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# England and Wales High Court (King's Bench Division) Decisions

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**Neutral Citation Number: [2023] EWHC 419 (KB)**

Case No: QB-2020-004525

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

Royal Courts of Justice  
Strand, London, WC2A 2LL  
27 February 2023

**B e f o r e :**

**THE HON. MRS JUSTICE THORNTON DBE**

**Between:**

**FGX**

**Claimant**

**- and -**

**Stuart Gaunt**

**Defendant**

**Justin Levinson (instructed by Farleys Solicitors LLP,) for the Claimant  
The Defendant did not appear and was not represented**

**Hearing date: Tuesday 17 January 2023**

**HTML VERSION OF JUDGMENT APPROVED**

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This judgment was handed down remotely at 2:30pm on Monday 27<sup>th</sup> February 2023 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

**The Hon. Mrs Justice Thornton DBE:**

**Introduction**

1. This is an assessment of damages in a claim arising from the covert recording of naked images of the Claimant and their subsequent publication on a pornographic website, alongside a photograph of the Claimant's face. The expert evidence considers that the likelihood of the images being replicated elsewhere is high. The knowledge that naked images of her are on the internet, available to the public, has caused the Claimant to suffer from chronic post traumatic stress disorder, leading to an enduring personality change.
2. The term 'revenge porn' is commonly used to describe the Defendant's conduct but the term conveys the impression that a victim somehow deserved what happened to them. The description suggested by Counsel and used in this judgment, is image-based abuse.
3. The claim is thought to be the first case of its type to come before the civil courts in England and Wales.
4. The Particulars of Claim advanced the claim as follows:
  - o intentionally exposing the Claimant to a foreseeable risk of injury or severe distress which resulted in injury
  - o infringement of the Claimant's privacy
  - o breach of the Claimant's confidence (misuse of private information).
5. Judgment on liability was given in favour of the Claimant when the Defendant failed to provide any defence to the claim.
6. For the reasons that follow, I award general damages of £60,000 and special damages of £37,041.61 for consequential financial losses, making a total of £97,041.61.
7. Following the conduct under scrutiny in this claim, the Defendant was convicted of voyeurism, an offence to which the provisions of the Sexual Offences (Amendment) Act 1992 apply. Under those provisions where a sexual offence has been committed against a person, no matter relating to that person shall during that person's lifetime be included in any publication if it is likely to lead members of the public to identify that person as the victim of that offence. This prohibition applies unless waived or lifted in accordance with Section 3 of the Act.

**Factual Background**

8. The Claimant is 49-years-old. She moved to the UK in December 2015. She and the Defendant began a romantic relationship in March 2016 and she moved into his house in May of the same year.
9. Around 16<sup>th</sup> October 2017, the Claimant found a microscopic camera concealed in the bathroom at home. Over the course of several days, she discovered that the Defendant had filmed her in three different ways.
  - o in the bathroom while she was naked and cleaning the bathroom before showering
  - o while she was showering
  - o while she slept topless

10. The Claimant further discovered the Defendant had uploaded the images onto a pornographic website, alongside a photograph of her face so she could be recognised. She located screenshots of payment platform websites, from which she inferred that the Defendant had made money from uploading the images.
11. On 10<sup>th</sup> September 2020, the Defendant was convicted of voyeurism and other sexual offences. He received a two-year suspended sentence and was ordered to sign the Sex Offenders Register for ten years.
12. In a statement for the criminal proceedings, the Claimant said:

*"I found out afterwards that he had been filming me for at least three minutes whilst pretending that he was half asleep. When I was going through his hard drives, I saw that he had taken screen shots of me cleaning the bathroom naked and uploaded these images to what seemed like some pornographic website. He took a photo of me from Facebook so you could see my face clearly and placed that image next to all my naked images. Next to the uploaded naked photos, it had said something like 'dirty sister caught naked' or something to that effect. This was such an awful betrayal of someone that was pretending to love and care for me. Someone that I had trusted, had taken my most intimate moments and gleefully added this to sick websites and relished at his perverted enjoyment of sharing this with thousands of strangers without my knowledge. [...] I kept agonizing as to what else he had recorded of me [...] [...] What else could he have uploaded onto these sick websites of me [...]?"*

### **The proceedings**

13. The Claimant issued proceedings on 17<sup>th</sup> December 2020. The Particulars of Claim record that the Defendant owed the Claimant an obligation of trust and confidence in relation to intimate and personal matters and information coming into his possession as a result of their relationship. The images of the Claimant constituted confidential and private information belonging to the Claimant. The Claimant had a reasonable expectation that her time at the Defendant's home would remain confidential and private due to the intimate nature of the relationship and/or the circumstances in which she came to be in the Defendant's home. The distribution of the images constituted a breach of his obligations of trust and confidence owed to her. The films and photographs constituted personal and confidential information which the Defendant misused by storing them and/or distributing them to another or others.
14. There was no acknowledgment of service or defence served by the Defendant. The Claimant obtained judgment in default in relation to liability on 3<sup>rd</sup> June 2021. The Defendant attended a costs and case management conference on 18<sup>th</sup> October 2021 but subsequently did not comply with any of the directions.
15. The hearing for the assessment of damages was listed for 17<sup>th</sup> January 2022. The Defendant was not represented and did not appear at the start of the hearing, whereupon Counsel for the Claimant made an application that the Court should exercise its discretion under Civil Procedure Rule 39.3 to proceed in the Defendant's absence.
16. I was satisfied that it was right to proceed for the following reasons:
  - (i) The trial bundle contains a number of letters sent by the Claimant's solicitors to the Defendant throughout the litigation, informing him of the hearing dates; his right to be present for the purposes of cross-examination and submissions, and his right to be legally represented;
  - (ii) The Defendant attended the case management hearing on 18 October 2021 so is clearly aware of the proceedings; and
  - (iii) Counsel explained that the trial bundle was sent to the Defendant the week before the trial by recorded delivery and was signed for by the Defendant. This would have provided a timely reminder of the hearing

date.

### **Quantum of damages**

17. The Claimant seeks damages under the following nine heads of loss:

1.	Pain, Suffering and Loss of Amenity	To be assessed
2.	Cost of Hotel Accommodation	£1,800
3.	Cost of Furniture	£8,000
4.	Wasted expenditure on holiday	£3,351.05
5.	Treatment costs	£5,377.49
6.	Interest on General and Special Damages	To be assessed
7.	Future Treatment Costs	£8,672.10
8.	Cost of Removing Images from Internet	£21,600
9.	Account of Profit	Not proceeded with

18. Whilst the Claimant had located information indicating the Defendant obtained payment from the images, Counsel conceded that the Claimant was unable to pursue an account of profit as there is insufficient evidence to establish a case in this regard. He submitted that this was due largely to the Defendant failing to participate in the proceedings, which has meant he cannot be questioned on this aspect of the claim.

### **Evidence**

19. The written evidence before the Court comprised three witness statements from the Claimant (dated 13 December 2020; 7 April 2022 and 3 November 2022); two expert reports and oral evidence from the Claimant at the hearing. The expert evidence comprised:

- 1) a psychiatric report from a Consultant Psychiatrist, Dr Chahl; and
- 2) a report from Mr Simon Wadsworth, the Managing Partner at Igniye Ltd, a company providing online content removal services, including the removal of "adult content."

### *The Claimant's Evidence*

20. In her statement dated 13 December 2020, the Claimant describes the aftermath of her discovery of the images:

*"14 On the 23 October 2017, I went to work as usual. However, I had an emotional breakdown because of everything I had found and so I returned home and contacted the police. I also booked a GP appointment for the same day and I was prescribed Diazepam.*

*15 The following afternoon, a detective collected me from the house and took me to a suite to complete a safeguarding assessment. The police then took me to Reading police station where I gave a video interview.*

*16 I fled the house on 25 October 2017 as I did not want to be there when Stuart returned. I planned to spend my future with Stuart, so I had invested in the house and purchased furniture at cost of approximately £8000. However, I left all of my possessions at the house as I wanted to leave as quickly as possible.*

.....

*19 Stuart was manipulative. I have been seeing a therapist for a while and I have been diagnosed with PTSD. I believe I will have PTSD for the rest of my life. To my knowledge, at least one of the images of me is still available online. I asked the police to help me have the*

*images removed. Detective Michael Watts, who was working on the case, told me that he was moving to a new department and that I should try to have it removed after Stuart was sentenced. It has caused me a lot of distress to have to live with the knowledge that these images are still on the internet. I am worried that after such a long time, it is futile to try to have the images removed from one website as they may have been shared elsewhere online.*

*20 I am receiving treatment from a consultant psychiatrist who prescribes me medication. I am also having counselling with a therapist...."*

21. In a statement dated 7 April 2022, the Claimant explained the impact of the Defendant's conduct on her:

*"3 I have been diagnosed with anxiety and depression and post traumatic stress disorder.*

*4 I have undergone counselling but this has not particularly improved my position. I would like to undergo more specialist counselling but this is incredibly expensive and I cannot afford more counselling at present.*

*5 I have become like a recluse. I am managing to work but only because I am allowed to work from home. I am so keen to do this that I am actually looking to have my employment contract amended to specify that I can remain as a "home worker".*

*6 I continue to receive medication for my symptoms from my GP. I am prescribed drugs to help me sleep and daily antidepressants.*

*7 I am reluctant to ever leave home and find any excuse not to go out. I have tried to overcome this but find it impossible. I tend to do all my shopping online. I work from home.*

*8 I have real trust issues. I cannot trust people. When I have travelled I become paranoid about cameras being hidden and filming me. I will look everywhere to try and find cameras – in air conditioning grates and behind seats. I will not try on clothes in a shop because of a fear that I am being filmed. The fear does not leave you and is constantly there. I am always worried that somebody is watching me that I do not know about.*

*9 I still have nightmares about what happened. I wake up in a sweat.*

*10 I have completely come off social media. It is a self-protection thing*

*11 I now find relationships very difficult. I have had a relationship since this happened but it failed due to trust issues. I do not trust men and unfortunately see all men as evil. It is a shame as I used to be the type of person who made friends easily and enjoyed socialising. I always believe now that people have ulterior motives.*

*12 I still believe that there are images of me on the Internet and this causes me immense distress. The Police could not delete any images during the course of the criminal trial. As a result, they were out there for a long time and I believe that the images may have been replicated many times over.*

*13 I manage to work but would find it very difficult if I was expected to go into an office environment."*

22. The Claimant's third statement explains the claim for special damages, including treatment costs, hotel accommodation and furniture left behind when she left the Defendant's house, as well as an aborted holiday.

23. In oral evidence before me, the Claimant explained that, prior to the events in question, she thought she had a loving relationship with the Defendant and had planned to build a future with him. She is a

committed Christian and her relationship with the Defendant was based, at her request, on sexual abstinence until marriage. The shock of what the Defendant had done was all the greater to her because the Defendant was aware of the significance of her beliefs in this respect. Her nightmares come and go now but never leave her and she would like the assistance of more therapy to help her. She still finds it hard to trust people; has given up going to a bible study group as a result and prefers to be on her own. She prefers not to enter into romantic relationships, trusting only herself. She shops online so she does not have to get changed in changing rooms. She finds staying in hotels for work (which she tries to avoid) difficult because she becomes paranoid and starts searching for cameras. She changed her job to home working to avoid having to go into an office.

24. I found her to be a measured witness who was prepared to acknowledge where her symptoms had improved over time, as with her headaches.

### *The Expert Evidence*

#### *Psychiatric*

25. Dr Pavan Chahl, a Consultant Psychiatrist, assessed the Claimant in February 2021, four years after the events in question.
26. He diagnosed the Claimant as suffering from post-traumatic stress disorder (PTSD), caused by the Claimant's knowledge that the images of her in a state of undress are on the internet for public viewing. He described the Claimant as remaining pre-occupied with the trauma of the images being uploaded without her consent and available to the public. As a result, the Claimant seeks to avoid circumstances resembling or associated with the conduct in question, including avoiding trying on clothes in shops and staying in hotels, which leads to her becoming paranoid about being videoed. She has problems with sleep, anger, difficulty concentrating, hyper vigilance and an exaggerated startle response. He explained that depression and anxiety are common with the condition.
27. He identified the Claimant as one of a minority of cases in which PTSD becomes chronic over several years causing "an enduring personality change." This was largely due to her fear of the Defendant and a preoccupation with the knowledge that the intimate images remain on the internet, out of her control and still accessible to the public.
28. Separately he diagnosed a relapse of an existing mixed anxiety and depressive disorder, 'greater than 50%' of which he attributed to the events in question.
29. He identified several vulnerability factors in the Claimant, including instances of physical and emotional abuse in other relationships, her family history of psychiatric conditions, and her previous experience of mixed anxiety and depressive disorder. He did not however consider that these factors contributed significantly to the symptoms that she presented which he considered to be "specific, severe and directly linked" to the events under scrutiny.
30. He considered relapses of both conditions to be "very likely".
31. In his opinion, the Claimant had already received appropriate treatment by the time of his assessment of her and she did not require further treatment at that time. He estimated the likely cost of treatment in the event of future relapses (which he identified as likely) as follows:
- o 4-6 monthly follow up by a consultant psychiatrist for the next 2-5 years at cost of up to £2000 in the private sector
  - o a further course and up to two further courses of Cognitive Behavioural Therapy at a cost of up to £2000.

32. Dr Chahl's evidence is consistent with a treatment diary of the Claimant set out in a letter from the Claimant's treating consultant psychiatrist.

*Online content removal*

33. The report by Mr Wadsworth (Igniye Ltd) sets out three options to remove the images from the internet: (i) removal of the content directly from the host site; (ii) deindexing, whereby links are removed from a search engine's results; and (iii) keyword removal, which is similar to deindexing but relates to specific searches rather than all search terms. The latter two processes essentially constitute 'burying' the content in question. His report explains that

*"Unfortunately at first glance, there is no way to determine how many images/videos are online. When a list of URLs are provided, we can then search google for identical images to see if anything has been duplicated on alternative sites. Based on our experience dealing with similar cases, the likelihood of images and videos being replicated elsewhere is high.*

*Once we have collected the images/videos...we will then start the removal process. As outlined...we have 3 proven methods that require different steps for removal.... The cost for this service is dependent on quantity. If there is a significant amount of content (over 20 image links/videos) we can offer a monthly payment plan at an estimated £3000 plus VAT per month. On average this will continue for six months. In the event there are less than 20 image links/videos we may offer a per link removal which would start at £1000 plus VAT per link, however less than 20 links/videos in this type of removal is rare."*

34. Counsel for the Claimant explained that the police have retained the Defendant's hard drives and the absence of disclosure has meant that the information required for Mr Wadsworth to make a more precise assessment is not currently available to the Claimant.

**Findings**

35. I make the following findings relevant to the assessment of general damages:
35. 1. The Claimant and Defendant were in a personal and intimate relationship at the relevant time.
35. 2. The images show the Claimant naked in the shower and bathroom and sleeping topless. They are intimate images, albeit not of sexual activity.
35. 3. The relationship between the Claimant and Defendant did not involve any intimate image-based activity.
35. 4. The images were uploaded onto a pornographic website accompanied by a photograph of the Claimant's face, making her recognisable to anyone who knows her.
35. 5. It is not known how many images were uploaded or the extent to which they have been replicated and downloaded. The expert assessment is that the likelihood of the images having being replicated elsewhere is high and it would be rare for there to be less than 20 images available to view.
35. 6. The available evidence indicates the Defendant obtained payment for uploading the images
35. 7. As a result of the Defendant's conduct the Claimant suffers from chronic PTSD. She is one of a minority of cases in which PTSD becomes chronic over several years, causing an enduring personality change.
35. 8. Separately, the Claimant has suffered a relapse of an existing mixed Anxiety and Depressive disorder, of which greater than 50% is attributable to the Defendant's conduct.
35. 9. The continued existence of the images online is a significant source of ongoing distress to the Claimant and a barrier to her recovery.

35. 10. The Defendant's conduct has had a serious impact on the Claimant's private life and lifestyle. She has lost trust in people and become reclusive, to the extent of changing her job and refraining from personal relationships.

### **General damages**

36. Counsel could not identify a case directly on point to provide assistance in determining a suitable monetary award for general damages. I propose therefore to set out the relevant guidance and case law to which Counsel directed me, before drawing the strands together.
37. Counsel's starting point is the awards for psychiatric and psychological damage to victims of sexual/physical abuse in Section C of Chapter 4 of the Judicial College Guidelines 2022 ('Psychiatric and Psychological Damage'). His rationale is that the impacts on the Claimant arising from the nature and duration of her PTSD as well as the effect on her ability to cope with life and work also feature as some of the impacts of sexual abuse (as listed in the guideline as relevant to assessing quantum). Counsel submitted that the appropriate sub-category is b) moderate ("*Cases where the abuse is less serious and prolonged and there is a less severe psychological reaction with fewer effects on education, work, or relationships. ...*"). The range of awards in this category is £20,570 - £45,000.
38. The only relevant authority on intentional infliction of harm which Counsel was able to identify is the case of ABC and WH v Willock [2015] EWHC 2687. The claimant, a 16-year-old pupil at a special needs school, claimed damages for sexual abuse inflicted by the Vice Principal of the school. Of relevance to the present case, the claimant was encouraged to send texts of a sexual content and indecent images of herself (topless; in her underwear; naked in the bath and pictures of her genitals). The Court awarded £25,000 (£31,790 in today's figures) emphasising the breach of trust given the age and vulnerability of the claimant. The claimant suffered an adjustment disorder (with increased anxiety, self harm, social difficulties with her peers and loss of self confidence) for six to ten months, of which 30% was identified as being due to the abuse. At trial she had an ongoing anxiety disorder which was expected to diminish over the following few years. Before me, Counsel submitted that the present case is more serious given the Claimant's diagnosis of chronic PTSD.
39. Turning to the information torts, Counsel explained that the only appellate authority considering quantum for obtaining and publishing private information he was able to identify is the case of MGN Limited v Representative Claimants [2015] EWCA Civ 1291. He submitted that the case provides some guidance, albeit the facts are very different, based as they are, on a claim for misuse of information arising out of phone hacking. The appropriate compensation will depend on the nature of the information; its significance as private information, and the effect on the victim of its disclosure. A short-lived effect based on embarrassment will attract less compensation than a life-changing intrusion. The effect of repeated intrusions by publication can be cumulative, though possibly the cumulative effect will mean that additional distress is less rather than increased as a result of repeat disclosures. The extent of the damage may be claimant-specific: those with a thin skin may be caused more distress (and receive more compensation) than those with a thick skin. (§32). The extent of the publication of the information is 'clearly relevant to the level of damages' (§31). There must be some reasonable relationship between damages for non-pecuniary loss in **defamation** and damages awarded in personal injury cases even though the factors to be taken into account are materially different and no exact correlation can be achieved (§61-62).
40. Counsel submitted that the case of Reid v Price [2020] EWHC 594 (QB) has a similar factual basis to the present case. The claimant and the defendant are both celebrities who were married to each other and subsequently divorced. Video recordings and/or photographs obtained by the defendant during the course of the relationship showed the claimant dressed as his cross-dressing alter-ego and engaged in sexual activity. The moving and still images were disclosed to a substantial number of people. Some were people who knew the claimant. Other disclosures were made on public occasions, to people who were strangers. In addition, the defendant used graphic terms to describe an intimate sexual act to a media publisher, with a view to publication, which led to publication of the description in an online article. A claim was brought



for breach of confidence, misuse of private information and breach of contract, and compensation under the Data Protection Act 1998. The judge considered that the claim merited an award 'of at least £25,000'. There was no medical evidence of harm with the result that the judge was not prepared to make an award for psychiatric harm, but he accepted that the claimant found publication demeaning and suffered a loss of personal dignity and harm to self-esteem. Before me, Counsel submitted that the award of £25,000 should be treated as a floor not a ceiling. The defendant in Reid was bankrupt and the claim form sought damages limited to £25,000. Permission to amend the claim form was not sought on the basis the fee for doing so was unlikely to be recovered, given the Defendant's financial position.

41. The final case relied on by Counsel is the case of Bell v Desporte [2019] EWHC 1650 (QB), a claim for misuse of private information and copyright infringement. The claimant and his then wife won a considerable sum in the National Lottery. Having separated from his wife he met the defendant, and they began a relationship which subsequently broke down, which the defendant then wrote about in a book, including details of their sexual relationship. The Court awarded £10,000 for misuse of private information. The Court noted the considerable distress caused to the claimant and the nature of the information. Conversely, however, publication of the information had been limited. Before me, Counsel submitted that the case is less serious than the present case because there were no images involved (only a description of sexual activity) and publication was limited (100 copies of a book).

### Analysis

42. I am asked to assess quantum on the basis of separate and distinctive torts – the intentional infliction of injury and the misuse of private information (Bloomberg LP v ZXC [2022] UKSC §45 – 46). The facts underlying the causes of action overlap to a considerable degree and I must avoid double counting in any award of damages. The factors to be taken into account in assessing quantum are materially different for the torts but I must, nonetheless, seek to maintain a reasonable relationship between the two, even though no exact correlation can be achieved (MGN §61-62).
43. Applying the guidance in MGN, I treat the naked images of the Claimant as private information of significance. Unlike the judge in MGN, I have limited information as to the extent of publication. On the evidence available to me, I proceed on the basis that the images remain online, available to an unknown number of recipients. The likelihood that they have been replicated is high and it would be rare for there to be less than 20 images available to view. Once downloaded, the images will remain available for viewing even if the Claimant utilises the services of a content removal company as she proposes to do. On this basis I draw an analogy with the principle in MGN that the effect of repeated intrusions by publication can be cumulative. In the Claimant's case, the effect has contributed to the development of chronic PTSD and an enduring personality change. I treat the impact on her as profound.
44. Counsel did not suggest that that awards in MGN were comparable and I was not directed to the quantum of specific awards in the case. Accordingly, I do not proceed by way of analogy with the awards in that case. It may be said, however, that the misuse of information in the present case is equally as serious, if not more so, than accessing voicemails to obtain private information for publication in newspapers.
45. The case of Reid v Price has a factually similar basis to the present case in that it involved covert recording of intimate matters within the confines of a romantic personal relationship. I treat the award of £25,000 as a floor not a ceiling (for the reasons explained at §40 above). The figure of £25,000 does not include an award for a medical diagnosis of psychological harm, which is a feature of the present case. The claimant in Reid had to endure a degree of public interest not present here because he and the defendant were public figures. Conversely, however, the Claimant in the present case has not sought to put herself into public life in any way. Her diagnosis of chronic PTSD is based, in part, on her continuing pre-occupation with the images being available to the public.
46. I consider the case of Bull v Desporte to be a less serious case than the present case. The information in question was a written account of sexual activity. There were no images of a sexual nature and distribution was restricted to 100 copies of a book.

47. None of the cases on misuse of information cited to me concern publication on a pornographic website. I consider the consequent degradation and humiliation for the Claimant considerably heightens the violation of her personal dignity and autonomy resulting from the misuse of her information.
48. I bear in mind the need to maintain a reasonable relationship between awards for misuse of information and personal injury (MGN at §61-62).
49. I accept Counsel's submission that the impacts on the Claimant are akin to the impacts of sexual assault listed in the Judicial College guidelines, albeit that the abuse in the present case is image based rather than physical. I note in this context that voyeurism is treated as a sexual offence. I take into account the Judicial College awards for psychiatric and psychological damage consequent on sexual abuse, which range from £20,570- £45,000.
50. So far as this particular Claimant is concerned, the impacts of the abuse have manifested themselves in a diagnosis of chronic PTSD with an enduring personality change and consequent impact on her private life and lifestyle. Her diagnosis is supported by medical evidence. I treat the PTSD as her primary injury. The Claimant has become reclusive, to the extent of changing her job so she can work from home and refraining from personal relationships.
51. The medical opinion explains that the Claimant is one of a minority of people for whom the PTSD becomes chronic. In this context I remind myself that, in the context of misuse of information, the Courts have made clear that the extent of the damage may be claimant-specific: those with a thin skin may be caused more distress (and receive more compensation) than those with a thick skin (§32 MGN).
52. The Judicial College awards for PTSD reserve category a) (severe) for permanent effects which prevent the injured person from working at all or at least from functioning at anything approaching the pre trauma level. Category b) (moderately severe) "*is considered distinct from the severe category because of the better prognosis which will be for some recovery with professional help. However, the effects are still likely to cause significant disability for the foreseeable future.*" Awards range from £59,860 - £100,670 for severe and £23,150 to £59,860 for moderately severe, as to which the majority of awards are said to be between £28,760 - £37,120.
53. Whilst there are permanent effects on the Claimant (enduring personality change), she is able to work and there is evidence of some improvement (e.g. decreasing frequency of headaches) so I consider category b) (moderately severe) to be the appropriate category. I put her case towards the top end of the category given the enduring personality change.
54. I have considered the caselaw on PTSD awards in Kemp and Kemp Quantum of Damages. I have found some assistance from Re TP (Vol 3 C2-002) which concerns a diagnosis of chronic PTSD with an enduring personality change after rape. The claimant in that case had retrained so as to be able to work at home. The PTSD had lasted 27 years; had led to the claimant not having children; being unable to travel by public transport and eventually being unable to work at all. In today's figures, the Court awarded £93,000 for pain suffering and loss of amenity. I consider the impacts on the Claimant in the present case are not as severe as in Re TP.
55. The Claimant also has a diagnosis of a relapse of a mixed anxiety/depressive disorder, as to which, 50% is considered attributable to the events in question. The Consultant psychiatrist observes that depression and anxiety are common features of PTSD so I do not make a separate award in order to avoid double counting.
56. The case of ABC v Willock is the only case before me on quantum for the intentional infliction of injury, by way of sexual texting and the sending of indecent images (£31,970 on today's figures). The breach of trust in Willock may be said to be more serious (a highly vulnerable 16-year-old and a perpetrator 39 years her senior and a senior member of the school). However, the psychological impact is more severe in the present case. In addition, the misuse of information in the present case is considerably more serious. The

claimant in Willock had generated the images herself, with encouragement. There was no publication of the images. The Claimant in this case was not even aware that the images had been generated and the images were published on a pornographic site, alongside a photo of her face.

57. I consider it appropriate, in principle, to make an award of damages to compensate the Claimant for additional distress arising from aggravating features of the Defendant's conduct. Aggravating features include the needless uploading of a photograph of the Claimant's face onto the pornographic website and the evidence that indicates the Defendant obtained payment for the images. A further aggravating feature is the Defendant's failure to participate in these proceedings. His failure to do so has deprived the Claimant of the opportunity to obtain information about the extent of publication, which remains a preoccupation for her and a barrier to her recovery. Nonetheless, I bear in mind the need to avoid double counting. The diagnosis of chronic PTSD appears to stem, in part at least, from these features of the Defendant's conduct. Accordingly, I do not make a separate award for aggravated damages and the uplift in this regard is modest.

58. Drawing the strands together, I award general damages of £60,000. This figure includes an award for aggravated damages. In assessing this sum, I have sought to reflect the situation up to and as at the date of judgment. I do not therefore consider a separate award of interest on this head of loss is appropriate (see Rees v Commissioner of Police of the Metropolis [2021] EWCA Civ 49 per Davis LJ at [47]).

### **Special damages**

59. The remaining heads of loss concern special damages, for which the evidential burden falls on the Claimant. The Court was provided with bank statements and receipts of purchase.

#### *Cost of hotel, furniture and wasted holiday*

60. The Claimant seeks £1800 for the cost of hotel accommodation whilst she found somewhere else to live. I am satisfied that it was reasonable for the Claimant to leave the Defendant's house when she did. The Claimant provided invoices for hotel costs for two periods: (i) 25<sup>th</sup> October 2017 – 15<sup>th</sup> November 2017, totalling £1155, and (ii) 28<sup>th</sup> November 2017 – 2<sup>nd</sup> December 2017, totalling £220. I award the amount evinced by the invoices: £1375.

61. Given the unplanned nature of her departure from the home, the Claimant left behind items and furniture that she had purchased during her relationship with the Defendant and relies on credit card statements, receipts, and photographs as evidence. In her witness statement she estimates her total expenditure amounted to £8000. The items listed in the schedule add up to £4,348.99 and the £8000 figure is described as an 'estimate'. Accordingly, I award £4,348.99.

62. The Claimant seeks £3,351.05 for the costs of an aborted holiday with the Defendant to Cape Town for November 2017. I am satisfied that the Claimant could not be expected to holiday with the Defendant. However, her statement to the police indicates that she went on holiday and had friends to stay with her at the hotels. Accordingly, I only award the costs of the Defendant's flight (£614.77).

#### *Past treatment costs*

63. The Claimant seeks £5,377.49 for:

- Psychiatric treatment from a Consultant Psychiatrist (£2680)
- Therapy from a Clinical Therapist (£546.33)
- Dentistry to repair teeth damaged by the Claimant grinding her teeth at night (£954.56)
- Prescriptions (£1,196.60)

64. I am satisfied from the medical evidence before me as to the need for treatment from a consultant psychiatrist and therapist. I accept the evidence demonstrates that the Claimant's PTSD and more than 50% of her anxiety and depression is attributable to the Defendant's conduct. I am also satisfied that his conduct has played a significant part in the need for therapy which is not divisible into separate components. I award the full amount for treatment costs (KR & Others v Bryn Alyn Community. (Holdings) Ltd [2003] EWCA Civ 85) (§135).
65. The Claimant has been prescribed medication for the PTSD and her mixed Anxiety and Depressive disorder. She initially paid for the prescriptions individually but then did so through a pre-payment certificate, which the Court was told has worked out cheaper overall.
66. I award a modest amount for the dentistry in the absence of expert evidence to support the Claimant's evidence that her teeth grinding is an effect of the psychiatric injury.
67. I award £4,522.93 for past treatment.

*Interest calculation*

68. The total past losses allowed for amount to £10,861.69. As the losses were incurred at different dates after 2017, when the Claimant came across the Defendant's laptop, I consider it reasonable to apply interest at half the special account rate (£163.72), making a total of £11,025.41.

*Cost of removing the images from the internet*

69. The Claimant seeks £21,600 as the estimated cost of removing a significant amount of content. I have considered the report from Igniye Ltd and accept that £21,600 is a reasonable basis for the estimate, in circumstances where the Defendant's failure to participate in these proceedings has prevented a more reliable estimate.

*Future treatment costs*

70. The Claimant seeks £8,672.10 as the cost of further treatment.
71. I award the costs of a further round of treatment specified in the medical report. I accept the opinion of the Consultant Psychiatrist (Dr Chahl) in 2021 that further relapses are likely, as confirmed by the Claimant's evidence that her symptoms continue, 5 years on, albeit it with some modest improvement. I award the full amount for treatment costs for the reasons explained at paragraph 64 above.
72. The Claimant also seeks the costs of prescribed medication for the remainder of her life which she proposes to fund through an annual pre-payment certificate. I consider there to be a potential for double recovery because I have awarded the costs of removing the internet content on the basis that the continued online presence of the images represents a barrier to recovery. It is to be hoped that the process of online removal (albeit unable to capture downloaded content) and the further treatment I have allowed for will lead to an improvement in the Claimant's symptoms. Accordingly, I award an amount for an annual pre-payment certificate for a modest period of time (2 years) (£216.20).
73. I award £4416.20 for future treatment.

**Total Award**

74. In summary, I award the Claimant:

Pain, suffering and loss of amenity £60,000

Special damages £37,041.61

**TOTAL £97,041.61**

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