

Claim No. HC-2016-002849

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
BUSINESS LIST (ChD)**

BETWEEN:-

SIR CLIFF RICHARD, OBE

Claimant

- and -

THE BRITISH BROADCASTING CORPORATION

Defendant / Part 20 Claimant / Part 20 Defendant

- and -

THE CHIEF CONSTABLE OF SOUTH YORKSHIRE POLICE

Part 20 Claimant / Part 20 Defendant

THIRD WITNESS STATEMENT OF GIDEON BENAIM

I, **GIDEON BENAIM**, of Simkins LLP, Lynton House, 7-12 Tavistock Square, London, WC1H **WILL SAY** as follows:

- 1 I am a solicitor and Partner at the law firm, Simkins LLP, which is representing the Claimant in these proceedings. I have responsibility for the overall conduct of this matter on behalf of the Claimant.
- 2 I make this statement from matters within my own knowledge or on the basis of information provided to me as indicated in this statement. Insofar as the matters set out in this statement derive from my own knowledge, they are true. Where matters are not within my personal knowledge they are true to the best of my information and belief.
- 3 In the course of preparing for trial, and reviewing the contents of my trial witness statement for that purpose (my second witness statement in this case, dated 30 November 2017), it has occurred to me that there are certain aspects of it which I ought to clarify and correct.

Paragraph 9

- 4 In paragraph 9 of my second witness statement I stated that before Mr Hall spoke to Ms Kitterick of the BBC at 11:15am I did not know *"why the police [were] searching"* and, furthermore, that *"All I learned as a result of Ms Kitterick's call with Mr Hall was that the BBC knew that the police were searching an apartment in Sunningdale and that they were planning to broadcast some kind of story at an unspecified time later in the day"*.
- 5 To be clear, I was sent a copy of the search warrant at around 11:00am that morning and although I have no specific recollection of doing so I believe it is probable that I would have looked at it pretty much immediately after receiving it. A copy of the search warrant may be found in the trial bundles for the First Trial in this action: [C1/132].
- 6 While I cannot be sure about the matter, I believe it is probable that when I read the search warrant, I would have picked up which police forces had been authorised to carry out the search and what they had been authorised to search for. However, there was no reference in the search warrant to the specific offence or offences under investigation. It was therefore correct to say that I did not know why the police were searching. However, I do believe that Phil Hall would have told me, as a result of his call with Ms Kitterick, that the BBC knew (or at least believed) that the apartment that the police were searching belonged to the Claimant. Certainly she did tell Mr Hall this, as he himself says in his witness statement.

Paragraph 10

- 7 In paragraph 10 of my second witness statement I stated that the next thing I learned materially was what was set out in Ms Kitterick's email to Mr Hall at 12:24pm, and that Mr Hall sent me a copy of this email not long after he had received it. I stated that this was *"the first time that I became aware of the involvement of the SYP and the nature of the allegation that they were apparently investigating in relation to the Claimant"*.
- 8 In fact, having been back through my emails, it appears that Mr Hall did not forward this email to me either in the period immediately after 12.24pm or any other time that day. In other words, I have no record of this happening and it is unlikely that it did. I believe I may have confused this email with the email that Phil Hall did send me at 12:24pm that day, which reported that the BBC had just called him and that they were going to "break the story within the hour". This email has been disclosed.
- 9 Accordingly, while I cannot be sure about the matter, I believe it is probable that I would have learned the further information described in paragraph 10 in the course of a phone conversation with Mr Hall some time between 12:24pm and 12:45pm or when I received an email from Mr Hall timed at 12:45pm.

10 Otherwise, as stated in paragraph 6 above, I believe I probably became aware of the involvement of the SYP at around 11:00am that morning. But to be clear, I believe it remains correct to say that it was not until later on in the day, at some point between 12:24pm and 12:45pm, that I learned that the search of the Claimant's apartment related to "*an allegation of a sexual nature dating back to the 1980s involving a boy under the age of 16 at the time*". Moreover, what I can say with certainty is that, such was our lack of knowledge about what the BBC were proposing to broadcast, that, even as late as 12:26pm, and probably right up until 12:51pm, I was operating on the mistaken assumption that the reason why the police were searching must be in some way connected to the (entirely false) allegations about the Claimant that had been circulating online in connection with Elm Guest House.

I believe that the facts stated in this witness statement are true.

Signed 

Gideon Benaim

Dated 6 April 2018

Claimant
Gideon Benaim
Third
6 April 2018

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GIDEON BENAİM

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