

Baroness Lawrence & Ors v Associated Newspapers Ltd

Reference: [2023] EWHC 2789 (KB)

Judge: Nicklin J

Date of Judgment: 10 November 2023

Summary: Summary judgment – strike out – misuse of private information – limitation

Appearances (for the Claimants): David Sherborne, Julian Santos, Ben Hamer, Luke Browne

Instructing Solicitors: Baroness Doreen Lawrence of Clarendon OBE, Elizabeth Hurley, Sir Elton John and David Furnish are represented by *gunnercooke*. Sadie Frost and Prince Harry, The Duke of Sussex are represented by Hamlins LLP. Sir Simon Hughes is represented by Thomson Heath & Associates. Associated Newspapers Limited are represented by Baker McKenzie.

Facts

The seven Claimants are Baroness Lawrence of Clarendon, OBE; Elizabeth Hurley; Sir Elton John, CH CB; David Furnish; Sir Simon Hughes; Prince Harry, the Duke of Sussex; and Sadie Frost Law. Associated is the publisher of the national newspapers *The Daily Mail* and *The Mail on Sunday* and the global website *MailOnline*.

The Claimants allege that the Daily Mail, the Mail on Sunday and MailOnline, published by Associated Newspapers Limited, acquired their private or confidential information through unlawful methods such as voicemail interception, eavesdropping on calls, deception, and using private investigators. The Claimants allege that this information was then also published in the newspapers and online by Associated. The Claimants seek damages and an injunction for misuse of private information. Associated denies these allegations.

Associated made an application to challenge the claims on two grounds:

1. **Limitation Challenge:** Associated, invoking s.2 of the Limitation Act 1980, argued that the claims should be dismissed, as the alleged misconduct occurred over six years before the claims were filed. The Claimants argued that s.32 of the same Act applies (that the limitation period does not start until the claimant discovers or could reasonably have discovered any deliberate concealment of facts).
2. **Challenge Regarding Use of Ledgers from the Leveson Inquiry:** Associated contended that parts of the Claimants' claims, which rely on Ledgers setting out payments to alleged Private Investigators and which were disclosed to the Leveson Inquiry, were invalid due to three existing orders made by the Chairman of that Inquiry and an undertaking by core participants to the Inquiry. The Claimants acknowledged having the Ledgers, but argued that they were not subject to any restrictions from the Inquiry.
3. **Anonymity orders:** Associated sought restrictions on the publication of certain information, including the names of the journalists against whom the Claimants had

made potentially serious allegations of wrongdoing. The Claimants remained neutral on this application.

Issues

1. Did each of the Claimants' claims have a real prospect of succeeding?
2. Were the Ledgers covered by the orders made or the undertakings given in the Leveson Inquiry?
3. Should a reporting restrictions order be made?

Decision

1. Each of the Claimants' claims had a real prospect of succeeding with reliance on section 32 of the Limitation Act 1980. Associated's application for summary judgment and strike out was dismissed, such that all of the claims could proceed to trial.
2. The Ledgers were covered by one order made in the Leveson Inquiry, but not by two others or the undertakings given by core participants. The position would need to be regularised. This could be done by (a) Associated voluntarily disclosing the Ledgers; (b) the relevant government Minister varying the order; or (c) amending the Particulars of Claim to remove the material from the Ledgers.
3. Anonymity and reporting restriction orders made at the hearing of the Defendant's application in March were to remain in force, although the restrictions on the identification of the anonymised journalists were likely to be lifted once a Defence had been filed.