

Neutral Citation Number: [2015] EWHC 620 (QB)

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 11 March 2015

Before :

SIR DAVID EADY
Sitting as a High Court Judge

Case No: HQ14D05024

Between :

	BRUNO LACHAUX	<u>Claimant</u>
	- and -	
	INDEPENDENT PRINT LIMITED	<u>Defendant</u>

Case No: HQ14D05025

Between :

	BRUNO LACHAUX	<u>Claimant</u>
	- and -	
	EVENING STANDARD LIMITED	<u>Defendant</u>

Justin Rushbrooke QC and Godwin Busuttil (instructed by Taylor Hampton) for the
Claimant

David Price QC (of David Price Solicitors and Advocates) for the Defendants

Hearing date: 4 February 2015

Judgments Sir David Eady :

Introduction

1. There are before the court two libel actions brought by a French national, Bruno Lachaux, against respectively Independent Print Ltd and Evening Standard Ltd. He complains of articles appearing in *The Independent* and the *Evening Standard* newspapers, both in hard copy and online, which are very similar in content and for present purposes can

conveniently be considered together. The complaint relates to publication both in this jurisdiction and in Dubai.

2. After a long debate, it was eventually agreed between the parties that I should determine issues of meaning on a preliminary basis, both so far as relevant to the Claimant's pleaded case (as sought in his application notices dated 5 December 2014) and in relation to the *Lucas-Box* meanings raised in support of the defences of truth. In any event, the early determination of meaning is increasingly commending itself to the court as a matter of case management. It will often enable issues to be narrowed for trial, promote the saving of costs and encourage earlier settlement.
3. It is thus necessary to set out the words complained of in each action.

The article in The Independent

4. In *The Independent*, on pages 16 and 17 of the print issue dated 25 January 2014, an article was published by Alastair Sloan headed "British mother faces jail in Dubai after husband claims she kidnapped their son". Its content is said to be defamatory and is in the following terms (with paragraph numbers added for convenience):

“(Sub-heading) Family of Afsana Lachaux claim UK is unwilling to help for fear of risking jet deal.

(1) The family of a British woman trapped in the United Arab Emirates and facing charges of kidnapping her young son have accused the UK authorities of abandoning her.

(2) Afsana Lachaux, 46, from Poplar, east London, was a British civil servant when she met a wealthy French currency dealer who she married in 2010. The couple moved to Dubai where she gave birth to their son, Louis.

(3) Four months later, the family claim, her husband became violent. They also claim he hid Louis's French passport, and refused to allow him to be registered as a British citizen. Fearing for her own safety, they say, Ms Lachaux escaped, taking Louis with her.

(4) She tried to return to the UK, but her husband secured a travel ban from a Dubai court and requested that her passport be confiscated. He also initiated divorce proceedings and won custody of Louis.

(5) Mrs Lachaux turned to the UK consulate for help. At first, says her son Rabbhi Yahiya, 26, officials referred her to a refuge

for victims of domestic violence. But, he added, they didn't realise the refuge was legally bound to notify her husband once she checked in.

(6) Mrs Lachaux was forced on the run again. She again contacted the consulate and was advised to go to the police station to face charges of libel her ex-husband had brought.

(7) There she was physically assaulted by a police officer, her son claims, and Louis was denied food and water.

(8) Then in October, when his mother was meeting a friend, her ex-husband snatched Louis from her arms. She has not seen him since.

(9) Ms Lachaux's ex-husband filed a further case against her for kidnapping, and if found guilty, she could face several years in prison.

(10) Mr Yahiya says he has written several letters to the Foreign Office to no avail. 'As a family, we are disgusted with the way they have handled my mother's case,' he said.

(11) In the past year, Prime Minister David Cameron and Foreign Secretary William Hague, have made official trips to Dubai in a bid to secure a lucrative sale of Eurofighter Typhoon military jets.

(12) 'Most of our calls were never returned. They don't want to jeopardise the sale,' claimed Mr Yahiya.

(13) Rori Donaghy, director of Emirates Centre for Human Rights, added: 'The British government have failed to support Afsana, because they were seduced by the deal.' Meanwhile Nick McGeehan, Middle East Director for Human Rights Watch, said the 'UAE's laws discriminate against women', meaning 'Mrs Lachaux cannot be guaranteed a fair trial.'

(14) Mrs Lachaux's MP, Labour's Jim Fitzpatrick, told *The Independent*: 'The way Afsana Lachaux has been treated is appalling. As a woman in a Muslim country the authorities there have taken the word of the man as true.'

(15) A Foreign Office spokesperson said: 'We cannot interfere in the judicial process of another country. We will continue to provide consular assistance to the family'."

The article in the Evening Standard

5. In the print issue of the *London Evening Standard* dated 10 February 2014 Susannah Butter published an article under the heading “Dubai’s a small place – he took Louis in an instant”. There is also a sub-heading claiming “Tomorrow a London mother goes to court accused of abducting her own three-year-old. Her older son tells Susannah Butter how escaping a troubled marriage left Afsana Lachaux facing jail abroad after her ex-husband ‘snatched’ their child”. The words also appeared in the online edition from 10 February 2014 (although referring to “today” rather than “tomorrow”) and thereafter on a continuing basis. The words are complained of as defamatory (and again paragraph numbers are added for ease of reference):

“(1) Today, in a Dubai courtroom, more than 4,000 miles away from her home, a jury will decide if Afsana Lachaux is guilty of kidnapping her three-year-old son Louis from her ex-husband.

(2) The 46-year-old former civil servant from Poplar may never see her child again. Her older son from a previous marriage, Rabbhi Yahiya, 26, says: ‘Unless the British Government intervenes, my mum risks going to jail for something she didn’t do, after which she will be deported and lose her son. All she did was leave an abuser.’

(3) Despite being accused of kidnapping, Lachaux hasn’t seen her three-year-old since October last year, when her husband allegedly took him out of his pushchair in the street. The case has cost the family a ‘debilitating’ £70,000 in legal fees and left ‘an overriding feeling of helplessness’.

(4) The exact charges relate to Lachaux not bringing her son to a custody visit with her ex-husband, who cannot be named for legal reasons, in March 2012. But Yahiya, who works for the British Council, gives his mother’s version of events. ‘She didn’t turn up because on previous visits she was assaulted by him in public. She told the police but they didn’t want to hear it.’ The allegations of domestic violence have not been tested in any court, and her ex-husband has denied them.

(5) Lachaux is originally Bangladeshi but grew up in east London, where she married and brought up Rabbhi, 26, and his 23-year-old brother. ‘She rose up the civil service from local government and worked in regeneration. She was a successful, sociable, headstrong woman. I am proud of her. We liked going to

Greenwich as a family.’ She and Yahiya’s father are divorced.

(6) In 2009 Lachaux told her children she was seeing a French man, a comfortably off avionics engineer based in Dubai. Yahiya says: ‘I never asked where they met. We were glad my mum had found someone and was happy.’

(7) They married in summer 2009 in London and moved to Dubai in February 2010. ‘It was a big adventure – the first time my mum had lived abroad. They were in love and planning to have a child so she was excited. Now I remember that he seemed reserved and only his brother and parents came to the wedding but at the time I didn’t question it. It was a happy time.’

(8) Louis was born two months premature, in April 2010, and shortly afterwards Yahiya stopped hearing from his mother as frequently. ‘We thought it was odd that she hadn’t brought Louis to see us. In November we Skyped.’

(9) He recounts what he heard that day.

(10) ‘She told me he had beaten her and showed me the bruises. She was crying, which I’d never seen her do before. She told me that since Louis was born her husband had become controlling. He refused to let her register Louis as a British citizen, got him a French passport and hid it with his birth certificate outside the house. The impression I got was that he didn’t want her to take Louis anywhere without him. A woman can’t work in the United Arab Emirates without her husband’s permission so she was confined to the house. Eventually she told the police but they just said, “Go home to your husband”. It’s seen as the man’s right to chastise his spouse there.’

(11) A year later, Yahiya persuaded her to escape. ‘I went to Dubai in April 2011. We fled but couldn’t leave the country because we didn’t have Louis’s passport.’ They stayed in hotels and rented apartments but, according to Yahiya, things got worse. ‘In June 2011 she was taken to Bur Dubai police station for ‘absconding’. She and Louis were put in the same cell where a British man had allegedly been beaten to death by guards a month earlier.’

(12) Yahiya says she was locked up for four hours in 40-degree heat and denied food and water. ‘While she was holding her one-year-old and asking why she was there, a prison guard pushed her in the face.’ Although Lachaux had never been charged with any offences, her passport was confiscated by Dubai police.

(13) Her husband obtained visiting rights to see Louis, so every week Lachaux would meet him in the park. According to what his mother told Yahiya: ‘Once he tried to snatch Louis and it badly bruised his head,’ Yahiya alleges. ‘She went to the police but they said they didn’t care if she lived or died.’

(14) She went to the Dubai Foundation for Women and Children in February 2012. ‘It’s the only refuge in Dubai and they had a legal obligation to tell her husband where she was. She and Louis shared bunks with illegally trafficked sex workers.’

(15) In March 2012 she went into hiding and stopped the visits – it is for this that she is being prosecuted. ‘I told her not to go any more. I was concerned for her.’ Yahiya and his brother received an email from her husband, warning that if they went to Dubai he would report them for aiding a kidnap. She lived on the sofas of friends and ‘in squalid accommodation, living off noodles’ with Louis who, his brother says, is ‘sharp and funny’.

(16) And then, on October 29 last year, her husband tracked her down. ‘Dubai’s a small place. She told me he took Louis – it happened in an instant.’ Lachaux hasn’t seen her son since.

(17) When she called the British Embassy to report the incident they told her that in August 2012 her husband had obtained a divorce in a Sharia court and been given custody. ‘My mum didn’t even know. Men can do that in Dubai. She was denied custody on claims that Louis had eczema, making her an “unfit mother”.’ She claimed to Yahiya that she did not know the four witnesses who testified against her.

(18) Since this began, Lachaux’s family have been trying to help but the Dubai justice system has proved impenetrable.

(19) ‘For three years I have been in touch with the Dubai Embassy, the British Embassy there, William Hague and the Middle East ministers. I’ve told them about every incident but they say they can’t intervene in the judicial process of another country. Our MP Jim Fitzpatrick has been supportive, and asked David Cameron to raise my mum’s case when he’s been there. I’ve read about an Austrian woman and a Norwegian woman being raped there, and both their governments intervened. Why can’t ours do anything to help my mum? Do you understand the frustration?’ The Standard contacted the Dubai police for a response, and was referred to the British Consulate in the UAE. The FCO spokesman said: ‘Consular staff have been providing assistance to Mrs Lachaux since 2011 including attending court hearings with

her. Consular officials have approached the UAE authorities about this case and we will continue to work closely with them. However we cannot interfere in the judicial process of another country. We must respect their systems just as we expect them to respect the UK's legal processes.'

(20) Meanwhile, Yahiya awaits the court case. 'Every time I speak to my mum I try to keep her spirits up. She's still strong but her face has changed. She's so skinny and on tenterhooks the whole time. My family and I would like the British authorities to ask the Dubai government to drop her case, overturn the current custody order and return her passport so that she and her son can come home to London'."

The nature of the exercise

6. When called upon to determine meaning(s) in a defamation claim, a judge applies the test of the "reasonable reader" of the relevant newspaper. The exercise is thus not limited by the pleaded meanings of the parties: *Slim v Daily Telegraph* [1968] 2 QB 157. That is not to say, of course, that if the judge's meanings ultimately correspond in substance with those of the relevant party, he should nonetheless strive to find different words to express them, merely for the purpose of emphasising his independence.
7. In arriving at my own evaluation of the article's meanings or imputations, I bear in mind the guidance given in such cases as *Skuse v Granada Television Ltd* [1996] EMLR 278 (CA); *Gillick v Brook Advisory Centres* [2001] EWCA Civ 1263; *Charman v Orion Publishing Group Ltd* [2005] EWHC 2187 (QB), at [11]; *Jeynes v News Magazines Ltd* [2008] EWCA Civ 130; *Waterson v Lloyd* [2013] EWCA Civ 136; and *Simpson v MGN Ltd* [2015] EWHC 77 (QB).

The Independent: *Claimant's meanings*

8. The meanings pleaded in the *Independent* particulars of claim (at paragraph 7) are short and to the point, namely that the Claimant:
 - i) became violent towards his ex-wife Afsana soon after the birth of their son, which caused her, fearing for her safety, to escape and go on the run with the child;
 - ii) having tracked Afsana down, callously and without justification snatched their son back from his mother's arms; and

- iii) falsely accused Afsana of kidnapping their son, a false charge which if upheld could result in her, quite unfairly and wrongly, spending several years in a Dubai jail.
9. It seems to me clear that the *Independent* article does indeed bear those meanings. They accurately in my view reflect the sting of the piece, and that emerges in particular from the passages I have numbered as (1), (3), (5), (6), (8) and (9). (I would not have added the word “callously”, but it is no doubt an inference which reasonable readers are likely to draw.)

The *Independent*: *Defendant’s meanings*

10. The defence at paragraph 6 admits the Claimant’s meanings, subject to certain minor qualifications. As I understand it, the Defendant’s case is, for example, that “without justification” (see Claimant’s meaning (ii) above) would connote to “reasonable readers” immoral rather than illegal behaviour. The thinking is that because readers have been told that the Claimant obtained custody under the law of Dubai, they would assume that the “snatching” was lawful (even if callous and/or immoral). Yet I would have thought that a right to custody does not necessarily imply a right to self-help by “snatching”. (In any event, reasonable readers in Dubai might have a different understanding on this and other points from that of readers in England and Wales.) This rather technical argument does not, however, in my judgment need to be resolved for present purposes, if at all. Looking at the matter more broadly, reasonable readers would probably think the worse of the Claimant for “snatching” the child from his mother even if it were permitted by local law.
11. A similar point was taken on the “falsity” of the charge of kidnapping. The Defendant submits that a reader might well conclude that the kidnapping charge was *not* “false” under the law of Dubai. Again, I do not believe it is necessary to pursue the point. The plain implication of the article is that the kidnapping charge, launched by the Claimant, was wholly without merit.
12. The Defendant goes on to plead *inter alia* a defence of truth in relation to somewhat differently worded defamatory “imputations”. As a matter of principle, it is legitimate to take that course if the words bear an additional defamatory meaning (i.e. over and above those pleaded by the claimant) – provided there is compliance with the rule identified by O’Connor LJ in *Polly Peck (Holdings) Plc v Trelford* [1986] QB 1000, 1032: “Where a publication contains two or more *separate and distinct* defamatory statements, the plaintiff is entitled to select one for complaint, and the defendant is not entitled to assert the truth of the others by way of justification” (emphasis added).
13. At paragraph 9 of this defence, there are identified a number of “imputations” which are said to be substantially true. In other words, they are *Lucas-Box* meanings (which happen

to overlap to a large extent with the Claimant's meanings). I need to sort them out, in so far as they differ at all in substance from the Claimant's meanings, in order to decide, first, whether they are conveyed by the article at all and, if so, whether they are to be classified as "separate and distinct" and thus impermissible under the rule in *Polly Peck*.

14. The principal imputation pleaded (at paragraph 9.1) is that the Claimant, who married Afsana, a British national, outside Dubai, has cynically taken advantage of Emirati law, based on Sharia, and its law enforcement system which discriminate appallingly against women in order to deprive her of custody of and access to their 3-year-old son Louis and thereby deprive Louis of the benefit of such custody and access. This passage mingles a number of themes together which need to be considered separately.
15. I do not quite see where the phrase "cynically taken advantage" is to be found in the article. It is not suggested, for example, that he *chose* the Emirati system, from a number that were available to him, specifically to disadvantage Afsana. It is difficult to see from this article what *other* system of law was open to him, given where the persons concerned were living. There is, moreover, no express reference to "Sharia" in the *Independent* article. It may (or may not) be a matter of general knowledge, but if it is external to the article one might expect to see it brought in to support an innuendo – if this were necessary to establish a particular defamatory meaning. In my view, however, it is not. Nevertheless, the Defendant is entitled to plead (and in due course prove) simply that the Claimant was content to use a system of law which discriminates against women – since that is to be found in the article and does not need to be embroidered with rhetorical phrases like "cynically taken advantage".
16. It is also alleged that he hid Louis' passport from Afsana and refused to allow him to be registered as a British citizen (as she requested). That is a meaning to be found in the paragraph of the article numbered (3) above.
17. Next, and importantly, it is pleaded that the Claimant was "violent, abusive and controlling" and that he caused Afsana to fear for her own safety. Although there does not appear to be any express reference to "abuse" in this article (unlike in the *Evening Standard*), or for that matter to "controlling", I believe that these imputations are to be found there nonetheless – in light of the conduct attributed to the Claimant. If it is necessary to do so, they can be characterised as "inferential meanings". It might be argued that, where violence is expressly alleged, it should not be permitted to bring in, to support a defence of truth, an arguably lesser form of abuse, since that would not be capable in itself of demonstrating violence. It seems to me, however, that it is probably right to view domestic abuse as a continuum – including such matters as verbal abuse, "controlling" and sometimes physical violence. To put it another way, I do not believe that "controlling" can necessarily be regarded as "separate and distinct" from physical abuse. It is all part of a pattern. It is to be noted, in any event, that reliance is placed on physical violence in the defence. If that part of the defence does not succeed, it would in my view be open to the Defendant to argue that other forms of abuse, if established, could still amount at least to

what used to be called “partial justification”: see e.g. *Pamplin v Express Newspapers* [1988] 1 WLR 116, and *Gatley on Libel & Slander* (12th edn), at 27.8 and 27.9.

18. Against that background, I would not rule out paragraph 9.1.2.
19. At paragraph 9.1.3, the meaning is pleaded that the Claimant caused her passport to be confiscated, and thus also her to be trapped in the UAE. That seems clearly to emerge from the paragraph in the article numbered (4) above. So too, the meaning that he caused her to “go on the run” with Louis is derived from paragraph (3) above. That particular point is pleaded separately at paragraph 9.1.4 of the defence, although it is already to be found in the Claimant’s first meaning (set out above).
20. I accept that the article (at paragraphs (3) and (9) in particular) imputes that the Claimant initiated “an abduction prosecution against her which was false and which led to her facing the risk of lengthy imprisonment in the UAE”: see paragraph 9.1.5 of the defence. On the other hand, it is not so immediately obvious why it is said to convey the additional meaning that custody was also obtained “on a dishonest basis”. Unlike the *Evening Standard* article, the one published in *The Independent* makes no reference to eczema or to the four unknown witnesses. Nevertheless, I believe that the meaning is implicit – on the basis that the kidnapping allegation is said to be false and that *this* would have formed part of the Claimant’s case on custody. Paragraph 9.1.5 of the defence therefore survives.
21. At paragraph 9.1.6, the meaning is pleaded that the Claimant “took Louis away while he was living with [Afsana] and refused to return him”. The article certainly alleges at paragraph (8) that he “snatched Louis from her arms” and that she has not seen him since. The addition of the word “refused” implies that he has been asked to return the child and refused that request. The article itself does not say that (although it may in fact be the case), but the Defendant would certainly be entitled to plead and prove simply that “he has not returned him”. I have no wish to quibble, but these uncertainties only arise because of the pleader’s inclination to depart from the actual words and import creative paraphrasing. It has been said that libel pleaders never seem content to say that the words in issue mean what they say; and that a pyramid of insulting paraphrases has to be erected on them: see e.g. *Alexander v Arts Council of Wales* [2001] 1 WLR 1840, at [41]. (More usually, of course, it is the claimant’s pleader who is tempted to embellish.)
22. At paragraph 9.2 of the defence, there is further rhetoric in the form of comment on the Claimant’s conduct “as pleaded above”. The *Lucas-Box* meanings are supposed to reflect simply the words in the article (including, of course, inferences). But the words “grotesque” and “devastating” are not there and I do not see why it is necessary to plead them. The journalist’s words surely speak for themselves. I cannot see the advantage of re-writing Mr Sloan’s article and seeking to prove the new version. It would have been simpler, since there seems to be no dispute about them, to adopt the straightforward meanings pleaded by the Claimant and then set about establishing their truth. If that

defence succeeds, of course any interested observer may characterise the Claimant's conduct by the use of his or her own disapproving adjectives, but that is quite a different exercise from the present task of clearly identifying the factual allegations made by the journalist against the Claimant (and which accordingly have to be proved to substantiate a defence of truth).

The Evening Standard article: Claimant's meanings

23. I now turn to the *Evening Standard* article set out above.
24. The Claimant's meanings are pleaded at paragraph 6 of the particulars of claim, namely that he:
- i) became violent and abusive towards his ex-wife Afsana within months of marrying her, beating her and leaving her with bruises on at least one occasion;
 - ii) assaulted Afsana in public on custody visits relating to their young son;
 - iii) attempted to snatch their son on one custody visit, leaving him with a badly bruised head;
 - iv) callously and without justification snatched their son from out of his pushchair in the street; and
 - v) subjected Afsana to the grotesque injustice of facing jail in Dubai for "abducting" her own child, when in truth she had only fled with him to escape the Claimant's violent abuse.
25. I note again the addition of "callously" and "grotesque" which do not appear in the article itself. I would not include "callously" within my own meanings, but it makes little difference. I will proceed on the basis that the context is such that the reasonable reader would infer from the journalist's description that the Claimant behaved "callously" in snatching the child. I would not go so far as to include "grotesque" – even though some readers may choose themselves so to characterise his behaviour. That is, of course, not the same as accepting that it is part of the *meaning*. Subject to that point, I consider that these pleaded meanings are to be found in the article, and especially by reference to the paragraphs I have numbered (1), (2), (3), (4), (10), (13), and (16).

The Evening Standard article: Defendant's meanings

26. The Defendant's *Lucas-Box* meanings are set out at paragraph 9 of the defence (again labelled as "imputations").
27. Paragraph 9.1 corresponds to that in the *Independent* defence which I have addressed above, and I do not intend to repeat the comments I made in that context. I would not include the reference to "cynically taking advantage", although there is a mention of "Sharia" in the *Standard* at the paragraph numbered (17) above.
28. Paragraph 9.1.1 refers to the obtaining of a French passport for Louis and to the refusal to allow him to be registered as a British citizen. That reflects paragraph (10) of the article.
29. At 9.1.2, the meaning is pleaded that the Claimant was violent, abusive and controlling and that he caused Afsana to fear for her safety. That accords particularly with paragraphs (2), (10), (11) and (15) of the article.
30. At 9.1.3, reference is made to his advancing a dishonest case to the effect that she was an unfit mother. That is to be found in the article at paragraph (17).
31. At 9.1.4, it is pleaded that the words imputed that he falsely reported her for absconding, which led to her being detained in prison in unpleasant conditions. Those allegations are to be found in paragraphs (11) and (12) of the article.
32. At paragraph 9.1.5, there is reference to his having caused her passport to be confiscated (by Dubai police). That is based primarily on paragraphs (11) and (12) of the article.
33. At 9.1.6, there is pleaded the meaning that he assaulted her during custody visits and tried to snatch Louis. That reflects paragraphs (4) and (13) in the article.
34. There is then introduced the allegation that the Claimant had threatened Rabbhi Yahiya and his brother that, if they came to Dubai, he would report them to the police for aiding a kidnap. That corresponds to paragraph (15) in the article.
35. At 9.1.8, the meaning is added that she had been caused to go on the run with Louis. That reflects especially paragraphs (2), (11), (14) and (15) of the article.
36. At 9.1.9, there is again the imputation that the Claimant obtained custody on a dishonest basis, initiated an abduction prosecution, which was false and which led to her facing the risk of lengthy imprisonment in the UAE. The foundation for this seems to me to lie particularly in paragraphs (1), (2), (3), (4), (11), and (17) of the article.

37. At 9.1.10, there is again the meaning that the Claimant took the child away while he was living with his mother and “refused” to return him. That is reflected in paragraph (16) of the article, subject to the point I have already made about “refusal”.
38. Paragraph 9.2 of the defence corresponds to paragraph 9.2 in the *Independent* defence. I make the same points in relation to it.

Conclusion

39. Subject to relatively minor points, my findings on the natural and ordinary meanings of the articles accord with those pleaded by the parties. In the interests of greater clarity, although at the risk of tedium, I shall set out the natural and ordinary (including inferential) meanings for each article as I have found them to be. There is inevitable duplication, since I am keeping as close to the wording of the parties as I can, and the Defendant’s meanings are expressed in his pleader’s own words, as I have explained.

(a) The Independent

40. The Claimant:
- i) became violent towards his ex-wife Afsana soon after the birth of their son, which caused her, fearing for her safety, to escape and go on the run with the child;
 - ii) having tracked Afsana down, callously and without justification snatched their son back from his mother’s arms (and has never returned him);
 - iii) falsely accused Afsana of kidnapping their son, a false charge which if upheld could result in her, quite unfairly and wrongly, spending several years in a Dubai jail;
 - iv) was content to use Emirati law and its law enforcement system, which discriminate against women, in order to deprive Afsana of custody of and access to their son Louis;
 - v) hid the child’s French passport and refused to allow him to be registered as a British citizen, as Afsana wished;
 - vi) was violent, abusive and controlling and caused Afsana to fear for her own safety;

- vii) caused her passport to be confiscated thus for her to be trapped in the UAE;
- viii) obtained custody on a false basis and also initiated a prosecution of Afsana in the UAE, which was founded upon a false allegation of abduction, and which gave rise to the risk of a lengthy prison sentence there.

(b) The Evening Standard

41. The Claimant:

- i) became violent and abusive towards his ex-wife Afsana within months of marrying her, beating her and leaving her with bruises on at least one occasion;
- ii) assaulted Afsana in public on custody visits relating to their young son;
- iii) attempted to snatch their son on one custody visit, leaving him with a badly bruised head;
- iv) callously and without justification snatched their son from out of his pushchair in the street (and has never returned him);
- v) subjected Afsana to the injustice of facing jail in Dubai for “abducting” her own child, when in truth she had only fled with him to escape the Claimant’s violent abuse;
- vi) having chosen to obtain a divorce in a Sharia court, also used Emirati law and its law enforcement system, which discriminate against women, in order to deprive Afsana of custody of and access to their son Louis;
- vii) hid the child’s French passport and refused to allow him to be registered as a British citizen, as Afsana wished;
- viii) was violent, abusive and controlling and caused Afsana to fear for her own safety;
- ix) caused her passport to be confiscated thus for her to be trapped in the UAE;
- x) threatened to report Rabbhi and Shabbir Yahiya to the police for aiding a kidnap if

they came to Dubai;

- xi) caused Afsana to go on the run with Louis;
- xii) obtained custody on a false basis and also initiated a prosecution of Afsana in the UAE, which was founded upon a false allegation of abduction, and which gave rise to the risk of a lengthy prison sentence there.

The repetition rule

42. Since Mr David Price QC referred to the point in the course of his submissions, I would add that I see no reason to suppose that the long established (although only relatively recently named) “repetition rule” has been impliedly abrogated by the Defamation Act 2013. Accordingly, in so far as any of the defamatory imputations contained in these articles are attributed to members of Afsana’s family, a defence of truth will still require the substantive allegation to be proved – not merely that the allegation was so made: see e.g. *Gatley on Libel & Slander* (12th edn) at 11.18 and 30.8.

Issues that remain outstanding

43. I need to make clear that other preliminary matters *may* have to be resolved later, such as for example “serious harm” (which the Defendant intends to raise but has not yet done so); whether or not the particulars pleaded are capable of supporting the *Lucas-Box* meanings; and issues relating to “public interest”. I was not required to go into any of these subjects.