de Sao, Marcal 1200, Lisbon, Portugal and whose
occupation is a property developer.

32. Between 1993 and 1996 the Claimant's tax affairs had come to the attention of the Inland Revenue, which had discovered that, although he described himself as being in regular employment with legitimate remuneration, he had filed no tax returns and paid no tax from 1982 to 1996. During the course of an interview with the Inland Revenue in October 1994 the Claimant described having worked as a scaffolder until 18 months previously (i.e. until approximately March 1995); but it was accepted on his behalf that he had made fraudulent representations in his loan applications and as to his income to mortgage lenders when obtaining mortgages. In the course of his evidence at trial the Claimant readily accepted that the application forms for his homes at 20 Rahn Road and, later 'The Morleys', had contained false information (including false documentation) about his employment. However, he said he was a legitimate and successful businessman, and pointed out that his tax affairs had now been regularised and that he had paid £1m of tax in his last tax year. He was asked by Mr Millar QC how he had been able to progress from being a scaffolder to buying the Morleys in the space of 5 years. The Claimant could not recall how he could afford it, but denied that it was through the proceeds of crime.

33. In April 1996 HISL went into Administrative Receivership, and the Claimant's business was split into three separate companies.

2 Green's Court

34. Although GRL was said to have been established for the purposes of acquiring the land at Chequers Lane, the first commercial transaction it undertook was in January 1996 when it acquired the unencumbered freehold of 2 Green's Court from the mortgagee of the property, Bank Leumi. 2 Green's Court was a 5-storey house consisting of a basement and ground floor, with three floors of residential accommodation above. The history and nature of the Claimant's interest in this property, and the circumstances in which GRL purchased it, are matters in issue between the parties.
35. On 23 April 1996, in circumstances which remain obscure, 2 Green's Court was fire-bombed. Following this, various articles were published in the magazine 'Time Out' which suggested that a former professional boxer from the East End had established a protection racket in Soho. This was a reference to the Claimant. The Claimant gave evidence that the allegations were untrue. He had intended to invest in property with Mr Holmes, who had then absconded with £100,000 which had been intended for use in improving the property. According to the Claimant, the stories published at this time had been instigated by Mr Holmes for his own illegitimate purposes and had been the subject of legal proceedings brought on his behalf against 'Time Out'.
36. A 'Time Out' article in the 17-24 September 1997 edition referred to under-age prostitutes working at 2 Green's Court, and to the land registry files showing that the property was owned by the Jersey-based company GRL. This article came to the attention of the Jersey Financial Services Department, who wrote to Mr Michel asking for details of the ultimate beneficiary of the settlement. Mr Michel wrote to Mr Williams about the enquiry; and Mr Williams replied on 6 October 1997 saying that GRL had granted a one-year lease on 3 May 1996 to Gary Oxley with a one year rent-free period in view of the fire damage. No rent had in fact been received since 3 May 1997.
37. The trial documents include a notice under section 146 of the Law of Property Act 1926, dated 29 September 1997, sent by Mr Williams on behalf of GRL requiring Mr Oxley to remedy the breaches of covenant, which included £6,250 arrears of rent and the use of the three flats other than for residential purposes. The reserved rent was stated to be £25,000 per annum.
38. On 27 September 1997 Mr Michel had procured the incorporation of a British Virgin Islands company, EMM Ltd ('EMM'). The settler of the trust which was said to own the shares was a man named Luca Del Soldato. On 26 November 1997 the freehold of Chequers Lane was registered to EMM on the transfer by the Claimant to Mr Michel.

The Second Meaning (Paul Cavanagh)

39. On 13 November 1997 a man named Paul Cavanagh was the victim of a serious knife assault. Although he must have known who attacked him, he made no complaint to the police at the time. The circumstances of the attack and the later withdrawal of the prosecution case against the Claimant are central to the consideration of the Second Meaning.
40. During the course of a further operation carried out in 1998/9 ('Operation Blackjack'), the Police received information which suggested that Mr Cavanagh had been assaulted by the Claimant in the premises of Palmer's Motors in South Woodford. The Police also had evidence in the form of covert recorded conversations obtained by probes which indicated that the carpet had become blood-stained as a result of the assault.
41. Mr Cavanagh, who was then serving a sentence of imprisonment for fraudulent trading, was traced; and on 23 April 1999, made a witness statement under s.9 of the Criminal Justice Act 1967 ('the first statement') in which he said that the Claimant had slashed his face with a knife at Palmer's Motors in the presence of Michael Palmer and 2 other men. According to this account, Mr Cavanagh had been lent a car which he had sold, and when he had gone to Palmer's Motors to explain, the Claimant had punched him repeatedly in the ribs and then slashed him on the left side of the face, following which he had been driven to Whipps Cross Hospital.
42. On 11 May 1999, Mr Cavanagh made a further s.9 statement ('the second statement'), in which he said that after making the first statement he had spoken on the telephone to the Claimant, who told him he was taping the conversation. He had asked the Claimant for £1,000 to get away. The Claimant had referred to the assault and said that he had nothing to do with it, and that the only basis on which he could help Mr Cavanagh would be if he went to a solicitor and made a statement saying that the Claimant had nothing to do with the attack.
43. On 13 May 1999 the Claimant, Mr Palmer and two other men were charged with the assault of Mr Cavanagh, and were remanded in custody. On the same day a search was carried out at Palmer's Motors. Subsequent forensic tests revealed that bloodstains found on an item of furniture were very likely to have been Mr Cavanagh's blood.
44. On 30 September 1999, Mr Cavanagh appears to have made a further statement to a solicitor acting on his behalf, in which he said that his first and second statements were untrue. This statement ('the third statement') is no longer available; however, in two much later statements ('the fourth statement' and 'the fifth statement') he explained that the contents of his third statement had been true, and that he had been pressurised by the police, at a time when he was vulnerable, to make statements which implicated the Claimant. The truth was that he had seen two men of Greek or Cypriot appearance in a car while he was walking down Hermon Hill in Wanstead. They had beckoned to him and since he thought they were lost and wanted directions he had approached the car, and was immediately slashed on the face by the man in the front

passenger seat. The next thing he recalled was waking up in hospital with 45 stitches in his face. Once he had been released from prison he had gone straight to a solicitor and retracted his earlier statements. The fourth statement ended:

Mr Hunt never attacked me and I am truly sorry for making the statement accusing him.

45. In the fifth statement he elaborated on his mental state which had made him vulnerable to improper police pressure.
46. In the light of Mr Cavanagh's third statement the prosecution of the Claimant for the assault was discontinued.
47. The Defendant contends that the Prosecution was withdrawn due to the intimidation of Mr Cavanagh, or that there were at least reasonable grounds to suspect that this was what occurred; and in any event, the words complained of in the Second Meaning constituted fair reporting on a matter of Public Interest.
48. The Claimant contends that he had nothing to do with the collapse of the Prosecution case against him. In his witness statement (at §§36-38) he described spending nearly 6 months on remand before being released when Mr Cavanagh retracted his statement.

38. The Defendant alleges that Mr Cavanagh withdrew his statement because I put pressure on him and his family. This is not true. Mr Cavanagh withdrew his statement and the allegations against me because they were false. While the whole incident was distressing, once it was over I decided it was better to move on and focus on my work and my family, rather than look backwards and make a complaint about the withdrawal of the complaint and the decision not to prosecute.

The Compulsory Purchase Order ('CPO') of 2 Green's Court

49. On 12 October 1999, the Compulsory Purchase Manager at Westminster City Council recommended that 2 Green's Court be made the subject of a CPO. The current use was described as:

Basement - Unlicensed 'near beer' hostess bar (currently closed following a shooting)

Ground Floor - Unlicensed video shop selling sexually explicit material

1st, 2nd and 3rd Floors - used by prostitutes

50. The report also pointed out that the premises were in a poor state of repair, and that in the 2-year period from January 1997 to January 1999 a total of 55 major crime allegations had been linked to the premises.
51. The report noted,
- The property had been in the freehold ownership of [GRL] since 1996. A company search has revealed that they are not registered in this country nor are they registered abroad for trading in this country.
52. Mr Williams (acting on behalf of GRL) lodged an objection to the CPO. However, it soon became clear that the objection faced a difficulty: due to a failure to submit the Annual Share Return and pay the necessary fees, GRL had been struck off the Register and, on 1 December 1998, had been dissolved.
53. Following a Planning Inquiry, the CPO was confirmed by the Secretary of State on 30 April 2002; however, the Council agreed not to implement the CPO provided the flats were brought into proper residential use. It received that assurance in March 2003; and in 2004 the Council was informed by Kelli Love (a close associate of the Claimant) that she had entered into an agreement to sublet the flats to Stadium Housing Association.

The Third Meaning (the dispute between Billy Allen and Charles Matthews, and the events of 6-7 February 2006).

54. At the end of 2003 a man named Billy Allen brought a claim for possession of land at 1-7 Brunel Street and 76 Victoria Dock Road in Canning Town, against the occupier, Charles ('Chic') Matthews, whom he claimed was in unlawful possession. The land was thought by both sides to be potentially valuable, and its value was thought to have increased following the announcement in July 2005 that London was to host the 2012 Olympic Games. At first, Mr Allen's claim was successfully defended on the basis that he had no title to the land, since he was an undischarged bankrupt and the title to any property was vested in his trustee in bankruptcy. Subsequently Mr Allen took a transfer from the trustee; and the substantive issue, whether Mr Matthews had acquired title by reason of adverse possession, came before the Central London County Court at Park Crescent, W.1. on 6-7 February 2006.
55. Mr Allen's evidence was that he received threatening messages before the hearing which he understood were intended to dissuade him from pursuing his claim. It was for this reason that he came to Court on both days with 'minders'.
56. The Claimant's evidence was that he had nothing to do with this or any threat to Mr Allen. He had attended Court, with his brother Stephen and a man named Billy Ambrose at the request of Mr Matthews, in order to give him moral support and to prevent him being threatened and intimidated by Mr Allen and his 'minders'.

57. In his witness statement in the present action Mr Allen described the Claimant, whom he had not met before, shouting over to his protection team that they ‘were on the wrong side’, and they should ‘hand him over to us, he’s just a grass.’ Although pressed by Mr Tomlinson in cross-examination he adhered to this account.
58. It is clear that on the second day of the hearing (7 February) the dispute between Messrs Allen and Matthews which should have been decided in court degenerated into a physical brawl and the abandonment of the trial.
59. There is a CCTV recording which shows the entrance and lobby of the Court Building. At about 09.23, four men arrive: the Claimant, his brother Stephen, nephew David, and a man named Joseph. They then appear to wait in the lobby. At about 09.34 another group of men arrive: Phil Mitchell and six tall heavily-built men. The Claimant said he knew some, but not all, of these men. After passing the security table and arch, this group also pass out of view. In his evidence the Claimant described them as either Mr Allen’s creditors or people representing his creditors. At 09.40 Terry Sabine (a witness to be called for Mr Allen) arrived and Stephen Hunt shakes hands with him.
60. At 10.13 Mr Allen arrives with his ‘minders’: Danny Woollard (Mr Woollard Snr), his son (Danny Woollard Jnr), Shane Stanton, Nicky Cook and Matty Attrell. All of them except Mr Allen pass the security desk and arch. In the next two minutes there was a fight between the two groups; and Mr Allen can be seen running from the building, followed by his solicitor (Helen Porter).
61. Mr Allen’s evidence was that the Claimant shouted at him, ‘Fuck off now. I’ll kill you and your family, you little cunt, I’m going to kill you. Enough’s enough’; and someone else (presumably one of his minders) said, ‘Run Bill’. He then saw a group of men pulling one of his men (Shane Stanton) into a corridor and two of his men pulling him back.
62. In his witness statement, the Claimant stated:
49. About 10 minutes after we arrived, a large group of men arrived separately. I recognised some of them, but they weren’t with me. We had a friendly chat. They explained that Mr Allen owed them money and that he had been telling everyone the land was worth £100m and that he was going to win the case. I told them that was rubbish.
50. Mr Woollard and Mr Allen arrived around half an hour later. I had a brief conversation with Mr Woollard and then some of Mr Allen’s creditors began arguing with members of Mr Allen’s group about the value of the land. Shortly afterwards, there was a commotion in the corridor leading to the Court but I couldn’t really see what was happening. I wasn’t involved in any way.

63. According to a Police report into the incident there were two victims. One had a cut above his right eye and a bloody nose, the other was bleeding from the nose and scalp. Both were said to have been shocked by the incident.

64. The consequence of the violence was that the trial before Mr Recorder Bridge was abandoned, and re-fixed before by HH Judge Collins CBE in the secure environment of Kingston Crown Court. On 21 June 2006 Judge Collins found in favour of Mr Allen in a judgment which Mr Matthews then appealed. On 13 March 2007 the Court of Appeal, see *Allen v. Matthews* [2007] EWCA Civ 216, allowed the appeal. It is clear from the judgment, see [6]-[13], that the Court of Appeal well-understood that the background to the case was one of violence and crime. At [102] Lawrence Collins LJ added this:

I am left with the strong impression that neither side told the judge the whole story ...

65. The Defendant contends that the Claimant threatened to kill Mr Allen and orchestrated the attack at Court, or that there were at least reasonable grounds to suspect that this was what occurred; and that, in any event, the words complained of in the Third Meaning constituted fair reporting on a matter of public interest.

‘Operation Houdini’ and ‘Operation Epsom’

66. On 1 March 2006, as part of ‘Operation Houdini’ the Police raided the premises of London City Metals at 9-11 Caxton Street, E16, and subsequently raided the nearby premises of London City Storage at 99a Silvertown Way, E.16. The raids were part of an investigation into thefts from lorries. At London City Storage they discovered 14 containers of stolen alcohol, tobacco products and other stolen or counterfeit goods, as well as a safe containing £250,000 worth of jewellery. The Police also discovered a large quantity of marble consigned to the Claimant, and in due course returned it to him.

67. These raids led to the arrest and prosecution of Charles Matthews Jnr (the son of ‘Chic’ Matthews), Lee Matthews and Colin Grant.

68. When he heard about the raid Mr Allen got in touch with Newham Crime Squad which had carried out the raid, and told them that he would be able to assist in their enquiries. He also informed them about what he described as a background of blackmail, violence and threats arising out of the land dispute with Mr Matthews Snr. As a result, a team of police officers from Newham (which included DI McKelvey, DC Darren Guntrip and DC Paul Clark) took over the investigation into the violence at Central London County Court; and this investigation became known as ‘Operation Epsom’. Among other things, Mr Allen informed these officers that Mr Woollard Snr was prepared to make a statement about what had occurred at the Central London County Court on 7 February 2006.

69. DC Guntrip and DC Clark spoke to Mr Woollard at the Churchill Hotel in Portman Square in Central London. According to their evidence Mr Woollard told them that he was not prepared to make a statement, since he would be seen as a 'grass', but would allow the police to tape-record an interview, adding that if they issued a witness summons he would give this evidence in Court. On 20 September 2006, the officers went to Mr Woollard's home with a portable recorder and recorded his account of what occurred. Mr Woollard also told them that other members of Mr Allen's protection team would be prepared to have their accounts recorded on the same basis. He described his contact with the Claimant before the hearing.

Davey Hunt phoned me ... he said I'm working for [Charles] Matthews. I've put six hundred thousand pounds into it and I would like you to come with us. The actual words he used was, if you pull away they'll all pull away.

70. Mr Woollard's recorded interview continued with a description of seeing Mr Hunt on the first day of the trial, when there was a further exchange which ended with Mr Woollard pointing out that those attending with Mr Allen far outnumbered those attending with Mr Matthews. Mr Woollard also described what happened on the second day of the trial, 7th February 2006.

Next morning ... the court was full of them, there was Davey, Stevie Hunt all his men up there, right across the foyer someone shouted out kill that Bill ... when we got in the corridor it was contained as best we could but there was too many of them but we done the best we could, just held them. We weren't unconscious we were having a good scrabble ... a scuffle ... We come home and I spoke to Davey afterwards and said that's a cuntish thing to do weren't it, said you ain't won no medals here, which he hasn't ...

Later he described the 'reception party' in the foyer,

Well when we got to the court there were about twenty odd of their side all dressed up like trainers, all like body building types you could see what they were there for ... I think the idea was to just stop the case which they did do and frighten him and thought he was just going to lie down, which he hasn't, he's a courageous little man ...

He also described injuries he had suffered and an attack by the Claimant on Nicky Cook.

71. On 22 September 2006, the Police obtained authorisation for directed surveillance against the Claimant; and on 7 November he was arrested on suspicions of blackmail, causing grievous bodily harm, intimidation and threats to kill arising out of the events of 6-7 February.

72. In the event the trial of Charles Matthews Jnr, Lee Matthews and Colin Grant did not go ahead. Although the Prosecution case appears to have been strong, a decision was made to drop the case in the light of an allegation that the police officers involved in the Prosecution (DI McKelvey, DC Darren Guntrip and DC Paul Clark) had an improper relationship with a police informant (Billy Allen), and had failed to disclose sensitive information. Not only was the prosecution abandoned, the three police officers had to live their lives understanding that a contract had been taken out to kill them and endure a protracted anti-corruption investigation, which eventually resulted in them being entirely exonerated. The expensive anti-corruption investigation ('Operation Kayu') and its exoneration of these police officers were referred to in [20] of the article.
73. The final incident that it is convenient to describe at this stage occurred on 15 June 2010, when after various appeals, including an appeal to the Privy Council, Mr Michel pleaded guilty to 7 charges of money-laundering and was sentenced to a term of 4 years imprisonment.

The justification defence

The law

74. Since there is a presumption of falsity, in order to establish this defence a defendant must prove the substantial truth of the essence or 'sting' of the libel, although exaggeration and inadvertent error will not prevent the defence succeeding, see *Berezovsky v Forbes (No.2)* [2001] EMLR 45, Sedley LJ at [12] and Gately on Libel and Slander, 11th edition at §11.9. This task involves the court considering whether the truth of the sting of a libel has been established having regard to its overall gravity and the relative significance of any element of inaccuracy or exaggeration, see for example *Turcu v. News Group Newspapers Ltd* [2005] EWHC 799 (QB) Eady J at [105]. At [111] Eady J added,

In deciding whether any given libel is substantially true, the court will have well in mind the requirement to allow for exaggeration, at the margins, and have regards in that context also to proportionality. In other words, one needs to consider whether the sting of a libel has been established having regard to its overall gravity and the relative significance of any elements of inaccuracy and exaggeration. Provided these criteria are applied and the defence would otherwise succeed, it is no part of the court's function to penalise a defendant for sloppy journalism – still less for tastelessness of style ...

75. It was in this context that Mr Millar accepted that the Defendant must prove that the Claimant was the head of an organised crime group involved in murder, drug trafficking and fraud, that he was responsible for the attack and intimidation of Mr Cavanagh (or at least there were reasonable grounds to suspect that he was), and that he threatened to kill Billy Allen, attacked him and his minders and then intimidated the witnesses (or at least that there were reasonable grounds to suspect that he had).

76. Where the allegation is one of serious criminality (as here) clear evidence is required. This is apparent from two decisions of the House of Lords: *Re H (Minors) (Sexual Abuse: Standard of Proof)* [1996] AC 563, Lord Nicholls at 586D-H, and *Re D (Secretary of State for Northern Ireland intervening)* [2008] 1 WLR 1499, Lord Carswell at [26]. In *Re D* at [27] in Lord Carswell (with whom the other members of the House of Lords agreed) approved the summary of Richards LJ in *R(N) v Mental Health Review Tribunal (Northern Region)* [2006] QB 468 at [62].

Although there is a single civil *standard* of proof on the balance of probabilities, it is flexible in its *application*. In particular, the more serious the allegation or the more serious the consequences if the allegation is proved, the stronger must be the evidence before a court will find the allegation proved on the balance of probabilities. Thus the flexibility of the standard lies not in any adjustment to the degree of probability required for an allegation to be proved (such that a more serious allegation has to be proved to a high degree of probability), but in the strength or quality of the evidence that will in practice be required for an allegation to be proved on the balance of probabilities.

I have applied this test.

77. It is common ground that in a case such as the present, the Court is engaged in a two-stage process. First, it must decide whether the Defendant has proved all, or at least some, of the factual propositions which it has asserted. Secondly, it must decide whether the facts found are such as to establish the essential or substantial truth of the ‘sting’ of the libel, see for example *Chase* at [38].
78. In the present case the Defendant also relies on section 5 of the Defamation Act 1952, which provides,

In an action for libel ... in respect of words containing two or more distinct charges against the [claimant], a defence of justification shall not fail by reason only that the truth of every charge is not proved if the words not proved to be true do not materially injure the [claimant’s] reputation having regard to the truth of the remaining charges.

79. For the purposes of s.5 of the 1952 Act, the Court must consider the relative seriousness of the charges which the Defendant has proved; and then consider whether the unproven charges materially injured the Claimant’s reputation. However, a defendant is not permitted to seek to prove the commission of a different offence by way of justification. Thus where there is an allegation of murder, it cannot be said that the allegation does not materially injure a claimant’s reputation where lesser charges (of, for example, causing grievous bodily harm) has been proved, see for example *Gatley* at §11.15, *Duncan and Neill* 3rd Edition §12.38, and Tugendhat J in *Hamaiza*

& Amirani v Commissioner of Police for the Metropolis [2013] EWHC 848 (QB), at [60].

Findings

80. It is important to bear in mind that the factual enquiries extended from 1985 to 2006. In relation to a trial in 2013 this posed a number of difficulties for the witnesses. First, it would be difficult to expect anyone to remember the detail of events which occurred up to 30 years ago. Secondly, although there were a large number of documents in the trial bundles, there was also a lack of documents which might have assisted the witnesses in their recollection. For example, some of the documents which Mr Williams said would have assisted him in throwing light on GRL's transactions, in particular his client files, were not available to him. I take these matters into account in the Claimant's favour.
81. The lack of documentation also presented difficulties for the Defendant. It is plain that Mr Gillard saw and relied on documents that he was not able to deploy; and this is a point to which I shall return later in this judgment. It is also important to bear in mind that documents which emerged after publication in May 2010 may be relevant to the Justification defence, but cannot be relied on by the Defendant for the purposes of the Reynolds defence.

The alleged assault on Mr Wilson

82. It is convenient to start with this factual issue since it is the earliest in time.
83. Peter Wilson's evidence was that he had received information from a senior police officer that the Claimant was suspected of being involved in the murders of Terry Gooderham and Maxine Arnold, and decided to approach him by calling at his home. He travelled to Epping with a photographer, Chris Taylor, on 19 March 1992 ('a cold spring day'); and having found the Claimant's house, discovered that he was not at home. He was invited into the house by the Claimant's wife, who made him a cup of tea and asked him why he had called. He explained that he was a journalist, was looking into the murder of two people and wished to ask her husband some background questions. She said he would be back later; and Mr Wilson told her that he would return. He left his 'Sunday Mirror' business card with his name, professional address and phone number.
84. When he returned later, he asked Chris Taylor to turn the car around in the cul-de-sac and keep the engine running, in case they needed to make a quick escape. His witness statement at §7 described ringing the entry-phone at the entrance-gate to the property.

This time I noticed the Claimant himself, walking quickly up the path from his house in a determined and aggressive manner. He looked furious. I instinctively backed-off a few steps; and without saying a single word or pausing, he grabbed me by the lapels and violently head-butted me just above my right eye. I offered no resistance at all. He then said to me, 'You fucking

cunt. I'll up you, talking to my wife about fucking murder.' I remember these words clearly ... I staggered back in pain and shock and made my way to the car.

85. He discovered later that the orbital bone of his right eye-socket had been fractured; and went to Epping Police station to complain of the assault, where he made a statement.

86. It was soon after this that he was seen by Jeff Edwards, the Chief Crime Correspondent of the 'Daily Mirror'. Mr Edwards gave evidence that he had seen Mr Wilson with a swollen face, stitches in his eyebrow and a closed eye; and that Mr Wilson had told him that he had been assaulted by the Claimant. He recalled Mr Wilson saying that he had told the Claimant's wife that he was enquiring about 'a couple of murders' and that when he had returned the Claimant violently head-butted him in the face.

87. Mr Wilson subsequently decided not to pursue his complaint against the Claimant. He described being apprehensive about his personal safety because his business card gave details of where he worked, and he was aware that the Claimant was a suspect in a number of murders and the police had been unable to prove anything against him. Although the police were keen for him to pursue the complaint, he had made a personal decision not to do so.

88. The Claimant's witness statement set out his recollection of that day at §62.

I did not assault Mr Wilson in any way. I asked him to leave and he did so. I recall that he was making house to house enquiries about a local murder ...

89. In cross-examination he said that he remembered his wife had been at home with his children and that she had told him that someone had been asking about serious crimes: a local murder. He thought it was unfair to involve women and children. His evidence was that,

He made an untruthful complaint. It was quite odd.

90. Having considered this evidence, I have come to the following conclusions.

91. I found Mr Wilson to be a straightforward witness, and his evidence to be clear and compelling. When Ms Mansoori suggested that the story had become exaggerated in the telling he replied,

You don't need to exaggerate things like this. The entire exchange took place in less than a minute. The speed and

aggression of Mr. Hunt was something that was quite bewildering. All I had time to do was walk backwards slowly, and keep my body language neutral. He grabbed me by the lapels. He whacked me with his head straight into my orbit, shook me round like a rag doll, swore at me and dropped me, and he was off. I got into the car hardly knowing which day it was. I haven't exaggerated a word of this. I'll never forget it.

92. I am quite clear that Mr Wilson's evidence of an assault (corroborated by Mr Edwards's evidence) was a truthful account, and that the Claimant's denial was knowingly untruthful.
93. Although the Claimant came across as mild-mannered and courteous, this part of the case showed that he could not be relied on as a witness of truth, that he was capable of sudden violence when his interests were directly threatened and that he was not frightened to 'take on' a journalist, notwithstanding the possible consequences. The incident is also potentially relevant to the First Meaning. As Eady J observed in *Hunt v. Times Newspapers (No. 1)* at [73]

It seems to me to be potentially relevant in that context that the Claimant attacked (if he did) a crime reporter who was in the process of investigating serious crimes in the relevant part of London. A so-called 'crime lord' might well take such a course with a view to protecting his own area or 'patch'.

94. Mr Gillard expressed a similar view in his evidence, albeit in a different context.

It is my experience from dealing with organised crime or dealing with people who are involved in that world to never go anywhere near their family or family home. It is just a no-no. You do not touch or refer to the family.

The Second Meaning (Cavanagh)

95. Two issues arise. First, whether the Defendant proved that the Claimant assaulted Cavanagh, and secondly, whether it proved that he engaged in witness intimidation to prevent Cavanagh giving evidence against him. As Mr Millar submitted, if the Claimant carried out an assault, it makes it more likely that he subsequently intimidated him and *vice versa*.
96. It is common ground that the Claimant was due to stand trial for an attack on Mr Cavanagh. Count 1 of the indictment charged him with Wounding with Intent to Cause Grievous Bodily harm, contrary to s.18 of the Offences against the Person Act 1861. Count 4 was a joint charge (with Michael Palmer) of Perverting the Course of Justice, 'in that they interfered with the witness Paul Cavanagh.' Other counts charged Mr Palmer with offences of Assisting an Offender and Conspiracy to Pervert the Course of Justice by concealing evidence. The Case Summary described the

background and paragraph 3.2 set out what the Prosecution said was the Claimant's motive, quoting from Mr Cavanagh's first statement.

When [Mr Cavanagh] arrived, Michael Palmer left, but the other men stayed in the office. [The Claimant] was asking him, 'What did you do it to me for?' He said sorry was not enough. He added, 'I gave you my word I weren't gonna hurt you but you've left me no choice, everyone knows about this and I can't have that.'

97. The evidence appears to have been in three forms: the probe recordings of a conversation involving the Claimant at Palmer's Motors, the first and second witness statements of Mr Cavanagh (dated 23 April and 11 May 1999) and the evidence from the expert forensic examination of the place where the assault was said to have taken place. The recordings of the voices of the Claimant and Mr Palmer were said to support the case that the assault took place at Palmer's Motors.
98. As already noted, the Police had managed to trace Mr Cavanagh to prison, where they obtained the first and second statement. Although it was later suggested by Mr Cavanagh that improper pressure had been placed on him by the police, I am quite satisfied, having heard the evidence of Tim Smales (the officer who took the statement), that no improper pressure was applied. Mr Cavanagh told the Police that he was afraid of the Claimant and the officers had to convince him that they would be able to protect him.
99. The first statement gives a clear account of how the Claimant had slashed his face with a knife in an office at the premises of Palmer's Motors on 13 November 1997. The attack had been carried out in a fit of anger. Mr Cavanagh had been asked to find Jimmy Holmes; and had borrowed a Land Rover from Palmer's Motors to drive to Liverpool for this purpose. Mr Palmer had subsequently allowed him to buy this car for £12,000, giving him six weeks to pay, on the Claimant's word that Mr Cavanagh would be good for the money. Mr Cavanagh had sold the car to a dealer in Romford to pay a debt before he had been able to raise the money to pay Mr Palmer. By the day of the attack the Claimant had told Mr Cavanagh to get the car back; and he had then gone with Mr Palmer and three other men to negotiate the return of the Land Rover. He had been taken to an office at Palmer's Motors and held while phone calls were made. While he was there he had retrieved an answer-phone message from a close friend telling him not to go to Palmer's Motors. After about an hour the Claimant had arrived. When Palmer left the room the Claimant said words referred to in the Prosecution case summary, and had then slashed his face in front of the other three men. He had been taken to hospital and had then gone into hiding.
100. Mr Cavanagh's injuries were serious. The medical evidence described a deep 15 cm laceration from his left ear to his chin, and there is reference in a contemporary criminal intelligence report to serious facial injuries requiring 'life-saving' medical attention.

101. On 11 May 1999 Mr Cavanagh made his second statement to police, in which he described himself as,

... still ... a very worried man as I know only too well what violence David Hunt is capable of and if he found out that I had made a statement then my life would be in danger, even in prison ...
102. He stated that after making the first statement he had taken anti-depressants and that six days later (on 29 April 1999) he had spoken to Mr Palmer from prison in the hope of getting money from the Claimant to disappear. During a subsequent telephone conversation with the Claimant (at 13.00 on 29 April), he had asked the Claimant for £1,000 for a passport. The Claimant told him he was taping the conversation, and tried to get him to say that he had left Palmer's Motors and had been subsequently assaulted elsewhere. The Claimant had made it clear that he would only help him if he made a statement to the Claimant's solicitor saying that the assault was nothing to do with him.
103. On 13 May 1999, the Claimant was arrested with Phil Mitchell, Patrick Faherty and Mr Palmer.
104. A forensic examination of the furniture in the office of Palmer's Motors revealed three smeared bloodstains on a desk pedestal, consistent with a body coming into contact with an unstained surface. The Prosecution was able to say that there was a very high probability that this was Cavanagh's blood: the likelihood of the bloodstains originating from someone unrelated to him were approximately 1 in 18 million. The forensic examination did not reveal blood on the carpet in the office, but the police had intelligence that there had been blood on the carpet and that the carpet had been changed after the assault; and this evidence was deployed by the Defendant in the current litigation in the form of oral evidence from the investigating officers, Mr Smales and Craig Stratford.
105. The Crown's case, based on the probe recordings, was that Mr Palmer had stayed behind to clear up the scene of the crime when Cavanagh was taken to hospital. The Prosecution had also relied on recordings of conversations made before 1pm 29 April 1999 which suggested that the Claimant and Mr Palmer had become aware that Mr Cavanagh was a potential prosecution witness, including someone saying: 'he knows if he's making a statement he finished ain't he?'
106. It seems clear that, following his release from prison, Cavanagh withdrew his earlier statements, although as noted, the third (retraction) statement was no longer available to the parties. In any event, the case against the Claimant, Mr Palmer and the other co-defendants never came to trial.

107. Despite the time that has passed since the event, the nature of the evidence and the Claimant's denial, I am satisfied that the Claimant committed a violent assault on Mr Cavanagh on 13 November 1997.
108. First, although I bear in mind that it was never tested in cross-examination, Mr Cavanagh's first statement gave a detailed and inherently credible account of being the victim of a violent assault by the Claimant. I am quite satisfied that the officer who took the statement from Mr Cavanagh, Mr Smales, did not put any pressure on him and that the statement was made voluntarily; and I also reject another suggestion that Mr Cavanagh was pressurised by the police on some earlier and unspecified occasion. Secondly, the contents of that statement were corroborated by police intelligence, including a substantial quantity of supportive evidence from the 'Operation Blackjack' probes which showed that an assault had taken place in the office as Mr Cavanagh had described it. Thirdly, there was evidence of Mr Cavanagh's blood on the desk pedestal in the office which was strongly supportive of a violent assault on him having taken place there; and there was also recorded evidence suggesting that the carpet in the office (which would have been heavily bloodstained) had been replaced prior to the forensic examination. Fourthly, when the Claimant and Mr Palmer became aware that he might give evidence against the Claimant, there is evidence that they tried to persuade him to retract, in the course of the 13.00 telephone conversation on 29 April 1999, albeit in guarded terms, which suggested that they were aware that their telephone conversation might be overheard.
109. I am also satisfied that the Claimant intimidated, or arranged for the intimidation, of Mr Cavanagh; and 'persuaded' him not to give evidence for the Prosecution. First, it is clear that Mr Cavanagh was already in fear of the Claimant, which is hardly surprising given the nature of the assault that I have found to have occurred. Secondly, the statement in the 'Operation Blackjack' tapes suggests that Mr Cavanagh would have known that he would 'be finished' if he made a statement to the police, and would be in worse trouble if he turned up at trial to give evidence for the Crown. Thirdly, there is other evidence in the case (to which I will come later) which demonstrates the Claimant's willingness to intimidate witnesses, and put witnesses in fear when they might be asked to give evidence which he perceived to be against his interests. Fourthly, I take into account the curious and unsatisfactory nature of Mr Cavanagh's later disavowals and the explanations for them. It is said that his cousin, Joseph Cavanagh, produced these to the Claimant following the Claimant's request that he ask Mr Cavanagh to make a witness statement in the present case, which would explain how he came to make the initial allegations and then withdrew them. Paul Cavanagh was not called to give evidence by the Claimant, neither of the fourth or fifth statements included a statement of truth and only the fifth statement had a signature. In these circumstances I would not have given very much weight to them. However, there are further problems with these later statements, in which Mr Cavanagh describes an apparently motiveless attack in Hermon Hill by two men, apparently unknown to him, and which was not reported to the police at the time. There is a general and unparticularised assertion that his first statement was the result of police pressure, which I have rejected. The account in the fifth statement of the inducement from the Police of a non-custodial sentence is inherently highly unlikely: the police do not have the power to offer such an inducement and, more significantly, he was a serving prisoner at the time. Finally, there is the way in which the detail of

the Claimant's case in relation to this matter has emerged. Neither in his fourth nor his fifth statements did Mr Cavanagh refer to going from Hermon Hill to Palmer's Motors after the attack by the two unknown men. This suggestion first appeared in §5.4(d) of the Claimant's Reply which was served on 29 June 2012, in response to the §7.7 of Re-Amended Defence, served on 22 May 2012. The Re-Amended Defence referred to the evidence of Mr Cavanagh's blood being found at the premises of Palmer's Motors. In §36 of his witness statement, after referring to Mr Cavanagh going to see a solicitor in Nottingham and making a retraction statement, which his solicitor no longer had, the Claimant said,

I was told [Mr Cavanagh] said in that statement that he had taken refuge in Palmers Motors after the attack.

110. This evidence sought to explain how Mr Cavanagh's blood was found at the premises of Palmer's Motors. It is sufficient to note that I do not accept that Mr Cavanagh, who had been gravely injured in an attack, would have made his way to the premises of Palmer's Motors, and then entered an office, leaving three smeared bloodstains on a right hand desk pedestal.

Conclusion on Second Meaning

111. In the light of the above, I have concluded that the Claimant was responsible for a violent assault on Mr Cavanagh in November 1997 and that in 1999 his victim withdrew his statements due to pressure which amounted to intimidation from the Claimant.
112. Sufficient facts have been established to prove the truth of this libel. In any event, I am also satisfied that there were reasonable grounds to suspect that the Claimant slashed the face of Paul Cavanagh and then intimidated him into not giving evidence for the Prosecution.
113. It follows that I find that the Defendant has justified the Second Meaning.

The Third Meaning (Allen)

114. The factual questions which arise are the reasons for the violence which broke out at Central London County Court on 7 February 2006, whether the Claimant threatened to kill Billy Allen and whether he avoided prosecution through the intimidation of his victims.
115. There is a stark dispute on the evidence as to what occurred, and before reaching conclusions it is convenient to set out my views of the witnesses from whom I heard.

Mr Allen

116. Mr Allen had convictions for a number of serious offences; and he was plainly apprehensive about giving evidence against the Claimant.
117. Having seen him give evidence I am cautious about accepting what he said, as was Mr Gillard. However, much of what was described to the police in his statement of 9 June 2006 was inherently credible; and Mr Tomlinson's cross-examination did not cause me to change my view about the quality of his evidence, rather the contrary. As Mr Allen said,

I've got serious concerns and serious worries that I'm even standing here and I don't want to get involved with these proceedings. I've done everything in my powers not to come here today. I did not want to give evidence in this case. I'm forced into giving it. I'm telling the truth. I've certainly no vendetta against Davey Hunt, and I hope to God he hasn't got a vendetta against me...

118. He had no particular interest in making up a story about the Claimant: his dispute had been with Mr Matthews Snr.

The other witnesses

119. Although Helen Porter (Mr Allen's solicitor) was plainly a witness of truth, her evidence did not throw very much light on the central factual issue: whether the Claimant had made threats to kill Mr Allen and had orchestrated an attack on him at court.
120. The evidence of Mr Woollard was more problematic. Having told the police in his recorded interview on 20 September 2006 about matters which clearly implicated the Claimant in the violence at Court, he made a contradictory witness statement six years later in the present action, and gave evidence on oath whose effect was to exculpate the Claimant from involvement in the violence. One approach to this unsatisfactory state of affairs would be to conclude that nothing that Mr Woollard has said can be treated as reliable. However, having seen him give him evidence, I am quite clear that

he deliberately lied when giving that evidence, and that what he told the police in his recorded interview was broadly truthful, although it contained some untruthful elaborations (characteristically and preposterously) to his own credit.

121. Having also heard Mr McKelvey, DC Guntrip and Mr Clark give evidence, I reject Mr Woollard's evidence that they subjected him to pressure. None of their evidence about their dealings with Mr Woollard was seriously challenged, and Mr McKelvey's answers to the suggestion that he had pestered Mr Woollard were plainly truthful.

Q He said that you pestered him to make a statement and contacted him repeatedly.

A Mr. Woollard is telling lies. The only people who had any dealings with Mr. Woollard at that early stage were D.C. Guntrip and D.C. Clark.

Q So when do you say he gave you the book [which Mr Woollard had authored]?

A He gave me the book when he came into the police station, I believe around December time, when he spoke to the murder squad or two murder squads.

122. The evidence of DC Guntrip and Mr Clark was to similar effect: Mr Woollard was initially a willing informant in relation to both the events on 6 and 7 February 2006, as well as other matters, including unsolved murders.
123. I am satisfied that Mr Woollard told the police about the events of 6 and 7 February; perhaps because he thought some unwritten code had been broken by the Claimant. What Mr Woollard cannot have known at the time he made his witness statement in the present action was that the Police would later disclose the taped interview which gave the lie to his witness statement.

The dispute

124. I accept Mr Allen's evidence that, while he was on the way to Court on 6 February 2006, he received a threatening telephone call. This was observed by Ms Porter and was later reported to his junior Counsel. The issue is not whether the call was made, but who made it.
125. I think it likely that at some point there was an exchange in the Court canteen on 6 February during which Claimant said to Messrs Stanton and Attrell (in the hearing of Mr Allen) words to the effect that they were on the wrong side of the dispute and that Mr Allen was a police informant.

126. This threat did not cause his 'minders' to abandon Mr Allen; and the Claimant returned to court the next day with Mr Matthews at about 09.23 accompanied by three other men. These were followed at 09.34 by Phil Mitchell (who had arrived at court earlier and stayed outside) and a group of well built, casually dressed, men. I am quite satisfied that the Claimant arranged for this additional 'muscle' to be present at court in order further to intimidate Mr Allen; and that he and his brother were waiting for Mr Allen's party to arrive. I reject the Claimant's evidence that these 'heavies' were or included men who were Mr Allen's creditors or that they had been sent to act on behalf of his creditors. They were there to intimidate Mr Allen into abandoning his claim to the disputed land. It is inherently unlikely that these men were there on behalf of the creditors and it makes no commercial sense: Mr Allen's Trustee in Bankruptcy (Mr Lowes) represented Mr Allen's creditors and supported his claim to the disputed property. It is extremely unlikely that his creditors or their representatives would have acted so contrary to their interests by 'weighing in' on Mr Matthews's side.
127. I have concluded that the Claimant has fabricated an account about creditors in order to conceal the truth, which is that these were his 'muscle', and that he was orchestrating the intimidation of Mr Allen on behalf of Mr Matthews's interests. I note that, when the Claimant was later interviewed under caution on 7 November 2006, he did not take the opportunity of giving the account of events at the Central London County Court which he gave during the trial.
128. I accept that, when Mr Allen and his minders arrived at the court at 10.13, he saw the Claimant and his 'heavies' standing facing them on the far side of the lobby; and that the Claimant uttered words which amounted to a threat to kill Mr Allen and his family, if he did not 'fuck off now'. Although Ms Porter did not hear this threat she remembered Mr Allen saying before he left the building that he had just been threatened.
129. There was then a fight, during which the Claimant and his men attacked Mr Allen's protection team in the lobby, and then inside the corridor leading from the side of the lobby to one of the courts. Ms Porter observed the aftermath of the attack in the corridor, with blood on the floor and one or two people bent over. The blood on the floor and the walls can also be seen on the police photographs. When the police officers attended they recorded an account of one of the victims being attacked by 10-15 males. They also noted,

On arrival at the scene police were shown through the corridor leading to the waiting area outside of courtroom 4. Here there were two males who were bleeding from facial/head injuries, and two males who were shocked by the incident ... The two bleeding victims were conveyed to [University College Hospital] for treatment. These victims were reluctant to give personal details and details of the incident to police and stated that they were not interested. The two shocked males ... were also reluctant to inform police of what had happened ...

130. By this time, the Claimant and his confederates had left the building.
131. I reject the Claimant's account that he was at Court on 6 and 7 February 2006 to support Mr Matthews as an interested spectator; on the contrary, I am satisfied that his purpose was to intimidate Mr Allen into abandoning his claim. When his attempts on 6 February failed, he returned on 7 February and orchestrated a brazen and violent attempt to pervert the course of justice by further threats and then violence. The fact that it occurred in a Court building is an indication of what was, or was considered to be, at stake. The strong likelihood is that by this stage the Claimant had acquired what he regarded as some form of interest in the disputed property: not an interest which would necessarily be recognised by the law, but a financial interest that was threatened by Mr Allen's claim.
132. Mr Woollard said in his police interview that the Claimant had tried to persuade him to abandon his protection of Mr Allen by an offer of money. Although his statement that the Claimant offered him £1m was a very unlikely commercial proposition, it was reported by Mr Woollard to Ms Porter at the time. His statement that the Claimant had told him that he had acquired an interest in the property by 'investing' £600,000 is likely to have represented at least an element of the truth. I am satisfied that the Claimant had some sort of financial interest in the outcome of the court case; and that what I find to have occurred was calculated to instil additional fear because the threats and violence came from the Claimant.
133. Mr Woollard later changed his account of what occurred on 6-7 February, gave untruthful evidence at trial, and this was probably because he was persuaded to do so by the Claimant. The knowing look that he gave the Claimant when he left the witness-box was telling.
134. In the light of these findings it is not necessary to make further detailed findings about whether the Claimant made threats to kill Mr Allen before and after the 6-7 February hearing; and I can deal with this aspect of the case more shortly.
135. I find that a telephone threat was made to Mr Allen as he drove to court in company with Ms Porter on 6 February. He first gave an account in a police statement on 9 June 2006, in which he described hearing a voice, screaming with rage saying something along the lines, 'You fucking cunt, we've just watched your wife put the rubbish out. We'll kill you and your family if you go to Court.' He rang his wife and asked whether she had just put the rubbish out and she said that she had. He had then rung 999. Ms Porter recalled being handed Mr Allen's mobile phone, hearing a woman's voice and being told by Mr Allen that 'they' had threatened his family.
136. The Defendant invites the Court to draw an inference that, since the Claimant was at the centre of the threats at court on 6 and 7 February, he must have been behind this earlier telephone threat. I am not prepared to draw that inference. It is clear that feelings were running extremely high on the Matthews side and that the Claimant was

a leading supporter of Mr Matthews, however, the evidence is not sufficient to make the finding that he was behind making this call.

137. Mr Allen also gave evidence that he had been subsequently threatened on 1 March 2006. His evidence was that after what had happened on 7 February, he felt he had to negotiate with Mr Matthews and the Claimant, and sent negotiators to speak on his behalf. He asked Biju Ramakrishan to take a message to Jim Singh asking the latter to help sort out a deal with Mr Matthews and the Claimant. His police statement described the Claimant phoning him and saying, 'You liberty-taking cunt, you'll get a bullet through your head. Don't take any fucking liberties.' He later described receiving a call from Jim Singh and his partner Vijay Sharma saying that the Claimant would give him £1 million to walk away from his claim to the land. He was also told that they had been present when the Claimant received a telephone call informing him that London City Storage had been raided and had then accused Mr Allen of informing on him.
138. There are a number of problems with this account. First, although Mr Ramakrishan had a general recollection of negotiating to buy the property in dispute, he could not recall being asked to sort out a deal with Mr Matthews and the Claimant. Secondly, it is at least possible that what occurred was misreported to Mr Allen. Thirdly and most significantly, Mr Allen 'could not swear' it was the Claimant who had threatened him over the phone; and the Claimant categorically denied doing so. In these circumstances I do not reach any conclusion adverse to the Claimant as to what occurred on 1 March 2006.
139. Nevertheless in the light of the previous findings, I have concluded that, following his arrest on 7 November 2006 and interview under caution, the Claimant took steps to ensure that the case against him did not proceed beyond his arrest. In this he was undoubtedly assisted by the misdirected investigation into the conduct of Messrs McKelvey, Guntrip and Clark; but I also find that he brought pressure on Mr Woollard to persuade him not to give evidence against him.

Conclusion on Third Meaning

140. In the light of the above the Defendant has proved that the Claimant threatened Mr Allen and then orchestrated an attack on his 'minders'. I also find, although the evidence is less certain, that the Claimant avoided prosecution through intimidation of Mr Woollard. Whether it was by threats or inducements, or a mixture of the two, does not matter much; the effect was the same: the perversion of the course of justice, which is the sting of that part of the libel.
141. In any event, I have concluded that there were reasonable grounds to suspect that the Claimant acted in this way.
142. It follows that I find that the Defendant has justified the Second Meaning.

The First Meaning

143. This issue involves evaluating the evidence advanced by the Defendant to support its case that the Claimant was the head of a large criminal organisation shown to be concerned in murder, drug-trafficking and fraud.
144. On this aspect of the case, the Defendant focussed primarily on the evidence of money-laundering, as explained in §6 of the Notes to the Proceeds of Crime Act 2002.
- The process by which the proceeds of crime are converted into assets which appear to have a legitimate origin, so that they can be retained permanently or recycled into further criminal enterprises.
145. It is clear from the evidence, which includes various court judgments in relation to his prosecution and conviction, that in the 1990s Peter Michel was offering a money laundering service in Jersey to overseas criminals. He received cash which represented the proceeds of crime from clients and paid out equivalent amounts to them either from client accounts or by processing the cash through designated bank accounts of Jersey companies which had been set up for the clients. The ownership of these Jersey companies was concealed by a veil of companies and trusts established by Mr Michel, and by false statements to the company authorities in Jersey that a person or trust apparently unconnected to the client was the beneficial owner, see Lord Brown of Eaton-under-Heywood in *Peter Michel v, The Queen* [2009] UKPC 40 at [9].
146. It is not disputed that Mr Michel was in the business of money-laundering. However, Mr Tomlinson submitted that there was no proof that GRL was set up or used for this purpose, nor that the Claimant knew of this.
147. It is plain that the setting up of GRL involved the concealment of its beneficial ownership. Two of Mr Michel's own companies (Chimel Trustee Company Ltd and Rroyds Ltd) were named as the founder members, and the authorities were notified of an offshore beneficial owner, the Purser settlement. The Claimant knew about both the structure of the company and that he, and not the Purser settlement, was the beneficial owner.
148. His evidence was that he wanted to buy land at 75-77 Chequers Lane from where he could operate his scrap and waste business, he and his solicitor (Mr Williams) met Messrs Chamberlain and Michel at Chequers Lane, and Mr Michel persuaded him to set up a Jersey company to acquire the land. This evidence was broadly supported by Mr Williams.
149. I do not accept this explanation. There was no legitimate advantage to the Claimant in such a structure: a Jersey company would have to pay tax in the UK if it acquired the land and leased it, and there was the additional disadvantage of the expense of

conducting business through Mr Michel. Neither the Claimant nor Mr Williams was able to explain why it was necessary to conceal the Claimant's beneficial ownership of the company from the Jersey authorities by using an overseas settler of a trust; and the Claimant's explanation of how and why the company was structured in this way, that he had been advised to do so by Mr Michel and business associates, was highly unconvincing. I do not accept that he was being naively led in a direction he did not understand.

150. I am quite satisfied that the Claimant knew, and that Mr Williams either knew or suspected, that the purpose was to conceal the ownership of GRL from anyone who might be interested in the ownership, assets and sources of income of the company.
151. The establishment of GRL came at the end of the long investigation by the Inland Revenue into the Claimant's tax affairs during which it had emerged that he had undeclared income from sources that he was unable to identify. It is possible that the purpose of setting up GRL was simply to continue evading tax, but in my view the very much more likely reason was to process income from criminal activities. The Claimant intended to pass his criminal income through Mr Michel and GRL, and run a legitimate cash-based scrap business at Chequers Lane to explain the source of some of his cash receipts to the Inland Revenue.
152. GRL acquired 2 Green's Court in Soho in December 1995. It is not in dispute that at the time it was entirely given over to the sex industry, consisting of a 'clip joint' in the basement (where customers were induced by promises of sexual favours to drink under-strength alcoholic drinks for which they were overcharged), a sex shop on the ground floor and 'walk up' flats on the upper 3 floors used by prostitutes.
153. The Claimant's evidence was that he was not aware of the use of the premises for the purposes of the sex industry either in 1995 or subsequently. He had only viewed the property as an investment opportunity. At §§28-32 and §§63-69 of his witness statement he described Jimmy Holmes as being introduced to him in the early 1990s as someone who had the 'Midas touch' in renovating properties; and that he was persuaded by Mr Holmes to go into business with him. The plan was to acquire a run-down property in Soho and renovate it. However, Mr Holmes had absconded with £100,000 of the Claimant's money which had been intended for the renovation of 2 Green's Court, and he had been forced to pursue Mr Holmes through the courts for the return of the money. This had resulted in a series of vengeful responses from Mr Holmes to what was a legitimate claim for the return of his money. He had decided to purchase the property from the mortgagee in possession for £240,000, at a time when it was completely uninhabitable. The purchase price had been made up from two contributions of £100,000 each from Bill Smith Snr and Peter Pomfrett, with the balance coming from his own resources. The payments of £240,000 had been made to the vendor's solicitors by Mr Michel from funds in the GRL Jersey account between 10 November and 20 December 1995. Initially the property had been let to Gary Oxley on a rent-free basis. When it became clear that it was being used for unlawful purposes, the agreement was terminated and the property was let to Steven Galvin Jnr in the hope that he would bring it into good repair. The Claimant was adamant that as

soon as he knew it was being used for the purposes of the sex trade (as he did in October 1999 when the CPO was issued) he acted to put a stop to it.

154. The documents show that the following payments were made to the GRL account; (1) £100,000 by banker's draft payable to GRL, and paid into the GRL bank account by Mr Michel under the heading 'Sundries' on 24 October 1995; (2) £55,000 credited to Michel & Co's client account and paid into the GRL bank account by Mr Michel under the heading 'Transfer' also on 24 October 1995; (3) £120,000 paid from the account of Mr Williams's firm (C. Williams & Co) directly into the GRL bank account in two tranches on 8 and 19 December 1995.
155. It is possible that the payment of £100,000 can be associated with an application by Mr Pomfrett dated 12 October for a banker's draft in the sum of £100,000; however, the ultimate source of the other payments is obscure; and little light was thrown on the matter by the evidence of the Claimant. In particular, there was no cogent explanation of how and why the payments were being made to a Jersey company in order to buy the property. Mr Williams, who might have been expected to know, was unable to say. He did not know how the £100,000 was sent to Mr Michel, nor could he explain where the £55,000 paid to the Michel & Co client account came from. He transferred the £120,000 from his firm's client account to the GRL account and thought this money had come to him from HISL (the Claimant's scrap-business), but could offer no explanation as to why his client's trading company in Dagenham would be buying a property in Soho through a Jersey company. Even allowing for the passing of time and the lack of documentation to assist him his evidence was unsatisfactory.
156. I am left with the clear impression that this was a money laundering exercise engineered by the Claimant (or on his behalf), using the services of Mr Michel whom he knew could launder money.
157. Even if I were to accept that the Claimant's contribution was limited to £40,000, it was a questionable transaction since it was carried out at a time when he was telling the Inland Revenue that he had no money to pay his assessed unpaid tax.
158. In addition to the 2 Green's Court series of transactions there is a further questionable transaction which the Defendant relies on as evidence of money-laundering. On 23 May 2006, a sum of £20,000 was credited to the GRL account under the heading 'sundries'; on 4 June a further sum of £21,600 was transferred and credited to the account under the heading 'C Williams & Co'; and on the same date a further sum of £10,000 was credited again as 'sundries': a total of £51,600. On the 6 June 2006 the sum of £50,020 was debited to the account under the heading 'To 2022986'. This was a payment to the account of HISL at the Epping branch of Barclays Bank.
159. Neither the Claimant nor Mr Williams could explain where the sums which were credited to the GRL account came from, although they cannot have come from HISL,

since this is where they ended up. The evidence strongly suggests, and I find, that the payments were being circulated as part of a money-laundering process.

160. On 29 April 2013, following a late application to amend, the Defendant added particulars that the Claimant also laundered the proceeds of crime through Palmer's Motors. He had purchased the freehold of 51/53 Chigwell Road in July 1996 for £160,000 (of which £91,400 came from a business loan and £70,000 was from the Claimant's resources). The application for the business loan contained a fraudulent representation that the Claimant was earning £100,000 p.a. as a director of HISL. If it were necessary to make any further finding about money-laundering, I would find that the sum of £70,000 was the proceeds of crime. HISL had been put into administrative receivership on 25 June 1996. There is no credible evidence of any source of legitimate income at this time.
161. In addition, the Defendant placed reliance on the surprisingly large sums of money passing through the bank accounts of Susan Palmer, the wife of Mr Palmer between January and December 1997. During this period, when neither Mr Palmer nor Mrs Palmer paid income tax, a total of £2,774,357 was deposited in her account. The Defendant relied on the evidence of the assault on Mr Cavanagh and of Mr Palmer's part in it, as well as other background material, to show that the Claimant was not an arm's-length landlord of Palmer's Motors and that the large sums passing through the account were likely to be the proceeds of crime.
162. In a supplemental statement made on 30 April 2013, the Claimant denied having any interest in the business which Michael Palmer conducted at Palmer's Motors, and specifically denied using Mrs Palmer's bank account to launder money.
163. The transactions on Mrs Palmer's account in 1997 and 1998, and what I find to have been Mr Palmer's status as a subordinate of the Claimant, raise a strong suspicion about these transactions so far as the Claimant is concerned; however I find it difficult to draw conclusions adverse to the Claimant without further and fuller investigation of the facts which could not take place in view of the late stage at which the matter was raised.
164. In addition to my conclusions about money-laundering, I find that the Claimant knew what the premises at 2 Green's Court were being used for from the moment GRL made the purchase in 1995 up until at least 2001. His evidence that his company had invested £240,000 in freehold property in the heart of Soho, and retained that interest, without finding out what it was being used for, is unlikely to a high degree. By July 1996 there were articles in 'Time Out' stating that it was being used for prostitution. I do not accept that this would have come as any surprise to him.
165. He gave evidence that, whenever it came to his notice that the premises were being used by prostitutes despite what he had done to prevent it, he took immediate and further steps: for example, by removing the staircase and installing new tenants. I was not persuaded by this evidence. Both of GRL's tenants (Mr Oxley and Mr Galvin) had

criminal records and their status as tenants cannot have given him any assurance about the use of the premises. In my view the lease arrangements were simply a means of putting distance between the nature of the business being carried out at the property and the Claimant. I am satisfied that he knew that the upper floors of the premises were being used by prostitutes for most of the period between 1995 and 2001.

166. A beneficial interest in property knowingly being used for the purpose of prostitution does not (at least by itself) indicate that the Claimant was the head of an Organised Crime Group. However, money-laundering is carried out to convert money derived from criminal conduct into what appears to be an asset derived from legitimate sources. It is a matter of notoriety that improving property can be carried out by the deployment of cash, which might otherwise be difficult to use without an explanation for its source.
167. The Defendant made a further point in relation to the evidence. Although Mr Millar accepted that there was not sufficient evidence to prosecute the Claimant for 'involvement in the extensive burglaries, lorry thefts and handling of stolen goods' identified by 'Operation Houdini', following the raid on London City Storage on 1 March 2006, he submitted that, applying the civil standard of proof and drawing proper inferences from all the evidence (which included evidence of the large quantity of stolen champagne found by the police at the Golf Club owned by the Claimant during the search on 7 November 2006), I should conclude that London City Storage was the place where the Claimant stored the proceeds of burglaries and thefts carried out by his Organised Crime Group. As with my conclusions about the large sums of money passing through Mrs Palmer's accounts, the facts and circumstances raise a suspicion about the Claimant's involvement with the stolen property found at London City Storage, but do not constitute proof of the matters for which they are relied.

The Defendant's case on the First Meaning

168. Mr Millar realistically accepted that the Defendant's case fell short of direct proof that the Claimant was involved in murder or drug trafficking. Nevertheless he made a number of submissions to the effect that the Defendant had succeeded in justifying the First Meaning.
169. First he submitted that the evidence showed that the Claimant was a violent and dangerous criminal and the head of an Organised Crime Group, operating for many years; and that this must 'connote' involvement in the crimes of murder and drug-dealing, since these are the sort of crimes that such criminal organisations are characteristically involved in. He pointed out that the Claimant's assault on Mr Cavanagh on 13 November 1997 was of such severity that it could easily have resulted in death and led to a murder charge.
170. Secondly, and alternatively, he submitted that the Court should adopt the approach of Eady J in the *Turcu v News Group Newspapers Ltd* [2005] EWHC 799 (QB) at [111], to which I have already referred.

171. On this basis Mr Millar submitted that the overall gravity of the sting of the libel was that the Claimant was a violent and dangerous criminal and the head of an Organised Crime Group, and the reference to the involvement of that organisation in murder and drug trafficking added nothing of substance. Although the particular involvement of the organisation in these offences cannot be shown, this should not defeat the substantial justification defence.
172. Thirdly and alternatively, he submitted that the words contained distinct charges within the meaning of s.5 of the 1952 Act. In other words if there were something so grave about the allegation of involvement in murder and drug-trafficking so that they were beyond the overall gravity of the sting, then it followed that they were distinct charges. If that were right then these particular charges did not materially injure the Claimant's reputation, since he had (on this hypothesis) already been proved to be a violent and dangerous criminal and the head of an Organised Criminal Group.

Conclusion on the First Meaning

173. It is implicit from the use of the words 'head of an Organised Crime Group' or 'crime lord who controlled a vast criminal network' that the person so described is at the head of a network of relationships within a broadly hierarchical structure, which is involved in a range of criminal activities, and is ready to use violence to exercise and maintain control over subordinates and others whom he deals with. To this extent I accept Mr Millar's submissions.
174. The prior findings in relation to the Second Meaning (Cavanagh) reinforce the strong impression that the Claimant was such a man. First, he was in a position, and was able, to enforce his will over subordinates. It was known that Mr Cavanagh had taken a car from Palmer's Motors, on the Claimant's assurance that he would pay, and that he had failed to do so. The Claimant made an example of Mr Cavanagh to demonstrate his authority. Secondly, the Claimant was able to assault him in front of three people knowing that none of them would inform the police of what had occurred. None of them did; on the contrary they covered up the crime. Thirdly, having spoken to the police about the assault, Mr Cavanagh was plainly extremely frightened of the Claimant.
175. The prior findings in relation to the Third Meaning (Allen) demonstrate that the Claimant was in a position to deploy a group of large and violent men at a Court hearing in Central London, and direct them to carry out an attack in a public area for a reason related to his business interests. It was a striking display of the sort of power and authority that might be expected from the head of criminal network.
176. The further matters that I find the Defendant has proved in relation to the First Meaning (the relatively sophisticated money-laundering and his effective position as the landlord of prostitutes) reinforce a clear impression of the Claimant as someone at the head of a network involving more than one criminal business, which included fraud. The way in which the Inland Revenue chose to deal with his tax liabilities is of marginal relevance in this context.

177. In these circumstances I have little difficulty in accepting that the Defendant has justified that part of the First Meaning which relates to the Claimant being the head of an organised crime network, implicated in extreme violence and fraud.
178. I do not, however, accept that involvement in murder and drug-trafficking are necessarily included within a general description of a head of an Organised Crime Network. If that were so, there would have been no need to add the words ‘implicated in murder [and] drug-trafficking.’ Nor am I persuaded that these particular charges constitute exaggerations at the margins, to paraphrase the words of Eady J in *Turcu*. The charge of murder is properly regarded as a uniquely serious crime, and an allegation of drug trafficking is regarded as morally repugnant even by those who may be tolerant of other forms of criminality.
179. As Tugendhat J noted in *Hamaiza & Amirani v. Commissioner of Police for the Metropolis* [2013] EWHC 848 (QB) at [60]

In my judgment an allegation of an involvement in murder may be significantly more serious than an allegation (admittedly true) of involvement in, or commission of, offences of false imprisonment and grievous bodily harm.

180. Thus, although I accept that the charges of murder and drug trafficking are distinct charges, I do not accept that the Defendant can rely on s.5 of the 1952 Act. It cannot be said that the failure to prove these charges does not materially injure the Claimant’s reputation having regard to the truth of the remaining charges. That is not to say that there may not be an impact on the amount of damages that may be recovered in the light of the extent to which the justification defence has succeeded.

The Reynolds defence

181. This defence has developed in a number of decisions of the House of Lords and Supreme Court: in particular, *Reynolds v. Times Newspapers* [2001] 2 AC 127, *Bonnick v Morris* [2003] 1 AC (PC) 300, *Jameel v. Walls Street Journal Europe Sprl* [2007] 1 AC 359 and *Flood v. Times Newspapers* (see above). None of these cases definitively settled the correct name of the defence; and I shall refer to it as the Reynolds defence, which is the name used in s.4(6) of the Defamation Act 2013, which abolishes it.
182. There are two distinct parts of the defence, see Lord Phillips in *Flood* (above) at [2],

Put shortly *Reynolds* privilege protects publication of defamatory matter to the world at large where (i) it was in the public interest that the information should be published and (ii) the publisher has acted responsibly in publishing the information, a test usually referred to as ‘responsible journalism’ although *Reynolds* privilege is not limited to publications by the media.

183. These two elements are reflected but not reproduced in the new statutory defence in s.4(1) of the Defamation Act 2013.
184. Before turning to these two elements, three general points may be noted.
185. First, there is an inherent tension between the public interest in publishing information and the dissemination of untrue and damaging information. Lord Phillips expressed this tension in [44] of *Flood*.

In *Reynolds* Lord Nichols ... described adjudicating on a claim for *Reynolds* privilege as a ‘balancing operation’. It is indeed. The importance of the public interest in receiving the relevant information has to be weighed against the public interest in preventing the dissemination of defamatory allegations, with the injury this causes to the reputation of the person defamed.

He returned to the striking of this balance at [48],

... the more serious the charge, the more the public is misinformed and the individual harmed, if the allegation is not true. But, turning the coin over, the more serious the allegation the greater is likely to be the public interest in the fact that it may be true ...

186. Secondly, the ‘single meaning’ principle does not apply with same degree of rigidity when considering this defence. The reason was given in *Bonnick v. Morris* by Lord Nicholls at [23]-[25]; and in *Flood*, by Lord Phillips:

[51] When deciding whether to publish, and when attempting to verify the content of the publication, the responsible journalist should regard the full range of meanings that a reasonable reader might attribute to the publication ...

See also Lord Brown at [111] and Lord Mance at [128], and Eady J in *Hunt v. Times Newspaper Ltd (No.2)* [2012] EWHC QB at [12(iv)].

187. Thirdly, *Reynolds* principles are not hard-edged, and their application in particular circumstances can give rise to real difficulty. As Lord Nichols noted in *Reynolds* at 202 c-e.

As observed by the Court of Appeal, this principle can be applied appropriately to the particular circumstances of individual cases in their infinite variety. It can be applied appropriately to all information published by a newspaper, whatever its source or origin.

Hand in hand with this advantage goes the disadvantage of an element of unpredictability and uncertainty. The outcome of a court decision, it was suggested, cannot always be predicted with certainty when the newspaper is deciding whether to publish a story. To an extent that is a valid criticism. A degree of uncertainty in borderline cases is inevitable. This uncertainty, coupled with the expense of court proceedings, may 'chill' the publication of true statements as well as those which are untrue

188. See also Lord Dyson in *Flood* at [187]: the weight to be given to relevant factors will vary from case to case.

189. With these points in mind I turn to some of the particular principles which emerge from the cases.

(1) Public Interest

190. First, there must be 'some real public interest in having the information in the public domain', see Lord Phillips at [42] and Lord Mance at [126] in *Flood*, approving this formulation by Lady Hale in *Jameel* at [147].

191. Secondly, in considering this element of the defence it is necessary to look at the article as a whole. As Lord Hoffman expressed it in *Jameel* at [48]

The first question is whether the subject matter of the article was a matter of public interest. In answering this question, I think that one should consider the article as a whole and not isolated from the defamatory statement.

192. Thirdly, although there must also be a public interest in the publication of the details of the allegations, see Lord Dyson in *Flood* at [196], the Court will look at the 'thrust' of the article in deciding whether the inclusion of facts which cannot be justified renders the journalism irresponsible, see Lord Bingham in *Jameel* at [34],

... difficulty can arise where the complaint relates to one particular ingredient of a composite story since it is then open to a plaintiff to contend, as in the present case, that the article could have been published without the inclusion of the particular ingredient complained of. This may in some instances be a valid point. But consideration should be given to the thrust of the article which the publisher has published. If the thrust of the article is true, and the public interest condition is satisfied, the inclusion of an inaccurate fact may not have the same appearance of irresponsibility as it might if the whole thrust of the article is untrue.

193. Fourthly, the Court will allow the journalist latitude in the way the story is written, provided (viewed overall) the publication is in the public interest, see for example Lord Mance in *Flood* at [130]; and in *Jameel* at [51], where Lord Hoffman noted,

The fact that the material was of public interest does not allow the newspaper to drag in damaging allegations which serve no public purpose. They must be part of the story. And the more serious the allegation, the more important it is that it should make a clear contribution to the public interest element in the article. But whereas the question whether the story as a whole was a matter of public interest must be decided by the judge without regard to what the editor's view may have been, the question of whether defamatory statement should have been included is often a matter of how the story should have been presented. And on that question, allowance must be made for editorial judgment. If the article as a whole is in the public interest, opinions may reasonably differ over which details need to convey the general message. The fact that the judge, with the advantage of leisure and hindsight, might have made a different editorial decision should not destroy the defence.

See also Lord Hope at [108].

194. The significance of this journalistic or editorial judgement has been emphasised in a number of cases dealing with the issue of anonymity. It is clear that the Courts will give proper weight to the way in which the press exercises its judgement in the presentation of material, see Lord Hoffmann in *Campbell v. MGN Ltd* [2004] 2 AC 457 [59], and Lord Hope DPSC in *In re British Broadcasting Corporation* [2010] 1 AC 145 [25], referred to in the judgment of Lord Mance in *Flood* at [134]. In the latter case Lord Hope noted (in the context of Article 10 of the ECHR),

... article 10 protects not only the substance of the ideas and information but also the form in which they are conveyed. In essence article 10 leaves it for journalists to decide what details it is necessary to reproduce to ensure credibility.

See also, Eady J in *Hunt (No.2)* at [12(ix)].

(2) Responsible Journalism

195. In the *Reynolds* case at p.205, Lord Nichol set out a list of 'non-exhaustive factors' to be taken into account when the Court is considering whether the journalism is responsible.

1. The seriousness of the allegation. The more serious the charge, the more the public is misinformed and the individual harmed, if the allegation is not true.

2. The nature of the information, and the extent to which the subject-matter is a matter of public concern.
 3. The source of the information. Some informants have no direct knowledge of the events. Some have their own axes to grind, or are being paid for their stories.
 4. The steps taken to verify the information.
 5. The status of the information. The allegation may have already been the subject of an investigation which commands respect.
 6. The urgency of the matter. News is often a perishable commodity.
 7. Whether comment was sought from the plaintiff. He may have information others do not possess or have not disclosed. An approach to the plaintiff will not always be necessary.
 8. Whether the article contained the gist of the plaintiff's side of the story.
 9. The tone of the article. A newspaper can raise queries or call for an investigation. It need not adopt allegations as statements of fact.
 10. The circumstances of the publication, including the timing.
196. The defence in the *Reynolds* case failed because the House of Lords found that the 'serious allegations ... presented as statement of fact but shorn of all mention of [the claimant's] considered explanation, were not information the public had a right to know,' see Lord Nicholls at 206E.
197. It is important to recognise that the 10 matters referred to by Lord Nicholls are pointers and not hurdles to be overcome by the publisher before the defence can succeed, see Lord Bingham in *Jameel* at [33]. Lord Hoffman expressed the point in the same case at [54],
- The question in each case is whether the defendant behaved fairly and responsibly in gathering and publishing the information.
198. Six further points may be noted.
199. First, where the complaint relates to one particular ingredient in a composite story, it may be open to a claimant to contend that the article could have been published

without the inclusion of the particular passage of which complaint is made. However, as Lord Bingham acknowledged in *Jameel* at [34],

... consideration should be given to the thrust of the article ... If the thrust is true, and the public condition is satisfied, the inclusion of an inaccurate fact may not have the same appearance of irresponsibility as it might if the whole thrust of the article is untrue.

200. Secondly, the verification issue has to be considered on the basis of what was known at the time; and a journalist cannot rely on discoveries that he has made after the publication, see Brooke LJ in *Loutchansky v Times Newspapers Ltd* [2002] QB 321) at [41] and [80]. Thus the conduct and decisions of the publisher or journalist are to be considered objectively in the light of the matters known to them at the time and are not to be judged with the benefit of hindsight.

201. Thirdly, as when considering what is in the public interest, weight should ordinarily be given to the professional judgment of a journalist in the absence of some indication that the decision to publish was made in a ‘casual, cavalier, slipshod or careless manner’, see Lord Bingham in *Jameel* at [33]. The Courts will give weight to the judgement of journalists as to the nature and extent of the steps taken before material is published, and as to the content, see *Flood*, Lord Mance at [137].

The courts must have the last word in setting the boundaries of what can properly be regarded as acceptable journalism, but within those boundaries the judgment of responsible journalists and editors merits respect.

202. Fourthly, in considering point 4 in Lord Nicholls’s list, the court should bear in mind the observations of Lady Hale in *Jameel* at [149]

The actual steps taken will vary with the nature and sources of the information. But one would normally expect that the source or sources were ones which the publisher had good reason to think reliable, that the publisher himself believed the information to be true, and that he had done what he could to check it.

203. Some of the particular steps which may be appropriate were set out in the judgment of Lord Mance in *Flood* at [156] to [180]: for example, (a) obtaining as many reliable documents as possible [157], (b) being aware that informants may have no direct knowledge of the events [158/9], (c) being aware that a source may have ‘an axe to grind’ [169].

204. Fifthly, the verification involves both a subjective and an objective element, see Lord Phillips in *Flood* at [79].

The responsible journalist must satisfy himself that the allegation that he publishes is true. And his belief in its truth must be the result of a reasonable investigation and must be a reasonable belief to hold.

205. As Eady J acknowledged in *Hunt (No.2)* at [12(v)] the duty of verification will be correspondingly more onerous the more serious the allegations.

206. Sixthly, when considering points 6 to 8 in Lord Nicholls's list, a failure to give the subject of an article an opportunity to comment is a matter to be taken into account. As Lord Scott of Foscote expressed it in *Jameel* at [138]

Fairness to those whose names appear in newspapers may require, if it is practicable, an opportunity to have a response published by a newspaper.

207. If the Claimant is to be given an opportunity to provide the gist of his side of the story, the thrust of the allegations will need to be put to him, see *Galloway v. Telegraph Group Ltd* [2006] EMLR 221 at [75] (CA); and he should be given a reasonable time in which to respond to the gist, see *Galloway v. Telegraph Group Ltd* [2005] EMLR 115 at [165] (Eady J). However, it is clear that it is not always necessary, see for example Lord Hoffman in *Jameel* at [85]

Consideration of the Reynolds defence

(1) Public Interest

208. Mr Millar submitted that there was a clear public interest in 'the health and well-being of Society'. The thrust of the article was that criminal families and/or organisations had been seeking to benefit financially from the compulsory purchase of plots of land at Silvertown Way, Canning Town. The compulsory purchase was a publicly funded activity intended to regenerate a deprived area in the main Olympic Borough of Newham; and the public were entitled to know who was benefiting financially, how they went about acquiring such benefits and whether they were deserving of the benefits they received at the taxpayer's expense. The Article correctly revealed that £17m of public funds had so far been spent on acquisitions, out of a total fund of £20m

209. Mr Tomlinson argued that this was not a matter of public interest, since criminal families and/or organisations (if such they were) were the owners of the property and would get no more than any other owner under the compulsory purchase scheme. His argument echoed the reported views of the London Development Agency itself, as set out in [10] of the Article.

210. In my view Mr Tomlinson's argument takes a too narrow view of the Public Interest. If criminals were being paid from public funds it was a matter of public interest,

whether or not the same amounts would have compensated any other owner; but the article was also directed to another issue: namely, the subversion by criminal acts of a legal process which would decide the ownership of the land. As the article pointed out, the scale of the compensation (running into millions of pounds) had led to serious consequences including violence and attempts by other criminals to benefit. As the article expressed it, a dispute over the ownership of one plot of land which was the subject of the London Development Agency CPO had led 'to a violent turf war' and a 'large-scale police corruption enquiry', (see [3] of the article). These were matters of public interest.

211. I also accept Mr Gillard's evidence that, in order to make good its central allegation, the article had to identify the criminal families/organisations involved, explain the nature of their criminal activities and describe how they had been seeking to benefit. As Lord Mance observed in *Flood* at [180], 'without names there would have been little to publish. It would have been disembodied.' The status and involvement of the Claimant and others was plainly central to the article, which also identified the land dispute between two criminal factions.
212. In my judgment the matters of complaint were plainly an important part of the broader picture contained in the article. They added weight to the story that renowned criminal families and/or organisations were seeking to benefit from a public compulsory purchase fund, and why the Claimant had involved himself in the legal dispute between Mr Matthews and Mr Allen on the side of the former.

(2) Responsible Journalism

213. Before considering this issue it is convenient to set out my views of Mr Gillard. He is plainly a highly-experienced journalist. During the course of many hours of cross-examination about his journalistic methods, both generally and in relation to the writing of the Article, he came across as extremely self-confident, but also thoughtful about the role of investigative journalism, and clear and persuasive in his views about the proper treatment of the information he discovered. Although he did not disguise his opinion about previous legal decisions which he regarded as wrongly inhibiting him from defending his journalism, and at times gave evidence which he knew went beyond what he could properly give, his answers were closely directed to the question he had been asked and the point he wished to make. His evidence was both lucid and entirely credible.
214. I make these findings because Mr Tomlinson submitted that Mr Gillard demonstrated 'a high degree of inflexibility'. I accept that criticism to a limited extent: there were times when he took up an adversarial challenge and failed to make concessions at the margins of the case which could properly have been made. Nevertheless, I was left with the distinct impression that, if he said that information had come from a source, it had; and that he had conscientiously evaluated its weight. I am also satisfied that he did not uncritically accept anything he was told by, or read, from a source: rather the contrary.

215. It is important to note that Mr Tomlinson accepted (at this stage of the argument) that, but for two matters, the Defendant would be entitled to rely on the Reynolds defence. His first objection was that the First Meaning involved a Chase 1 level of seriousness. As he put it in his closing submissions:

If this had been a case about reporting allegations, then my position would be frankly unsustainable on *Reynolds*. If the article had simply said, 'It is alleged that Mr Hunt is a criminal. He had been the subject of substantial investigations over the years. Accusations had been made against him, but none of these had been established' ... then we would be in a very different place but ... this is a case in which they are presented as fact.

216. His second objection was that Mr Gillard had failed to give the Claimant a fair opportunity to respond to the allegation.

Verification

217. Mr Gillard described how he had been investigating the Claimant and his associates (among other Organised Crime Groups) for about 11 years before the publication of the Article. During that time he had obtained a significant amount of information which had led him honestly to believe that the Claimant was a violent and dangerous criminal at the head of a family-based network. He described the basis of this belief, his evaluation of his sources and the internal documents of the police (and other law enforcement agencies) which he had seen. He summarised his general approach in his evidence.

A. My case is that from the very word go they were official documents, real documents, and recorded very hard information about Mr. Hunt. They were part of a number of documents that I received pre-publication, including a number of sources, all reliable, that were in a position to know, that I had spoken to over a long period of time. When you put together a matrix of documents, sources and official information you are able to, I think as a journalist, get an assessment, especially a journalist like me who has worked in this world for a long time and knows what a duck is and what a duck isn't.

Q. ... where is your assessment of the reliability of the sources?
...

A. ... For example, the sources that you have taken me through between 1999 and 2004 ... were individuals ... that clearly I've kept for a long period of time, and informed the book that I published that has now been passed up [This was a reference to his book 'Untouchables' co-authored with Laurie Flynn and published in 2004]. The information in that book came from

those sources. They have repeatedly proved themselves to be correct and reliable. I've written a book in probably one of the most litigious areas in UK libel law, Police corruption, without complaint. I've regarded them as reliable at the time, they have proved themselves to be reliable, the book is evidence of that. I then went back to some of these people in relation to the investigation I carried out that led to this story, i.e. between 2008 and 2010, and some of their reliability was proved further.

Sources

218. Mr Gillard met a source ('Source A') on three occasions in October/November 1999. Source A told him, amongst other things that, the Hunts 'had been actively trying to invest criminal profits in legitimate businesses'; '... were into money laundering, drugs and protection and that David Hunt was the head of the firm'; their 'business was class A drugs, mainly heroin and cocaine'; and they were one of the 'two top firms in London'. The decision had been taken by Law Enforcement Agencies to look at the Hunts because 'they had murdered people, there was a lot of violence around them' and 'they were getting out of hand'. The source told him about a covert police operation against the Claimant in 1999, 'Operation Blackjack', which was run by a specialist group that was investigating organised crime in North and East London. The source also told Mr Gillard that the Director of Intelligence of the Metropolitan Police Service had authorised the placing of bugging equipment in the car showroom; the evidence acquired in the course of 'Operation Blackjack' which had led to the Claimant being charged with the unlawful wounding of Paul Cavanagh, and that the prosecution was discontinued before trial because Mr Cavanagh withdrew his statement to the police. Source A also told him that the unlawful wounding of Mr Cavanagh in 1999 was evidenced by surveillance material obtained in 'Operation Blackjack'.
219. Documents which Mr Gillard saw in 2008 confirmed that the Claimant had been charged with the assault, that he had used intimidation to prevent Mr Cavanagh testifying, and (wrongly as I have found) that the Claimant had admitted assaulting Mr Cavanagh when arrested in November 2006. Source A also told Mr Gillard about information from an informant that the Claimant and his brother Stephen had part financed, along with the Adams Organised Crime Group (identified in [15] of the Article) the purchase of a large quantity of class A drugs.
220. Mr Tomlinson suggested to Mr Gillard that Source A had an axe to grind, and was under investigation. He emphatically rejected the suggestion.
221. Another source ('Source C') told Mr Gillard that the Hunts were involved in lorry hijacking in the East End and class A drug operations; and a further source ('Source D') told him that the Hunts were one of the top two 'firms' in the UK along with the Adams family.

222. Sources, identified as ‘Oscar’, ‘November’ and ‘Papa’, told Mr Gillard that a police listening device had picked up members of the Hunt Organised Crime Group discussing a recent incident in which the Claimant had slashed the face of an unidentified man. His sources also told him that they believed that Mr Cavanagh and/or his family had been intimidated by the Hunt Organised Crime Group which had led Mr Cavanagh to withdraw his statement.
223. Another source (‘Source E’), told him about a National Criminal Intelligence Service operation in 1993-94 looking at the Hunts; and that at that time the ‘main caper’ of the Hunts was ‘drugs and ringing high value cars’. Source E also told him about intelligence obtained from a probe which recorded the Hunts talking about having to ‘get rid of loads of money’.
224. Mr Gillard produced the contemporaneous notes of the information obtained from all these sources. Some of the documents were heavily redacted to prevent identification of the sources, which I recognise made it difficult for Mr Tomlinson to test the provenance and reliability of the information.

Documents

225. It is unnecessary to refer in detail to all the documents which Mr Gillard saw in the course of the investigation leading up to the article. One matter of which he would have had to be aware was the risk that, in whatever form the information was conveyed to him (whether from sources or from documents), the ultimate source of information might be the same. However, it is reasonably clear that there were in fact different, albeit overlapping, sources of information, and that Mr Gillard reasonably treated what was said by some of the sources as providing corroboration for what was said by others.
226. A slightly different point was put to Mr Gillard and answered in the course of cross-examination.

A. I think that these documents are written by a variety of sources and, as I said, what I also looked for is the cross-referencing to other underlying intelligence that may have nothing to do with the operational team, in this case Newham Crime Squad, that were dealing with this particular investigation. It will refer back to other Police teams, other specialist units.

Later in his evidence he said,

... when you get an official document ... often you will find that the intelligence that is being recorded in that document will have a reference back ... to the underlying intelligence, whether that is informant logs, transcripts of probes, transcripts of intercepted conversations, and it is that reference that ... if

genuine (and I believe all these references to be genuine) ... would refer back to the hard underlying intelligence and evidence that is informing the current report I am seeing. I am not able, therefore, to get to [the] document that underlies it, but I am able to make an assessment of document that's in front of me; and, once I've satisfied myself that it's an original document ... I am also, therefore, able to make the assessment there is underlying intelligence.

227. Mr Gillard also recognised that there might be other material which, due to the nature of things was not available and might throw a different light on the issues he was investigating; and he had been sceptical about one particular document on the basis that it was a highly subjective opinion. For this reason he considered it necessary to go through a process of 'sifting and assessment'.
228. This, and other parts of his evidence, showed a robust, analytical approach to the material available to him; and in my view demonstrated a responsible journalistic approach.
229. Mr Millar made the point that the Claimant 'was unable to make any credible challenge to Mr Gillard's reliance on ... the documents in the course of his investigation.' That was correct. However, this is a point of limited weight in view of the material available in court. Thus, for example, Mr Gillard referred in §84 of his witness statement to a report in 1992 'concerning Mr Hunt, Jimmy Holmes and the Wright family in connection with drug importation from Spain.' This document [G1#16] had been entirely redacted apart from the year, '1992', which plainly made it impossible for Mr Tomlinson to challenge the basis of Mr Gillard's reliance on it.
230. It is unnecessary to describe each of the documents which Mr Gillard considered before he wrote the article, and which (in the terms of §82 of his witness statement), 'informed and supported [his] view that [the Claimant] was the head of one of Britain's most notorious OCGs'; and I shall confine myself to some of the more important documents identified at [A] – [E] below.
231. [A] The Spider Diagram [G1#19]

The information in the spider diagram was gathered contemporaneously by the intelligence arm of 'Operation Tiger', and showed the Claimant at the centre of a ring of what appear to be legal businesses, close associates (including Mr Holmes), premises selling drugs, prostitutes and 'protection'. In his witness statement at §§46-55 Mr Gillard explained how he was able to use his knowledge of some of those mentioned in the diagram to cross-check the accuracy of the information.

232. [B] The Crime Report Information System ('CRIS') [G2#27].

This contained entries in relation to ‘Operation Epsom’ in September 2006, and showed that the Claimant was being investigated for threats to kill and blackmail of Mr Allen, and for assaults at Court. In addition:

i) The Claimant was recorded as having,

... a propensity for violence. He is supported by a number of paid heavies and together they instil fear in their victims ... Intelligence shows that [the Claimant] maintains and controls a powerful position within a large criminal network ... It is clear the subject’s business interests are not legitimate.

ii) He was also said to have,

... a large number of associates willing to work for him, and despite a wealth of intelligence dating back approximately 20 years, police appear to have a very poor success rate in developing and progressing this into prosecution material. As a result the subject believes he has untouchable status ...

iii) The CRIS identified: (a) a significant risk to officers involved in the investigation; (b) the Claimant as remaining the head of one of the UK’s biggest crime gangs; and (c) information that Mr Woollard was ‘clearly in fear of reprisals from the Hunt gang.’

233. [C] The ‘Operation Houdini’ Intelligence Report: [G2#28]

This was an intelligence report, dated 17 August 2006, dealing with the criminal activities of the Claimant, Terry Adams, Charles Matthews Snr and Charles Matthews Jnr. Mr Gillard’s evidence was that its contents substantially confirmed the information that he had been given by his sources in 1999 about the Claimant’s criminal activities in the 1980s and early 1990s. The Report included the following:

... With the popularity of the drug scene increasing in the 80s with acid house parties and the UK being targeted by cocaine cartels. It is strongly believed again by varied sources that David Hunt went from strength to strength making large amounts of money from these activities in the process of gaining a reputation of a hard man who would stop at nothing to get results even resulting [sic] to murder if required ...

... large amounts of cash generated by Hunt are put into various business interests. At present it would appear that David Hunt is still making vast amounts of money from various activities which range from drug trafficking to protection rackets ...

David Hunt has been linked to many known criminals throughout London and Home Counties ...

...Hunt was investigated in the late 1990s under Operation Blackjack, a long-term surveillance operation where he was charged and remanded for GBH and perverting the Course of Justice. The matter was later dropped due to witness issues ...

234. During the course of cross-examination Mr Gillard gave evidence that the references in the Report to 'the underlying intelligence' were matters which he took into account when assessing its reliability.

235. [D] The Threat to Life Report of 25 January 2008 [G#32]

This was a report to the Borough Commander by DI McKelvey stating that he considered that he, and the other officers involved in investigating the Claimant, faced threats to their lives.

236. It included the following:

Throughout Operation Epsom and Operation Houdini there have been repeated examples of the Hunt organisation's ability to carry out murder, intimidation and acts of extreme violence

237. It also stated that:

I have no doubt that David Hunt has the motive, means and capability of funding this contract to kill. He runs his criminal network by use of extreme violence. Murder is second nature to him. He is believed to have been personally involved in several contract killings. Law enforcement agencies have to date been unsuccessful in targeting him no doubt due to his links with corrupt officers and officials. [redacted] is a known contract killer who has the means and ability to carry out the contract. He has been linked with several other killings. The combination of these two individuals and the various sources of similar information leaves me convinced that both [redacted] and myself are at REAL risk.

238. [E] The email dated 20.9.07, from Clive Timmons to DI McKelvey [C2#56]

Mr Gillard was shown a copy of this email from a senior police officer in 2009 and made a note of it at the time.

... The contract is for three serving MPS officers of which you are one. David Hunt ... has issued the contract ... [named individual] ... (... known for murder, drugs and firearms offences) is the likely owner of the contract. ... I know David Hunt. I know of [named individual]. They are both individuals capable of immense violence and are both sophisticated and difficult criminals. They have the means and capacity to fulfil any threat they make

As well as referring to the Claimant having placed a £1m contract on three policemen, Mr Gillard's contemporary note referred to the Claimant as 'one of a top ten SOCA organised crime target'.

239. Mr Gillard also knew that the Claimant was the subject of a particular investigation by SOCA ('Operation Deluxe') launched in November 2006, and that one of the strands of the investigation was into drug-trafficking; and he was aware that SOCA deal specifically with 'top-tier organised crime'. Finally he knew of the attack on Peter Wilson by the Claimant in 1992 at his home, which caused him significant injury.
240. Mr Tomlinson put his client's case on this issue bluntly and forcefully to Mr Gillard and received a characteristically blunt and forceful response.

Q. As a responsible journalist, the best you can say is 'A lot of police officers have made serious allegations against Mr. Hunt of criminality', is it not?

A. No, that's not the best I could say. I could say a lot better than that. What I'd say is this; that, when I look at 11 years of looking at Mr. Hunt and his development within the criminal hierarchy, I am looking at the huge expenditure of the Metropolitan Police: Different squads, unrelated squads with individuals who don't know each other, with senior management who don't know each other, who are in different areas, some of them, who have sustained police operations of surveillance, bugging, very expensive, very time consuming, and then I look at the fact that, over that 11 year period, the net result may not be that Mr. Hunt has been arrested for the three offences that you have talked about, murder, drug trafficking. However, I consider that the Serious Organised Crime Group then take over that investigation away from the [Metropolitan Police], because, as a report I saw commented, the Met found the Hunts to be 'too big for them'

Q. But you know ...

A. Sorry, if I may finish? Therefore, the fact that the Serious Organised Crime Agency is conducting an operation from 2006 into this individual and his - to quote a report I saw - family based organised crime group and gives very, very hard detail of what they're looking at (detail I can't refer to), I think, as a responsible journalist, I am entitled to take the view that it can't be right that all these officers and all these senior managers and all those who are responsible for releasing the public money have all conspired somehow to target Mr. Hunt, because they don't believe there is anything in it.

241. Towards the end of his evidence Mr Gillard added this,

The information I had at the time was an analysis of his financial accounts, evidence of his relationship with a known money launderer, the use of offshore companies, a history of violence, access to firearms; all these are evidence of organised crime activity. Then I have the documents from official sources, documents that aren't disputed as to their authenticity, that detail, crushing detail, of the level of surveillance and operations targeting Mr Hunt and his organised crime group. When I put all this together, I take the view that there is truth in the allegation that he is the head of an organised crime group.

242. In his closing submissions Mr Tomlinson developed the criticisms that he had put in cross-examination to Mr Gillard. He submitted that too much of the process of verification and assessment was undocumented; that Mr Gillard's evidence that much of the verification 'takes place in a journalist's head' made it difficult to assess the degree of care he took; and that, although he said that he weighed the quality of the underlying evidence, there was no specific evidence of his having done so. The fact that Mr Gillard was unable to assess whether the intelligence was good or bad was a fundamental flaw which undermined his approach. In addition, he submitted that Mr Gillard was not entitled to rely on the fact that the Claimant had been mentioned in his book 'Untouchables' in 2004 without complaint, since the references in the book were few, brief and of an entirely different quality of seriousness. Little weight appeared to be given to the fact that the Claimant had never been arrested, let alone charged with or tried for any homicide or drug offence. On the contrary Mr Gillard knew that the Claimant had been subjected to repeated and protracted investigation which had yielded nothing. In short, it was not responsible journalism to make a Chase level 1 allegation in the terms of the first meaning on the basis of the information known to Mr Gillard at the time.

243. Having considered these submissions, I accept one of these points: Mr Gillard was not entitled to rely on the lack of response to the publication of the 'Untouchables' as any basis for publishing the First Meaning libel.

244. There is one major and initial issue which needs to be addressed before reaching a conclusion on this part of the case: the relevance of the confidential SOCA documentation which the Defendant has not been able to adduce in evidence. Although plainly irrelevant to the issue of justification, in my view the Defendant is entitled to say that the SOCA information which Mr Gillard saw and which informed his article is relevant to the issue of responsible reporting and the Reynolds defence, notwithstanding neither the Claimant nor the Court has seen it. As Lord Phillips noted in *Flood* at [80], the journalist does not have to adduce evidence of primary facts for the purpose of the Reynolds defence. Much of course will depend on the view which the Court takes of the journalist as to whether he is likely to have made responsible use of the material which he has received in breach of confidence; but the fact that he has used the confidential material as the basis of the article does not entitle a claimant to say that it should be ignored. Nor did Mr Tomlinson submit that it should be. The same would apply to material which a journalist may have had sight of, but which he was never given or which was subsequently lost.
245. The fact that the Claimant has not been charged with, tried or convicted of the serious offences mentioned in the article is material. However, the fact that someone has escaped justice is obviously a matter of public interest and, if reported responsibly, may plainly give rise to this defence. The matter can be tested in a case where the wrong person has been convicted of a serious crime. It would be contrary to principle if, after a thorough and responsible investigation, the journalist was bound to frame a report in terms of a Chase 2 or Chase 3 allegation against someone who was responsible for the crime. In the present case, the article was based on information which indicated that the Claimant had consistently and effectively used intimidation and corruption to prevent cases being brought against him by the police and prosecuting authorities.
246. I recognise the force of Mr Tomlinson's submission that, on the basis of the material available to the Claimant and the Court, the words 'implicated in murder, drug-trafficking and fraud' could have been qualified by the words 'allegedly'. However, neither Mr Tomlinson nor I have seen or heard what Mr Gillard saw and heard, and the impression on him cannot be replicated. In addition, once one is in the realm of responsible reporting, it is not for the Claimant and emphatically not for a Judge to say how the story should be written: if it were, the readership of newspapers might have to endure the length and content of a legal judgment.
247. This is not a case in which a defendant embroidered the allegations with epithets and gratuitous adjectives, nor is there any evidence of embellishment of the facts, as there was in *Galloway*, see the Court of Appeal Judgment at [77].
248. On the basis of the information Mr Gillard received from sources that he was entitled to treat as reliable and knowledgeable, as well as the information contained in documents, some of which I have referred to, I am satisfied that it was reasonable for him to describe the Claimant as a violent and dangerous criminal and the head of an OCG implicated in murder, drug trafficking and fraud. I am also satisfied that he

honestly believed that the allegations were accurate and true, and that it was his duty to write the article in the form that it was published.

249. Whether they were in fact true or not, is a neutral factor when considering this defence, see Lord Hoffman in *Jameel* at [62] and Lord Mance in *Flood* at [122].
250. The next question then is what, if any, further steps needed to be taken in order for the Defendant to be able to rely on the Reynolds Defence on the First Meaning?

The Claimant's opportunity to comment:

251. There is little issue about the relevant facts. In the light of what he knew of the assault on Peter Wilson, Mr Gillard decided not to approach the Claimant directly; and instead contacted Scott Ewing (of David Phillips, Solicitors), who had acted as the Claimant's solicitor when he had been arrested following the fight at the Central London County Court. In my view the approach to his solicitor was reasonable, as well as understandable.
252. The conversation took place at 5.59 on Friday 21 May 2010, and there is a transcript of the conversation. Mr Ewing said he would be surprised if the Claimant would comment on anything, but agreed to tell him of Mr Gillard's call. Mr Gillard explained to Mr Ewing that he wanted to ask some detailed questions which included whether he had sided with the Matthews family in the land dispute in order to get part of the disputed land for himself, what financial benefit he obtained as a result of his involvement, and whether he was working with the Adams family to buy up land in the London Borough of Newham before the Olympics, including other land at the Silvertown Way site?
253. Mr Gillard explained that the thrust of the story was about the land at Silvertown Way and the Claimant's involvement as one of the 'core nominal' crime bosses in the country. Not surprisingly Mr Ewing said that he was not going to comment on anything of that sort, but said that he would speak to the Claimant. Mr Gillard said that he would be prepared to meet Claimant, but imagined that this was not going to happen. Mr Ewing indicated that the Claimant had 'retired many, many years ago', and said that he would be 'astonished' if the Claimant would speak to Mr Gillard. Mr Ewing did not understand what was meant by a 'core nominal', but understood that the article would be about the Claimant as 'an organised crime boss.'
254. Mr Ewing confirmed that he had Mr Gillard's phone number; and Mr Gillard said that the story was being run in The Sunday Times that Sunday. Mr Ewing said he would ask the Claimant but repeated that he would be 'surprised' if he would comment, although he might want to know more about the officers who had arrested him, on the basis of a two-way dialogue. He said that he would speak to the Claimant and that he would come back to Mr Gillard that evening or the following morning. 'I'd be surprised. I really would be surprised; but I will phone you back.'

255. Mr Tomlinson criticised what occurred. There was plainly no urgency about the story, since Mr Gillard had been working on it for two years. In approaching Mr Ewing at 6.00 pm on the Friday before publication on Sunday he had failed to give the Claimant a fair and proper opportunity to respond. He should have put the factual basis for the charges directly to the Claimant which, if it had been thought necessary, he could have put in writing. The nature of the approach to Mr Ewing, without prior notice of the nature of the call, was bound to cause confusion. In any event, Mr Gillard did not say that there was going to be an allegation that the Claimant was involved in murder, drug trafficking or fraud; or about a threat to kill Billy Allen and charges against him being dropped because none of the victims would provide witness statements; or that the Claimant had slashed someone's face and then intimidated him. Mr Tomlinson submitted that each of these matters was extremely serious (particularly the allegations relation to murder, drug trafficking and fraud); and that both the allegation, and the factual basis on which it was made, should have been put to the Claimant so as to provide him with an opportunity to comment and give his side of the story. In the event, they were not even put to Mr Ewing.
256. Mr Tomlinson further referred to the risks implicit from the indirect approach, that the allegation would be muddled in the transmission, as in fact occurred.
257. Mr Ewing's evidence was that he spoke to Kelli Love, who worked in his office and whom he knew would pass on any message to the Claimant, telling her about the conversation he had had with Mr Gillard. He said that she had taken 'control of the situation'. Mr Ewing was content to leave it to her since she was both 'an experienced criminal practitioner' and 'more importantly ... [she] had been friends with Mr Hunt for many, many years'.
258. Neither the pleadings nor the Claimant's witness statement indicate what action Ms Love took following her conversation, and she was not called to give evidence. The Claimant's evidence was that she telephoned him and told him about Mr Gillard's call to Mr Ewing. Apart from that, his recollection was unclear. He said that, if he had known that it was going to be said that he was involved in murders and drugs he would have spoken to Mr Gillard. I do not accept that evidence. I find that he knew that it was going to be said that he was an Organised Crime Boss; and I am quite clear, both from his evidence and from Mr Wilson's experience, that he would not have spoken to Mr Gillard if he had known any more about the allegations.
259. At 13.48 on Saturday 22 May (the day before publication) Mr Gillard called Mr Ewing's mobile number again. Since there was no answer he left a message to the effect that he was assuming that, unless he heard from him to the contrary, the Claimant did not wish to comment. He also left the phone number on which he could be contacted at The Sunday Times that afternoon. Mr Ewing did not get back to Mr Gillard as promised. I accept Mr Gillard's evidence that if he had done so and indicated that the Claimant wished to meet him, or if the Claimant had himself called him back, he would have taken steps to ensure the story was not run on 23 May 2010. There would have been sufficient time to 'pull' the article before publication.

260. The way in which Mr Gillard sought the Claimant's comment on the story was not ideal. Once he had decided (for understandable reasons) not to make a direct approach to the Claimant about the article and to make an approach through Mr Ewing, he should have made clear what the main allegations were. I am also concerned that the short final paragraph [21] of the article gave a misleading impression. Although it was not added simply for the sake of form, it was journalistic shorthand which gave the impression of a deliberate decision by the Claimant not to comment on the contents of the article. On the other hand, I am quite clear that the Claimant knew more about what was to be published than his oral evidence suggested, and that he made a deliberate decision not to get in touch with Mr Gillard or Mr Ewing. Even if he had known the full contents of the article I am quite clear that all his instincts at the time would have been to keep his head down. He would not, in any event, volunteered 'the gist of his side of the story', to use Lord Nicholls's phrase in *Reynolds*.
261. In these circumstances the question remains whether Mr Gillard (representing the Defendant) behaved fairly and responsibly in gathering the information and in ensuring what was published was accurate and fair. In my view he did. This was a serious piece of investigative journalism which was expressed in forthright, but not extravagant, terms; and without tangential additions in order to 'liven up' the story. Accordingly I find that the Reynolds defence succeeds in relation to the First Meaning. I would add that (even excluding what Mr Gillard learnt about the facts after publication) the Reynolds defence would also have provided a complete defence in relation to the Second and Third Meanings.

Damages

262. In the light of these conclusions I can deal shortly with the issue of damages, and necessarily on a number of different hypotheses.

The Law

263. It is common ground that among the factors which may be relevant to the level of general damages are the position and standing of a claimant and the gravity of the allegation, especially insofar as it closely touches a claimant's personal integrity. The material factors were described by Sir Thomas Bingham MR in *John v. MGN* [1997] QB 586 at p.607:

The successful plaintiff in a defamation action is entitled to recover, as general compensatory damages, such sum as will compensate him for the wrong he has suffered. That sum must compensate him for the damage to his reputation; vindicate his good name; and take account of the distress, hurt and humiliation which the defamatory publication has caused. In assessing the appropriate damages for injury to reputation the most important factor is the gravity of the libel; the more closely it touches the plaintiff's personal integrity, professional reputation, honour, courage, loyalty and the core attributes of his personality, the more serious it is likely to be. The extent of publication is also very relevant: a libel published to millions has a greater potential to cause damage than a libel published to a handful of people. A successful plaintiff may properly look to an award of damages to vindicate his reputation: but the significance of this is much greater in a case where the defendant asserts the truth of the libel and refuses any retraction or apology than in a case where the defendant acknowledges the falsity of what was published and publicly expresses regret that the libellous publication took place. It is well established that compensatory damages may and should compensate for additional injury caused to the plaintiff's feelings by the defendant's conduct of the action, as when he persists in an unfounded assertion that the publication was true, or refuses to apologise, or cross-examines the plaintiff in a wounding or insulting way.

264. A claimant can also rely on a defendant's conduct both before and after the publication as aggravation of damage, see Nourse LJ in *Sutcliffe v Pressdram* [1991] 1 QB 153 at 184:

The conduct of a defendant which may often be regarded as aggravating the injury to the plaintiff's feelings, so as to support a claim for 'aggravated' damages, includes a failure to make any or any sufficient apology and withdrawal; a repetition of the libel; conduct calculated to deter the plaintiff from proceeding; persistence, by way of a prolonged or hostile cross-

examination of the plaintiff or in turgid speeches to the jury, in a plea of justification which is bound to fail; the general conduct either of the preliminaries or of the trial itself in a manner calculated to attract further wide publicity; and persecution of the plaintiff by other means.

The issues on damages

265. Mr Tomlinson submitted that this was a libel of exceptional gravity. It accused the Claimant of being guilty of the most serious crimes. The allegations were made in an influential and serious newspaper with a very substantial readership. They were also published online. Although the Defendant removed the article from its website for a few weeks, it then chose to re-post it, and the damage to the Claimant's reputation has therefore been on-going since 2010. The conduct of the Defendant in the course of the litigation had also seriously aggravated the Claimant's injury. It not only refused to apologise, but maintained that the Claimant was the head of an Organised Crime Group responsible for drug trafficking, murder and fraud. It had asserted that the claim was a corrupt libel action; and had subjected the Claimant to 2½ days of cross-examination much which had been of marginal relevance.
266. The Claimant gave evidence that the allegations against him were 'heartbreaking' and had 'crucified' him; and that it had impacted badly on his business relationships.

Consideration of the issue of damages

267. It was common ground that the 'ceiling figure' for an award of damages was of the order of £275,000, see *Cairns v Modi* [2012] EWCA Civ 1382 [25]. An award of this order would be appropriate in the case of the worst libel and where there were the most serious aggravating features. Although the article contained the most serious allegation against the Claimant (a charge of being implicated in murder), there were no significant additional aggravating factors. I do not accept the conduct of the Defence was improper: the Claimant's evidence was tested for credibility, and although some of the areas of enquiry went beyond the Defendant's pleaded case there was no gratuitously offensive conduct such as to increase the injury caused by the libel.
268. The article was in a national newspaper with a large readership and with a photograph of the Claimant at the head of the page, although I am very doubtful whether the damage to the Claimant's reputation was significantly affected by the article being posted on the website.
269. So far as factors mitigating the damage are concerned, the first is the Claimant's general reputation. The Defendant adduced evidence from a number of police officers, see *Scott v. Sampson* (1882) 8 QBD 491. The general effect of this evidence was that the Claimant was known as a major criminal. Mr Tomlinson criticised the evidence on the basis that the officers were simply reciting what they had read in confidential police documents, which were based on unsubstantiated reports and rumours. It seems to me that the evidence adverse to the Claimant's general reputation

did not extend much beyond what the Defendant proved in justifying the Second and Third meaning, and in the partial justification of the First meaning. That however, would be sufficient to reduce the damages quite considerably, see for example *Pamplin v. Express Newspapers Ltd* [1988] 1 WLR 116 at 120 A-D. On this basis the Claimant is not entitled to damages on a basis other than that he was the head of a criminal network who engaged in, or directed, extreme violence when he thought it was necessary.

270. A further matter which mitigates the damage is the Claimant's claim for libel brought against the Evening Standard in respect of an article published on 24 May 2010. The contents of that article were 'lifted' from the article in the Sunday Times and the claim has been stayed pending the outcome of the present action. No Reynolds defence is available in that action; and s.12 of the Defamation Act 1952 provides that the Defendant can rely in mitigation of damages on the Claimant's action against another defendant in respect of the publication of words to the same effect as the words on which the action is founded so as to prevent double recovery.
271. Taking these matters into account, I would have awarded damages on the following basis:
- i) If I had found for the Claimant on the claim in full and the Claimant had been a man of good character, £250,000.
 - ii) On the basis of the partial success of the defence of justification, £50,000. This figure is arrived at in the light of my view that the crimes of murder and drug-dealing are exceptionally grave crimes, even when committed by, or directed to be committed by, the head of an Organised Crime Network, who had not suffered damage to his reputation by the publication of the Second and Third Meanings and part of the First Meaning.
 - iii) On the basis that there was another subsequent publication of the same libel: £40,000. Since no evidence was adduced, I have directed myself in accordance with the approach described by Lord Reid in *Lewis v. Daily Telegraph* [1964] 234 at 261 and *Gatley* §9.12.

Conclusion

272. However, for the reasons set out above, the claim for damages fails, and there will be judgment for the Defendant.