

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION

Case No HQ 08 X 01303

The Honourable Mr Justice Eady

Friday 27 June 2008

B E T W E E N :-

MAX MOSLEY

Claimant

and

NEWS GROUP NEWSPAPERS LIMITED

Defendant



O R D E R

On Friday 27 June 2008 the Court held a pre-trial review of this action, listed for trial commencing on 7 July 2008. Applications were made on behalf of the Defendant for orders that the Claimant's claim for exemplary damages be struck out; that the Claimant elect as to the remedies to be claimed; and for further procedural and other directions.

The Judge heard Leading and Junior Counsel for the Claimant and the Defendant. He read the Orders of Master Leslie dated 18 April 2008 and 20 May 2008 by which it was ordered that the identities of the women referred to in the statements of case as Women A, B, C, D and E must not be disclosed by any party or person other than for the purpose of prosecuting or defending the claim, and that no statement of case other than the Claim form and Particulars of Claim might be inspected or obtained from the Court records with the Court's permission. The Judge also read the other documents recorded on the Court file as having been read. As a result of the hearing

IT IS ORDERED and directed that:-

## **Disclosure by the Claimant**

1. The Claimant must forthwith provide the Defendant's solicitors in writing with the full names and addresses of Women A, B, C and D PROVIDED THAT disclosure by the Claimant shall be to the Defendant's solicitors who shall disclose that information to Mr Crone of the Defendant and that Mr Crone shall disclose the information only to persons instructed by the Defendant to conduct investigations and enquiries in connection with this litigation, who must be advised that by order of this court there must be no identification of Women A to E other than for the purposes of prosecuting or defending the claim.
2. The parties must use their best endeavours (1) in the case of the Defendant, to serve by 4.30pm on Friday 27 June 2008 a witness statement setting out the basis on which it believes and contends that the Claimant's disclosure relating to his email correspondence with Woman A is inadequate (2) in the case of the Claimant to serve on the Defendant's solicitors by 4.30pm on Monday 30 June 2008 verification in a witness statement, with a statement of truth, of the disclosure already given in relation to emails and other electronically stored documents, including verification of the following matters:
  - a. The number, type, and location of computers owned by or searched by the Claimant;
  - b. The date on which the Claimant received a warning from Lord Stevens as referred to in paragraph 31 of the Claimant's witness statement, dated 20 June 2008;
  - c. The method by which that warning was communicated to the Claimant by Lord Stevens;
  - d. The content and/or nature that the warning from Lord Stevens;
  - e. By reference to each of the computers identified in accordance with (a) above, the date on which the Claimant deleted emails as referred to in his disclosure statement date, and the method used by the Claimant to delete the emails;
  - f. By reference to each of the computers identified in accordance with (a) above, the type, nature, or class of and content of email(s) deleted by the Claimant, including, but not limited to, the identity of the sender(s) or recipient(s) of the emails;
  - g. All steps taken by the Claimant to retrieve the deleted emails, including the date(s) on which the Claimant attempted to retrieve the deleted emails, whether he did so

personally or through some and if so what agent, details of the methods attempted (including any enquiries made of internet service providers), and the results of those attempts.

**Third Party disclosure**

3. The Defendant has permission to give short notice of an application for third party disclosure against Woman A to be heard not before 9.30am on Tuesday 1 July 2008.

**Prohibition on public disclosure of identities of Women A to E**

4. Until further order no person shall disclose to the public or any section of the public any information to the following effect about any of the women known for the purposes of this case as Women A, B, C, D and E:-
  - 4.1 her name or address;
  - 4.2 any photograph or other likeness of her;
  - 4.3 any other details about her;
  - 4.4 the name and address of her husband or partner or any details about that person;
  - 4.5 the names or school(s) of any child or other relative of hers, or any other details about them,

if such information is likely to lead to her identification as one of the women referred to in the News of the World article of 30 March 2008 of which the Claimant complains.

**Continued restriction on collateral use of documents**

5. Pursuant to CPR 31.22(2), until further order the documents identified in Schedule 1 to this Order may be used by the Claimant and the documents identified in Schedule 2 to this Order may be used by the Defendant only for the purpose of these proceedings, even if any such document has been read to or by the court, or referred to, at a hearing which has been held in public.

**Inspection and disclosure of documents on the Court file**

6. Paragraphs 2, 3 and 4 of Master Leslie's said order of 18 April 2008, as varied by paragraphs 1 and 2 of Master Leslie's order of 20 May 2008 be further varied so that

hereafter the following provisions shall apply as regards inspection and disclosure of documents on the court file

(1) No person who is not a party to these proceedings may without the court's permission inspect or obtain from the Court records a copy of any of the statements of case or any other documents filed or served in these proceedings, save for

- a. the Claim Form,
- b. the Particulars of Claim,
- c. versions of the Amended Defence and Reply redacted so as to remove confidential or private matters not in the public domain (such redaction to be made by agreement or failing agreement by later order of the court) and
- d. such witness statements as, at the trial, are open in redacted form to public inspection pursuant to CPR 32.13 (such redaction to be made by agreement or failing agreement by later order of the court).

(2) Any application for permission must be made with notice in writing in advance to the solicitors for the Claimant and the Defendant.

(3) The Defendant shall not disclose to any third party otherwise than for the purposes of these proceedings a copy of any of the statements of case other than the Claim Form, Particulars of Claim and redacted versions of the Amended Defence and Reply.

7. Pursuant to CPR 32.13(4) the parties have permission, as regards those witness statements served on their behalves which contain information the disclosure to the public of which could constitute or facilitate a disclosure contrary to the Orders of Master Leslie protecting the identities of Women A to E, or to paragraph 1 of this Order, to prepare and lodge versions of those statements redacted so as to eliminate or conceal such information, and no version of those statements other than the version so redacted shall be open to inspection during the course of the trial.

#### **Hearsay Notice**

8. The Claimant must by 4.30pm on Wednesday 2 July 2008 notify the Defendant's solicitors in writing whether he wishes any and if so which of the witnesses listed in the Defendant's Hearsay Notice dated 20 June 2008 to attend for cross-examination at the trial.

**Amendment of the Defence**

9. The Defendant has permission to amend its Defence in the manner shown in the draft put before the Court, save for the proposed amendment to paragraph 13.11 which is refused.

**Adjournment of strike-out application**

10. The Defendant's application to strike out the Claimant's claim for exemplary damages is adjourned to be heard on Monday 30 June 2008, limited to the consideration of two points:

- (1) firstly, whether damages are in principle available for misuse of private information,
- (2) secondly, whether the Claimant's statements of case disclose any basis for an award of exemplary damages.

11. The costs of and caused by the Pre-Trial Review are costs in the case.

**SCHEDULE 1**

All documents contained in tabs 2, 4, 7 and 8 of Trial Bundle Dii.

**SCHEDULE 2**

Copy correspondence sent to the Claimant after the publication complained of, disclosed by him to the Defendant in the course of this action.



**DATED** the 27 JUNE 2008

HQ08X01303

**IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION**

**BETWEEN:**

MAX MOSLEY

-and-

NEWS GROUP NEWSPAPERS

**ORDER**

Court 13

STEELES LAW LLP  
DX 461 CHANCERY LANE

Ref: DFC/TAL/51726-1-2

Solicitors for the Claimant

FARRER & CO  
DX32 CHANCERY LANE

Ref: RGC/JCP/BRB

Solicitors for the Defendant

c.c. Clerk of the Lists