Neutral Citation Number: [2006] EWHC 1614 (QB)

Case No: HQ04X01798

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 30 June 2006

Before:

THE HON. MR JUSTICE GRAY

- -

Between:

LANCE ARMSTRONG	**Claimant**
- and -	
TIMES NEWSPAPERS LIMITED	**Defendants**
DAVID WALSH	
ALAN ENGLISH	

- -
- -

Richard SPEARMAN QC and Matthew NICKLIN
(instructed by **Schillings, Solicitors**) for the **Claimant**
Andrew CALDECOTT QC and Heather ROGERS
(instructed by **Addleshaw Goddard, Solicitors**) for the **Defendants**

Hearing dates: 28 June 2006

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Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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THE HON. MR JUSTICE GRAY

Mr Justice Gray:

Introductory

1. The determination by a judge sitting alone of the meaning of a publication sued on as being libellous presents a dilemma for the judge. On the one hand, he is enjoined against subjecting the publication to the kind of over-elaborate analysis which a lawyer might undertake. On the other hand, a judge is expected to give reasons for his judgment. I shall indicate later how I intend to deal with this problem.

2. The parties in this libel action are Mr Lance Armstrong, the Claimant, who is an internationally renowned cyclist. By the time of the publication of the article complained of he had won the Tour de France for five years in succession, from 1999 to 2003 (and was to win again in 2004 and 2005).

3. There are three defendants: Times Newspapers Limited, who are the publishers of *The Sunday Times*; David Walsh, who is a journalist and was at the time the Chief Sports Writer on *The Sunday Times* and Alan English, the Deputy Sports Editor of that newspaper.

The article sued on

4. Mr Armstrong's claim for damages and an injunction is brought in respect of an article which was published in the issue of *The Sunday Times* for 13 June 2004. It was on page 21 of the Sports section of the newspaper which in that issue was 31 pages long. It occupied the whole of the page. Most of the top third of the page is devoted to a photograph of Mr Armstrong in his cycling kit beside a very prominent headline which reads "LA - CONFIDENTIAL". The letters LA are in letters of a size which it is unusual to encounter in a broadsheet. The sub-title reads: "a book co-written by David Walsh of *The Sunday Times* will raise new questions about Lance Armstrong, five-time champion of the Tour de France and an icon of the sporting world. Alan English reports".

5. The article is accompanied by two further photographs. The first depicts David Walsh. Beside his photograph the caption reads "Armstrong claims David Walsh, left, is pursuing a vendetta against him. The publication of the book is likely to lead to further recriminations". The second photograph is rather larger; it depicts a former team-mate of Mr Armstrong's in the Motorola team in 1994 and 1995 named Stephen Swart. Alongside him is a photograph of a man named Michele Ferrari. The caption to these two photographs reads "the views of Stephen Swart, left, on how pervasive EPO was during his time at Motorola will lead to fresh questions about Armstrong's relationship with the Italian cycling doctor Michele Ferrari, above".

6. The article runs to thirty-four paragraphs. It is too long for me to set it out verbatim in this judgment. The article starts with two paragraphs, the first of which quotes Mr Armstrong denouncing Mr Walsh as a liar and the second records a robust denial by Mr Armstrong's London solicitors that he had ever taken performance-enhancing drugs, coupled with a threat that the slightest suggestion that he had done so would trigger a declaration of legal warfare by Mr Armstrong. There follows a reference to a book entitled "LA Confidential – The Secrets of Lance Armstrong", written by Mr Walsh and a French journalist named Ballester, which at that time was about to be

published. The book is said to raise serious new questions about drug taking in professional cycling. The article then refers to a drug known as EPO, which is said to have emerged in the early 1990s and to be difficult to detect.

7. After a quotation from Mr Swart, the article continues with a reference to Mr Armstrong having won five Tour de France in a row and comments that there are those who fear that he must have succumbed to the pressure of taking drugs, in particular EPO.

8. In the next paragraph Mr Armstrong is said to have been seeing Ferrari, who is described as a cycling doctor. Reference is next made to a rumoured admission by Armstrong that he had used performance-enhancing drugs. Readers are told that in 1999 Armstrong was cleared by cycling's governing body of a claim of doping. In a following paragraph an unidentified former s*oigneur* is said to have extraordinary stories to tell about the disposal of syringes and the collection of a bottle of pills.

9. The article goes on to give an account of an encounter between Mr Armstrong and a French journalist. There are then references to Mr Armstrong's claim that Mr Walsh is pursuing a vendetta against him and to Mr Walsh's passionately felt concerns and writing about the destructive effects of drugs in sport including cycling.

10. The article states that Mr Armstrong has been tested for drugs many times throughout his career but has never failed a test (apart from the occasion in 1999 to which I have referred at paragraph 8 above, when traces of a corticosteroid were found). The health risks involved in using a different drug, named EPO, are said in the article to be considerable. Several cyclists have died of cardiac arrests in the past year (but the article does not say why).

11. Next an American cyclist, Greg LeMond, who himself won the Tour de France three times, is quoted as saying of Mr Armstrong's return to the saddle after his recovery from cancer: "If it is true, it is the greatest comeback in the history of sport; if it is not, it is the greatest fraud". There is then a reference to a telephone conversation between Mr LeMond and Mr Armstrong in the course of which Mr Armstrong is recorded as saying that he has a problem with Ferrari and doctors like him. Mr LeMond refers to the devastation of innocent riders losing their careers. The conversation is then said to have turned to EPO, who was taking it and why.

12. The article concludes with a quotation from an interview of Mr Armstrong by Mr Walsh in 2001, when Mr Armstrong said that the Motorola team did not think about EPO and it had not been an issue for them. A director of Mr Armstrong's cycling team is quoted that the accusations against Mr Armstrong have come from all corners time and again but are based on nothing. A list of questions related to the allegations to be made in the book is said in the last paragraph of the article to have received no answers.

The issue

13. Eady J ordered by consent on 7 December 2005 that the issue of meaning should be tried as a preliminary issue. He also ordered that the issue should be tried by Judge alone. As I have said, the issue which I have to decide is what defamatory meaning

was borne by the article which I have summarised. No-one suggests that the article is other than defamatory of Mr Armstrong. The question is in what sense.

14. The meaning contended for on behalf of Mr Armstrong is that set out at paragraph 6 of the Particulars of Claim, namely:

> "In their natural and ordinary meaning the said words meant and were understood to mean that, contrary to his denials, [Mr Armstrong] had taken drugs in order to enhance his performance in cycling competition and by so doing and denying that he had done so was a fraud, a cheat and a liar".

15. In the Defence it is denied that the words bore the meaning attributed to them in the Particulars of Claim. The Defence does not as such set out the meaning for which the Defendants contend. (Although this conforms with current practice, I think it would be desirable if defendants were to identify in the Defence the meaning for which they contend, in the same way that claimants are required to do). The Defence in the present case does, however, specify the defamatory meaning which the Defendants will seek to justify:

> "If and insofar as the words complained of bore the meaning that there are reasonable grounds to suspect that [Mr Armstrong] has taken performance enhancing substances in order to compete in professionally cycling, they are true in substance and in fact".

16. The Defendants have indicated their intention to seek permission to amend the Defence to add after the word "reasonable" in the passage which I have quoted the words "or strong". However, the primary submission of Andrew Caldecott QC on behalf of the Defendants is that the words convey no more than the existence of reasonable grounds to suspect. Alternatively, even if the words go further and suggest the existence of strong grounds for suspicion, he submits that they do not come close to a meaning of outright guilt.

17. The differences between shades of meaning ranging from an imputation of actual guilt at one end of the spectrum to the existence of reasonable grounds for believing that a person is guilty at the other end has been discussed in a number of cases, the most recent of which is *Chase v. News Group Newspapers Limited* [2003] EMLR 11. It is common ground between the parties that it is wholly unnecessary for me to enter into that debate for the purposes of the present ruling. I agree.

The approach to questions of meaning

18. There is little controversy between the parties as to the tests which are applicable in a libel action to the determination of the meaning of the words complained of. In my view the classic exposition as to the approach which should be taken remains that of Sir Thomas Bingham MR (as he then was) in *Skuse v. Granada Television Limited* [1996] EMLR 278 at 285:

> "The court should give to the material complained of the natural and ordinary meaning which it would have conveyed to

> the ordinary reasonable viewer watching the programme once in 1985.
>
> The hypothetical reasonable reader … is not naïve but he is not unduly suspicious. He can read between the lines. He can read 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.
>
> (per Neill LJ, *Hartt v. Newspaper Publishing PLC,* unreported, 26 October 1989…)
>
> While limiting its attention to what the defendant has actually said or written, the court should be cautious of an over-elaborate analysis of the material in issue.
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> …
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> The court should not be too liberal in its approach. We were reminded of Lord Devlin's speech in *Lewis v. Daily Telegraph Ltd* [1964] AC 234 at 277:
>
> > 'My Lords, the natural and ordinary meaning of words ought in theory to be the same for the lawyer as for the layman, because the lawyer's first rule of construction is that words are to be given their natural and ordinary meaning as popularly understood. The proposition that ordinary words are the same for the lawyer as for the layman is as a matter of pure construction undoubtedly true. But it is very difficult to draw the line between pure construction and implication, and the layman's capacity for implication is much greater than the lawyer's. The lawyer's rule is that the implication must be necessary as well as reasonable. The layman reads in an implication much more freely; and unfortunately, as the law of defamation has to take into account, is especially prone to do so when it is derogatory.' "

19. Other authorities to which I have been referred in the course of argument include *Gillick v. BBC* [1996] EMLR 267 at 272-3; *Jameel v. Times Newspapers Limited* [2004] EMLR 31; *Gillick v. Brook Advisory Centres* [2002] EWCA Civ 1263 at [7] and a decision of my own in *Charman v. Orion Publishing Co. Ltd* [2005] EWHC 2187. I do not feel that it would serve any useful purpose to set out the relevant passages from the judgments in all those cases. In *Gillick v Brook Advisory Centres,* Lord Phillips said at [7]:

> "The court should give the article the natural and ordinary meaning which it would have conveyed to the ordinary reasonable reader reading the article once. Hypothetical reasonable readers should not be treated as either naïve or

> unduly suspicious. They should be treated as being capable of reading between the lines and engaging in some loose thinking, but not as being avid for scandal. The court should avoid an over-elaborate analysis of the article, because an ordinary reader would not analyse the article as a lawyer or accountant would analyse documents or accounts. Judges should have regard to the impression the article has made upon themselves in considering what impact it would have made on the hypothetical reasonable reader. The court should certainly not take a too literal approach to its task".

20. *Charman*, as both parties agree, has a particular relevance to the present case because in that case I had to determine, sitting without a jury, what was the meaning of the publication sued on (as it happens, a book). Dealing with general principles of interpretation, I said:

> "8. I start with the general principles. The starting point is that, where in a libel action there is a dispute as to meaning, the adjudicator, whether judge or jury, must settle on a single meaning: *Slim v. Daily Telegraph* [1968] 2 QB 157 per Diplock LJ at 173D/E. There is a degree of artificiality about this, not least in the case of a book where the libellous meaning is spread over many pages. But it is well established that, for pragmatic reasons, the court must determine a single meaning. It is common ground that this is the position.
>
> …
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> 11. It appears to me to be particularly important where, as here, a judge is providing written reasons for his conclusion as to the meaning to be attributed to the words sued on, that he should not fall into the trap of conducting an over-elaborate analysis of the various passages relied on by the respective protagonists. The parties are entitled to a reasoned judgment but that does not mean that the court should overlook the fact that it is ultimately a question of the meaning which would be put on the words of the book by the ordinary reasonable reader. Such a hypothetical reader is assumed not to be a lawyer.
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> ...
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> 12. A feature of the present dispute on meaning is that each side has pointed to different passages in the book which it maintains is supportive of its case as to the degree of seriousness of the libel. That is commonplace and legitimate. It is well established that the tribunal of fact, whether judge or jury, must take the bane and antidote of the publication together: see *Chalmers v. Payne* (1835) 2 Cr M & R 156 at 159. As Lord Nicholls pointed out in *Charleston v. News Group Newspapers* [1995] 2 AC 65 at 73-74, there is an artificiality about this approach since, especially in the case of a

> book, not all readers will read it from cover to cover. It is, however, clear from that and earlier authorities that the publication must be taken as a whole."

The parties' submissions

21. Agreeing as they do that the approach to be followed is that laid down in the authorities to which I have referred, I can summarise the parties' respective submissions quite shortly.

22. Richard Spearman QC for Mr Armstrong submits that it is obviously possible for an article to impute guilt without stating in terms that the person concerned is in fact guilty. Indeed he says that it is in practice very difficult to spell out grounds for suspecting someone, without thereby suggesting that he or she is guilty. His case is that the article published by *The Sunday Times* contains a large number of assertions which in conjunction point inexorably towards his client being guilty of taking drugs. Such counter-balancing material as is to be found in the article is not sufficient to displace the meaning of guilt.

23. In support of those broad submissions, Mr Spearman relies on what he describes as being the sensational nature of the headline and accompanying photograph of Mr Armstrong. He suggests that the words "LA CONFIDENTIAL" would have conveyed to readers that "LA" (meaning Lance Armstrong) has secrets. He points out that the text of the article at paragraphs 4 and 18 to 22 stress the knowledge and authority of both authors of the book which is about to be published, namely Mr Walsh and Mr Ballester.

24. Mr Spearman then took me though the text of the article, drawing attention to paragraphs and references which, according to his argument, can only be read as indicating guilt of drug taking on Mr Armstrong's part. He dealt also with other paragraphs which he accepted did not in themselves impute guilt but which were, even in their totality, insufficient to draw the sting of the other paragraphs on which he placed reliance.

25. On behalf of the Defendants Mr Caldecott, with his usual skill, made three preliminary points. The first related to the second of the principles which Sir Thomas Bingham set out in *Skuse* and which I have quoted at paragraph 18 above. As to the ability of the hypothetical reasonable reader to read in an implication more readily than a lawyer, Mr Caldecott emphasises that the implication must be a reasonable one. The only reason why lawyers are less ready to read in an implication is that for lawyers the implication must not only be reasonable but also necessary. Mr Caldecott also stresses the last sentence of the second *Skuse* principle: the ordinary reasonable reader does not and should not seize on the most defamatory meaning. I accept Mr Caldecott's submissions on both these points.

26. Mr Caldecott's next point addressed the reliance which Mr Spearman had placed on the words of Lord Devlin in *Lewis v. Daily Telegraph Limited* [1964] AC 234 at 285:

> "It is not, therefore, correct to say as a matter of law that a statement of suspicion imputes guilt. It can be said as a matter of practice that it very often does so, because although

> suspicion of guilt is something very different from proof of guilt, it is the broad impression conveyed by the libel that has to be considered and not the meaning of each word under analysis. A man who wants to talk at large about smoke may have to pick his words very carefully if he wants to exclude the suggestion that there is also a fire; but it can be done. One always gets back to the fundamental question: what is the meaning that the words convey to the ordinary man: you cannot make a rule about that. They can convey a meaning of suspicion short of guilt; but loose talk about suspicion can very easily convey the impression that it is a suspicion that is well founded".

Mr Caldecott suggests that it fallacious to say that, where a publisher lays before readers objective facts which, on its own case, justify reasonable or even strong grounds to suspect a person of guilt, it is very difficult to avoid imputing actual guilt. Mr Caldecott points out that the smoke/fire analogy is itself flawed in that, if there is smoke, there is invariably also a fire. Moreover, he points out that Lord Devlin was at pains to make clear that a man can talk at large about smoke without suggesting that there is also a fire. Again, I accept Mr Caldecott's submission on this point.

27. Mr Caldecott's third point is double-barrelled. He says, rightly, that the meaning that there exist reasonable grounds for suspecting that a person is guilty of (in this case) cheating and fraudulent behaviour is in itself a serious matter. He argues further that an article which imputes guilt must by definition be excluding the possibility of innocence. So, he suggests, the question is whether the article in the present case excludes the possibility that Mr Armstrong is innocent of drug-taking. I have some reservations about this second barrel. In a sense it is right to say that guilt excludes innocence but, as Mr Spearman submitted, that does not mean that an article can only bear the meaning of guilty if there is no basis put forward which might enable the reader to conclude that the person concerned was innocent. I think that the correct approach is to look at the article as a whole and to ask the question, after taking everything in it into account, whether one's impression is that the impact the article would have had on the hypothetical ordinary reasonable reader is that the person concerned was guilty or that there existed reasonable (or strong or cogent, as the case may be) grounds for suspecting guilt.

28. Rather than embark on a textual analysis of the article, Mr Caldecott preferred to make further observations about what he variously described as "the landscape" and "the geography" of the article. He pointed out that it did not appear in the news pages, as one might expect an article to do if indeed it was accusing Mr Armstrong of taking drugs. He drew attention to the numerous references both in the headline and in the text of the article to "questions" which are not, according to his argument, suggestive of guilt. Mr Caldecott pointed out that the article starts with a vigorous rebuttal of the allegations of drug taking by Mr Armstrong and his lawyers. It is counter-intuitive, says Mr Caldecott, to infer guilt from a denial, however strongly worded. The fact that questions have not been answered by or on behalf of Mr Armstrong might at most elevate the meaning of the article to the level that reasonable grounds exist for suspicion but it would not justify a further elevation to a meaning of guilt.

29. Concluding his argument, Mr Caldecott accepted that the article does convey the meaning that there are reasonable grounds to suspect Mr Armstrong of drug taking. But this is not an article of which it can be said that the impression conveyed to readers is that there is no room for saying that he is innocent. As paragraph 20 of the article says in terms, Armstrong has been tested many times throughout his career for drugs but, apart from one incident in 1999 not concerning EPO, he has never failed a test.

My overall impression

30. As is clear from the authorities to which I have referred, the over-arching question is what overall impression *The Sunday Times* article made on me when considering what impact it would have had on the hypothetical ordinary reasonable reader reading the article once in June 2004. It is clear from what Sir Thomas Bingham MR said in *Skuse* at 289 that this was the approach of the Court of Appeal in that case:

> "Since we base our decision more on the impression which the programme made on us than on minute textual analysis of the transcript of the programme, there is limited value in analysing our reasons for differing from the Judge…"

31. Knowing in advance that this was the required approach for a judge when deciding an issue of meaning, I deliberately read the article complained of before reading the parties' respective statements of case or the rival skeleton arguments. What I propose to do, in an attempt to resolve the dilemma which I mentioned at the outset of this judgment, is to indicate straightaway what impression the article had on me when I came to it afresh as a *Sunday Times* reader would have done in June 2004. I will thereafter, as a separate exercise, address the detailed textual arguments which have, inevitably, been addressed to me by both sides. I will at that stage consider whether such a more detailed analysis casts doubt on my initial impression.

32. In my judgment the hypothetical ordinary reasonable reader would have understood *The Sunday Times* article as a whole, read once in conjunction with its headline, photographs and their captions, to mean that Mr Armstrong had taken drugs to enhance his performance in cycling competitions. If that is the meaning, then it appears to me inevitably to follow (as is accepted by Mr Caldecott) that Mr Armstrong's conduct in so doing was fraudulent and amounted to cheating and that his denials that he had done so were lies. Accordingly I uphold the meaning contended for on behalf of Mr Armstrong and reject the meaning advanced on behalf of the Defendants.

Textual analysis

33. With the caveat already mentioned, I return to the text of the article. I agree that paragraphs 2 and 3 record robust denials by Mr Armstrong and his solicitors that he has ever taking performance enhancing drugs. I accept that in the ordinary way a robust denial of guilt will reduced the likelihood that a meaning of guilt should be found. But of course the denials have to been seen in the context of the article read as a whole. Moreover I am inclined to think that the vehemence of Mr Armstrong's quoted denial might make readers wonder whether he is as innocent as he claims.

34. Paragraph 5 of the article describes the Walsh/Ballester book as raising serious new questions about drug-taking in professional cycling. Paragraph 5 also refers to investigating the "possibility" that Armstrong might have taken performance-enhancing substances in order to compete in a sport "riven with drugs". As Mr Caldecott says, that reference to questions ties in with the sub-heading. I note, however, that this paragraph is preceded by one which describes the book as putting Mr Armstrong "in front of the firing squad again". Moreover, the reference to the sport being riven with drugs would doubtless be in the mind of readers when they come to the later passages in the article.

35. As I have said, the *Sunday Times* article says in paragraph 19 that Mr Armstrong has never failed a drug test. That is indubitably a point in favour of the Defendants' meaning. On the other hand paragraph 7 makes clear that for much of the 1990s, cyclists could take EPO safe in the knowledge that it was undetectable. It is said that even at the date of the article it remained difficult to detect as it is a natural body substance and is only detectable after recent use.

36. The reader has been told in the first paragraph of the article that Mr Armstrong has won the Tour de France five times. That being so, these words in paragraph 7 appear to me to provide clear support for Mr Armstrong's case on meaning:

> "For a clean cyclist to beat a rider taking EPO is extremely difficult. The book will quote experts who believe that in a race as gruelling as the Tour de France to do so is probably impossible".

37. Further support for Mr Armstrong's meaning is in my opinion to be derived from paragraphs 8 to 10, read in conjunction with paragraph 28. Paragraph 8 quotes Stephen Swart, who is described as having been a team-mate of Armstrong's at the Motorola team in 1994 and 1995, as having admitted to taking EPO because of pressure on the team to deliver results. That is immediately followed by these words:

> "…There are those who fear that a man who has won five Tour de France in a row must have succumbed to the pressure of taking drugs, in particular EPO. Swart's views on how pervasive EPO was in cycling during his time at Motorola will lead to fresh questions about Armstrong's relationship with Michele Ferrari, an Italian cycling doctor with a controversial reputation".

38. Paragraph 10 reports that Armstrong had been seeing Ferrari (who is said to be currently on trial in Italy for sporting fraud and doping offences not involving Armstrong). Although paragraph 10 also refers to strenuous denials by Armstrong that there was anything wrong in his relationship with Ferrari, Greg LeMond is quoted in paragraph 28 as having said to Armstrong in the course of a telephone conversation:

> "I have a problem with Ferrari. I am disappointed you're seeing someone like Ferrari. I have a personal issue with Ferrari and doctors like him. I feel my career was cut short, I

> watched a team-mate die, I saw the devastation of innocent riders losing their careers".

39. Paragraph 11 also supports Mr Armstrong's meaning: it says that the book could force Armstrong to answer questions about a rumoured admission to doctors treating him for testicular cancer in October 1996 that he had used performance-enhancing drugs. I acknowledge that this is said to have been no more than a "rumoured" admission but readers would in my view be likely to have concluded that this was an admission which is likely to have been made, given that doctors treating a patient for testicular cancer need to know about any substances the patient had ingested.

40. There is a reference in paragraph 14 to "a former *soigneur*" having extraordinary stories to tell about the disposal of empty syringes and a furtive trip to Spain to collect a bottle of pills. True it is that the reader is not told in terms that the *soigneur* has anything to do with Mr Armstrong. On the other hand the article is devoted almost in its entirety to Mr Armstrong. I do not accept that an ordinary reasonable reader would take the *soigneur* to have been looking after some other cyclist.

41. I accept that paragraphs 16 and 17 of the article convey to readers the impression that few in the sport of cycling are prepared to face up to the problem of drug taking in the sport. There is also a repetition of the reference to Mr Walsh pursuing a vendetta against Mr Armstrong. However, that is to my mind more than counter-balanced by, firstly, the quotation of Brooke LJ in paragraph 21 of the article with its reference to responsible investigative journalism being held to ransom by those with the means to do so and, secondly, by paragraph 22 of the article which stresses the passionate concern about the cancer of drugs in sport felt by Mr Walsh and his motivation for doing so.

42. The quotation attributed to Mr LeMond in paragraph 25 is not in my view to be taken as imputing guilt of drug taking to Mr Armstrong but it is followed shortly afterwards by his damning comments, quoted at paragraph 28 of the article, about the cycling doctor Ferrari. It would be natural for a reader to link the death of LeMond's team-mate referred to in paragraph 28 to the deaths of eight cyclists from cardiac arrest in just over a year. It is true that it is not said in terms that these men died because they had been taking EPO but the considerable health risks involved in using EPO are explained in paragraph 23 of the article.

43. I acknowledge further that the words attributed to Mr Armstrong in paragraphs 31 and 32 tell readers that, according to Mr Armstrong, the Motorola team was not thinking about EPO and paragraph 33 further informs readers that, according to the team's directeur sportif the accusations are based on nothing. Those claims conflict with what Mr Swart is quoted as saying in paragraph 8. Besides, those paragraphs come very late in the article and in any event would in my judgment, be largely, if not entirely, counter-balanced by the reference in the final paragraph to Armstrong declining to answer a list of questions related to the allegations to be made in the book "LA Confidential".

44. Having considered, as I said I would do, whether a detailed examination of the text of the article casts doubt on the conclusion arrived at in paragraph 31 above, I have decided that it does not. I remain of the opinion that the *Sunday Times* article of 13 June 2004 bears the meaning for which Mr Armstrong contends.