



Neutral Citation Number: [2025] EWHC 697 (KB)

Out of hours application
Claim Number: KB-2025-000910

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
THE ROYAL COURTS OF JUSTICE

Date: 21.3.2025

Before:
MR JUSTICE RITCHIE

BETWEEN

HXZ

Claimant

- and -

NMX

Defendant

Sara Mansoori KC and Kirsten Sjøvoll of counsel (instructed by **Villars Legal**) for the
Claimant
the Defendant did not appear

Hearing date: 13.3.2025

APPROVED JUDGMENT

Judgment approved by the Court for handing down. This judgment will be handed down by the Judge remotely by circulation to the parties' representatives by email and released to The National Archives. The date and time for hand-down is deemed to be at 2.00 pm on 21.3.2025

Mr Justice Ritchie:

The Parties

1. The Claimant is a dual nationality businessman and a widower.
2. The Defendant is a woman with a large following on a particular social media platform.

Bundles

3. For the hearing I was provided with a hearing bundle, an authorities bundle and a skeleton argument.

Summary

4. I was sitting as the urgent applications judge when this application started at 4.30 pm on 13.3.2025. The Claimant sought an ex-parte interim injunction to prohibit the Defendant from publishing, inter alia, naked photos of him on the internet and sending them to his children and business colleagues. I granted a slimmed down version of the requested injunction and the order was made at around 7.30 pm to be served as soon as possible. I said I would give my reasons later. I do so now.

The Issues

5. The following issues arose in the application:
 - 5.1 Whether anonymity was appropriate and/or a hearing in private.
 - 5.2 Whether an exparte application was appropriate.
 - 5.3 The cause of action.
 - 5.4 The threshold for interim injunctions concerning private information.
 - 5.5 The threshold for an anti-harassment injunction.
 - 5.6 The potential defences.

The Pleadings and chronology of the action

6. The Claim Form was issued on 12.3.2025. The Claimant sought damages and an injunction asserting that the Defendant had misused his confidential private information and had threatened to do so again in future and seeking protection from harassment. No particulars of claim have been provided yet.

The lay witness evidence

7. The Claimant relied on the following witnesses:
 - 7.1 His own non-confidential witness statement sworn on 12.3.2025.
 - 7.2 His confidential witness statement sworn on 12.3.2025.
 - 7.3 A witness statement from Talita Villars (the Claimant's solicitor) sworn on 12.3.2025.

Exparte hearings, hearings in private and anonymity

8. In *Armstrong Watson v PUs* [2023] 4 WLR 41, (*Armstrong*) I set out the law and procedure in relation to exparte applications and hearings in private in paragraphs 11-19. I will not repeat them here save to summarise that I take into account the following:

CPR rs. 25.3(1)-(3); 39.2; CPR PD25A (1) – (5); the *Practice Guidance (Interim non-disclosure Orders)* [2012] 1 WLR 1003; S.11 of the *Contempt of Court Act 1981* and S.12 of the *Human Rights Act 1998*. In similar alleged blackmail cases *ex parte* applications have been allowed by the Courts, see: *PML v PUs* [2018] EWHC 838 at para. 5; *Ince Group v PUs* [2022] EWHC 808 at para. 4 and *Armstrong*.

9. I consider that there are good and compelling reasons under CPR r.25.3 (1) why notice to the Defendant was not required for this urgent application. As I will set out below, the Defendant had been repeatedly demanding increasingly larger sums of money (in writing) under the threats, (the latest of which was to publish on 14.3.2025, so tomorrow), to disclose the Claimant's private, personal and confidential information, including naked photos of him, to his children, work colleagues and the world via social media and traditional media. The Defendant had already made partial disclosures of personal and confidential information and allegations about various diseases and sexual matters to the Claimant's work colleagues and some media organisations, without his consent, under written threats to: pay up or suffer further public allegations and disclosures. In my judgment, in this application, the *ex parte* application was necessary to prevent tipping off the Defendant, who may then have published before any injunction could be obtained. Once the injunction is served then the injunction and contempt proceedings should protect the Claimant. Disclosure of the Claimant's name (and/or the Defendant's name) would defeat the purpose of the injunction and the claim so they shall remain anonymous. However, the reasoning and substance of the case will be handed down publicly (this is it) so holding the hearing in private would not have achieved much if anything, so long as counsel and myself were careful as to what was said during the hearing and we were.
10. I did not permit the request to hold the hearing in private. I considered that an anonymity order would be sufficient to protect the Claimant's private information. This was because some information had already been publicly disseminated by the Defendant without the Claimant's consent and because I consider that the open justice principle is crucial in such cases, to ensure that the public are aware of the alleged inappropriate behaviours, by the Defendant (and in some cases the Claimant), and aware of how the Courts may deal with them. I took into account the *Practice Guidance (Interim Non-disclosure Orders)* [2012] 1 WLR 1003, at paras 9-15:

“Open Justice

9. Open justice is a fundamental principle. The general rule is that hearings are carried out in, and judgments and orders, are public: see Article 6(1) of the Convention, CPR 39.2 and *Scott v Scott* [1913] AC 417. This applies to applications for interim non-disclosure orders: *Micallef v Malta* (17056/06) [2009] ECHR 1571 at [75]ff; *Ntuli v Donald* [2010] EWCA Civ 1276 (*Ntuli*) at [50].

10. Derogations from the general principle can only be justified in exceptional circumstances, when they are strictly necessary as measures to

secure the proper administration of justice. They are wholly exceptional: *R v Chief Registrar of Friendly Societies, ex parte New Cross Building Society* [1984] Q.B. 227 at 235; *Nutuli* at [52] – [53]. Derogations should, where justified, be no more than strictly necessary to achieve their purpose.

11. The grant of derogations is not a question of discretion. It is a matter of obligation and the court is under a duty to either grant the derogation or refuse it when it has applied the relevant test: *AMM v HXW* [2010] EWHC 2457 (QB) at [34].

12. There is no general exception to open justice where privacy or confidentiality is in issue. Applications will only be heard in private if and to the extent that the court is satisfied that by nothing short of the exclusion of the public can justice be done. Exclusions must be no more than the minimum strictly necessary to ensure justice is done and parties are expected to consider before applying for such an exclusion whether something short of exclusion can meet their concerns, as will normally be the case: *Ambrosiadou v Coward* [2011] EWCA Civ 409 at [50] – [54]. Anonymity will only be granted where it is strictly necessary, and then only to that extent.

13. The burden of establishing any derogation from the general principle lies on the person seeking it. It must be established by clear and cogent evidence: *Scott v Scott* [1913] AC 417 at 438 – 439, 463 and 477; *Lord Browne of Madingley v Associated Newspapers Ltd* [2008] 1 QB 103 at [2] – [3]; *Secretary of State for Home Department v AP (No2)* [2010] 1 WLR 1652 at [7]; *Gray v UVW* [2010] EWHC 2367 at [6] – [8]; and *JIH v News Group Newspapers* [2011] EWCA Civ 42 (*JIH*) at [21].

14. When considering the imposition of any derogation from open justice, the court will have regard to the respective and sometimes competing Convention rights of the parties as well as the general public interest in open justice and in the public reporting of court proceedings. It will also adopt procedures which seek to ensure that any ultimate vindication of Article 8 of the Convention, where that is engaged, is not undermined by the way in which the court has processed an interim application. On the other hand, the principle of open justice requires that any restrictions are the least that can be imposed consistent with the protection to which the party relying on their Article 8 Convention right is entitled. The proper approach is set out in *JIH*.

15. It will only be in the rarest cases that an interim non-disclosure order containing a prohibition on reporting the fact of proceedings (a super-injunction) will be justified on grounds of strict necessity, i.e., anti-tipping-off situations, where short-term secrecy is required to ensure the applicant can notify the respondent that the order is made: *DFT v TFD* [2010] EWHC 2335 (*DFT*). It is then only in truly exceptional circumstances that such an order should be granted for a longer period: *Terry v Persons Unknown* [2010] 1 FCR 659 (*Terry*) at [141].”

11. The anonymity measures I have imposed will no doubt be reviewed on the return date and whether a hearing in private is held then is a matter for the judge hearing the case then. To maintain the privacy of the parties I have generalised certain events and allegations in this public version of the judgment and provided a private version to the parties separately which is confidential and not for publication.

The asserted facts

12. I have only read the Claimant's evidence. I take into account that the Defendant may deny all or most of what is asserted but is unlikely to deny the content of her own emails and social media postings. The Claimant asserts that he is chairman of a large group of companies which trade worldwide. Some of the businesses are in the UK. He has a home in the UK and in Asia. His wife died some years ago. His children are adults. He asserts that he is a devout Muslim. The Defendant lives in London. They became romantically involved in mid 2022. He cared for her but the relationship was not formal, it was casual. They did not marry. He did not inform his family of it. During the relationship the Claimant gave money and presents to the Defendant.

March 2024

13. They had an argument in March 2024 and the Defendant then demanded £30,000 or she would disclose their relationship to his family. He paid £5,000 in cash. She posted a picture of him on her bed on social media. He was distraught. He paid her a further £10,000 and she removed it, asserting that her account had been hacked and she was not responsible for the post.

October 2024

14. The relationship was ending by October 2024. On 7.10.2024 the Defendant sought to disentangle their financial dealings specifically relating to a car and a shop. The Claimant asserts that he, at some time, agreed to take over the car payments and to take back the lease of the shop he had previously transferred to her, to relieve her of the lease liabilities.
15. On 10.10.2024 the Defendant demanded money (£110,000), to be paid to a construction company, in various emails, as a final settlement of "*our financial obligations*" to each other and "*will close any further financial attachments or discussion related to our marriage*". She asserted that they had been through an Islamic verbal marriage on 29.7.2024, with witnesses, (and later relied on photos of the alleged ceremony). The Claimant asserted that the photos were actually taken on 26.2.2024 at a dinner at a Chinese restaurant, there was no marriage, no written contract and no Imam or Sheikh presiding over any ceremony. The Defendant requested a verbal divorce. The Defendant (later) relied on a handwritten note dated 16.12.2023 in which she asserted that the Claimant wrote that he would like to marry her. The Claimant asserts that he did not write it and the signature is not his and the handwriting is not his. The Defendant

also asserted that the Claimant had a relationship with her female friend “X” which he denies.

December 2024

16. On a visit to the UK, in December 2024, the Claimant lived with the Defendant so the relationship was not over. He paid her £8,000 during the stay.
17. On 31.12.2024 the Defendant showed him an explicit video of himself in the washroom in her house and a photo of him naked, secretly taken and the taking of which he had not consented to. She verbally demanded £1 million and threatened to disclose them on social media and to his family if he did not pay.
18. The Claimant did not go to the police asserting blackmail by the Defendant.
19. In evidence, which was a little unclear, the Claimant asserted that there was posted on the Defendant’s social media pages in February 2025, a photo of the Claimant on the Defendant’s bed, eating breakfast, alongside text including allegations that he had an STD and used prostitutes.

January - February 2025

20. On 3.1.2025 the Defendant repeated the blackmail threat in a phone call. Then he received a text message from the Defendant’s son asking for thousands of pounds in early February 2025. On 3.2.2025 the Defendant sent a long email to the Claimant alleging she had photos of the Claimant with genital warts sitting on her bed. She asserted that they were married in September 2023 (previously she had asserted July 2024) and asserted that the Claimant had given her an STD virus, knowingly, which she asserted was a crime and demanded £thousands of pounds, to be paid in 45 days, and millions in compensation for her suffering and health complications. She also demanded a divorce. The Defendant threatened legal action. She never took legal action.
21. On 17.2.2025 the Defendant emailed the Claimant setting out her depression and medical issues and claimed a different figure of thousands of pounds for her healthcare, sending her bank details.
22. On later in February 2025 the Defendant again emailed the Claimant, but this time copied in his third parties he knew. She complained that one of his friends or agents were harassing her. She again demanded thousands of pounds in health expenses and money due as a result of their marriage. She threatened to send evidence to one of his companies.
23. Later in February 2025 the Defendant emailed the Claimant, copying the email to persons he knew and was related to. She claimed thousands of pounds. She claimed they had married giving a third different date for the wedding. She repeated the

assertion that the Claimant had an STD and made other confidential and potentially embarrassing allegations. She threatened that next time she would publish if he did not pay and she would seek millions of pounds by legal action. She did not take legal action.

24. On 27.2.2025 Villars (the Claimant's solicitors) responded at 19.38 hours and asked the Defendant to direct all future correspondence to them. They described the Defendant's behaviour as harassment and threatened to issue legal proceedings. They offered to resolve the dispute amicably and sent a without prejudice letter as well. The Defendant responded at 23.52 hours denying blackmail or harassment (which must have been set out in the without prejudice letter). She repeated her demands for large sums of money to be paid in 7 days. She asserted a crime instigated by the Claimant. She asserted that she would seek a non-molestation order, issue proceeding for millions for breach of contract and "*report your clients actions to social media platforms not as black amil (sic) but as a factual account of my experience and my legal right to warn others.*" The Defendant did not take legal action.

March 2025

25. On 5.3.2025 (the 6th day after the latest demand for large sums of money) Villars responded. They advised of the pre-action protocol. The Claimant denied any civil wrongdoing. The Claimant denied marriage or owing any dowry. The Claimant asked for evidence in support of the Defendant's assertions. The Claimant required the Defendant to remove her posting on social media of him in her bedroom and her assertion that he had an STD. He denied any involvement in any burglary. At 12.21, after midday the same day, the Defendant responded to his solicitors. As to the asserted marriage, the Defendant asserted that she had evidence in the form of: messages from the Claimant confirming the marriage to her family; testimony from ministers and witnesses; a receipt from a Sheikh who performed the ceremony; photos from the ceremony dinner at a chinese restaurant and the marriage ring. She asserted he had agreed to pay a dowry at the time of the ceremony. She repeated her demand for various large sums of money this time to be paid by 13.3.2025, failing which she would issue proceedings and make formal complaints to authorities. The Defendant did not issue any legal action. The Defendant also asserted that the Claimant had disclosed her private images, given her an STD and attached a medical report. Her threats included legal actions and to "*publicly disclose the truth about his deceit and misconduct including presenting all documented evidence.*"
26. I have looked at the evidence which the Defendant proffered. The medical report related to removing polyps and contains no reference to an SDT infection. The note from 16.12.2023 is summarised above. Various of the Defendant's social media posts were put into the bundle which are not dated on their face but which I was informed related to the period 5-10 March 2025. They show photos (undated) from an event at which the Claimant and the Defendant and others were present, alongside some *fire and brimstone* assertions (100 lashes) of lies and cheating made by the Defendant against the Claimant. Another photo is of a large ring. There was no witness statement from

any witness asserting presence at any marriage and no evidence from any religious person who presided at any marriage.

27. Shortly after that the Defendant wrote to Villars at 13.53. She repeated the allegations she had made before about: (1) the STD infection and (2) the asserted crime. She raised new allegations of: (3) threats of violence to her from the Claimant's family; (4) stalking of her by his lawyer (not the solicitors in this application). She again threatened to "*report his actions publicly as my legal right to warn others*". She required payment by 14.3.2025. The Defendant followed up with an email timed at 19.22 pm. She referred to a without prejudice offer which I will not recite here. The Defendant repeated her earlier demands.
28. Soon thereafter the Defendant emailed the Claimant himself (ignoring his lawyers request not to do so) and copied in people who knew him; media organisations and his lawyers. By this time, she had dropped her million pound demands to hundreds of thousands, to be paid by a very short deadline. The rest of the email contained fire and brimstone style assertions against the Claimant and also the assertion that the Claimant had disclosed private photos of the Defendant. At the end of this email is what appears to be an earlier email which stated he had disclosed naked pictures of her to third parties and she would disclose naked pictures of him to third parties and family if he did not pay.
29. The Claimant accepts that when they were socialising, the Defendant, in his presence, used the term "fiancée" and "husband" to refer to him from time to time. He objected when she did so, except in front of her son, when he allowed her to use such terms. He also used the reference "dad" when transferring money to her son.
30. In his evidence the Claimant asserted as follows: "*Even if what the Defendant says is true, and I owe her some sort of divorce settlement, I do not understand why this gives her the right to make repeated demands of me in the way that she has, repeatedly copying in people who have no connection with this matter such as my business associates, family members and most recently, various media organisations ...*".

The Law

Reasonable expectation of privacy

31. Liability for misuse of private information is determined applying a two-stage test: (i) does the claimant have a reasonable expectation of privacy for the relevant information; and (ii) if yes, is that outweighed by the defendant's countervailing rights, typically freedom of expression (Art. 10 *European Convention on Human Rights*).
32. The test for a reasonable expectation of privacy is an objective one and depends on all the circumstances. These were explained by Sir Anthony Clarke MR in *Murray v Express Newspapers plc* [2008] EWCA Civ. 446, at para. 36:

“... The nature of the question was discussed in *Campbell v MGN Ltd*. Lord Hope emphasised that the reasonable expectation was that of the person who is affected by the publicity. He said, at para 99: “The question is what a reasonable person of ordinary sensibilities would feel if she was placed in the same position as the claimant and faced with the same publicity.””

33. The factors include the attributes of the Claimant and the nature of the information. There are certain types of information which will normally, but not invariably, be regarded as giving rise to a reasonable expectation of privacy so as to be characterised as being private in character. The ruling in *ZXC v Bloomberg LP* [2022] UKSC 5, [2022] AC 1158, by Lords Hamblen and Stephens JJSC at para. 52 assist here:

“52 Whilst all the circumstances of each case must be considered, *Gatley on Libel and Slander*, 12th ed (2013) para 22.5 suggests that there are certain types of information which will normally, but not invariably, be regarded as giving rise to a reasonable expectation of privacy so as to be characterised as being private in character. These are the state of a person’s physical or mental health or condition; a person’s physical characteristics (nudity); a person’s racial or ethnic characteristics; a person’s emotional state (in particular in the context of distress, injury or bereavement); the generality of personal and family relationships; a person’s sexual orientation; the intimate details of personal relationships; information conveyed in the course of personal relationships; a person’s political opinions and affiliations; a person’s religious commitment; personal financial and tax related information; personal communications and correspondence; matters pertaining to the home; past involvement in criminal behaviour; involvement in civil litigation concerning private affairs; and involvement in crime as a victim or a witness.”

34. The fact that some or all of the private information has entered the public domain against the claimant’s privacy rights does not necessarily mean that a claimant no longer has any reasonable expectation of privacy in relation to it: *PJS v News Group* [2016] AC 1081, per Lord Mance at paras. 25-31. It is recognised that even “the repetition of known facts about an individual may amount to an unjustified interference with the private lives not only of that person but also of those who are involved with him”: *JIH v News Group* [2010] EWHC 2818, per Tugendhat J at para. 59. It may be said that an injunction can serve no useful purpose in respect of information already in the public domain. However, this will not necessarily be the case. For example, in *CTB v News Group Newspapers Ltd* [2011] EWHC 1326 (QB), Eady J observed at para. 23 that:

“It is important always to remember that the modern law of privacy is not concerned solely with information or ‘secrets’: it is also concerned importantly with intrusion. ... [That] also largely explains why it is the case

that the truth or falsity of the allegations in question can often be irrelevant: see eg *McKennitt v Ash* [2008] QB 73 at 80 and 87.”

35. In *BVC v EWF* [2019] EWHC 2506, HHJ Parkes QC, sitting as a deputy High Court judge, granted summary judgment and a final injunction restraining the defendant from publishing on a website information about the claimant’s sexuality, sexual behaviour, mental and physical health, and intimate details of their relationship which, it was held, were matters “at the core of the values which Article 8 protects”, see para. 136. It did not matter that such information was already published by the defendant on a website; the question as to the usefulness of an injunction was not one of secrecy but of intrusion into the claimant’s private life at para. 137.
36. The test at the second stage was set out by the Supreme Court in *ZXC v Bloomberg* [2022] UKSC 5, at paras 141-143. In summary, (a) the court must consider whether the reasonable expectation of privacy is outweighed by other interests which conflict with it. Neither Art.8 nor Art.10 of the ECHR has precedence and where their values conflict, the Court must consider carefully and apply an 'intense focus' to the comparative importance of the rights claimed. The justification for interfering with or restricting each right must be taken into account, and the test of proportionality applied. (b) Often the decisive factor at this stage is an assessment of the contribution which publication of the information would make to a debate of general interest (see *Von Hannover v Germany* (2004) 40 EHRR 1; [2004] EMLR 21; *K v News Group Newspapers Ltd* [2011] EWCA Civ. 439; [2011] 1 WLR 1827. (c) Relevant considerations in that assessment have been said to be how well known the claimant is, the subject matter of the publication, the prior conduct of the claimant, the method of obtaining the information, its veracity and the proportionality of the interference with the exercise of the freedom of expression (*Springer v Germany* [2012] 55 EHRR 6; [2012] EMLR 15).

The Human Rights Act 1998

37. If the injunctive relief sought in this case affects the exercise of the Convention right of freedom of expression, section 12(4) of the *Human Rights Act 1998* (“the HRA”) requires that the court should have particular regard to the importance of this right. In addition, section 12(3) of the HRA imposes a threshold test which has to be satisfied before a court may grant interim injunctive relief:

“No such relief [which might affect the exercise of the Convention right to freedom of expression] is to be granted so as to restrain publication before trial unless the court is satisfied that the applicant is likely to establish that publication should not be allowed”.

38. The meaning of this provision was analysed by the House of Lords in *Cream Holdings v Bannerjee* [2005] 1 AC 253. To interpret “likely” in the subsection as “more likely than not” in all situations would be to set the test too high. The effect of section 12(3) is that the Court should not make an interim restraint order unless it is satisfied that the

applicant's prospects of success at trial are sufficiently favourable to justify the order being made in the light of all the other circumstances of the case. However, in general, the threshold that the applicant had to cross before the Court will exercise its discretion is to satisfy the Court that he will probably succeed at the trial.

39. The judgment of Pepperall J in *SOJ v JAO* [2019] EWHC 2569, (*SOJ*), at para 29 onwards, is helpful here:

“(1) THE PROPER APPROACH TO THIS APPLICATION

29. This is an application for an interim injunction. Accordingly, the court is required to apply the well-known principles in *American Cyanamid v. Ethicon* [1975] A.C. 396. Privacy and confidentiality cases necessarily involve a balance between the applicant’s article 8 right to respect for his or her private and family life, home and correspondence; and the respondent’s article 10 right to freedom of expression. Such cases require an “intense focus” on the comparative importance of the competing rights. Further, it is not sufficient in these cases for the applicant merely to show that there is a serious issue to be tried. Section 12(3) of the *Human Rights Act 1998* provides:

“No such relief is to be granted so as to restrain publication before trial unless the court is satisfied that the applicant is likely to establish that publication should not be allowed.”

30. In *Cream Holdings Ltd v. Banerjee* [2004] UKHL 44, [2005] 1 A.C. 253, Lord Nicholls of Birkenhead cautioned against reading s.12(3) so strictly that it precludes the court from granting short-term interim relief until the court is able to give the matter fuller consideration. As Lord Nicholls observed, at [18], “confidentiality, once breached, is lost for ever.” He concluded, at [22]:

“Section 12(3) makes the likelihood of success at the trial an essential element in the court’s consideration of whether to make an interim order. But in order to achieve the necessary flexibility the degree of likelihood of success at the trial needed to satisfy s.12(3) must depend on the circumstances. There can be no single, rigid standard governing all applications for interim restraint orders. Rather, on its proper construction the effect of s.12(3) is that the court is not to make an interim restraint order unless satisfied the applicant’s prospects of success at the trial are sufficiently favourable to justify such an order being made in the particular circumstances of the case. As to what degree of likelihood makes the prospects of success ‘sufficiently favourable’, the general approach should be that courts will be exceedingly slow to make interim restraint orders where the applicant has not satisfied the court he will probably (‘more likely than not’) succeed at the trial. In general, that should be the threshold an applicant must cross

before the court embarks on exercising its discretion, duly taking into account the relevant jurisprudence on article 10 and any countervailing Convention rights. But there will be cases where it is necessary for a court to depart from this general approach and a lesser degree of likelihood will suffice as a prerequisite. Circumstances where this may be so include those mentioned above: where the potential adverse consequences of disclosure are particularly grave, or where a short-lived injunction is needed to enable the court to hear and give proper consideration to an application for interim relief pending the trial or any relevant appeal.”

(2) PUBLICATION SHOULD NOT BE ALLOWED

Public interest

31. There is no general public interest in other people’s sex lives. In *PJS v. News Group Newspapers* [2016] UKSC 26, [2016] A.C. 1081, Lord Mance said, at [32]:

“Every case must be considered on its particular facts. But the starting point is that (i) there is not, without more, any public interest in a legal sense in the disclosure or publication of purely private sexual encounters, even though they involve adultery or more than one person at the same time, (ii) any such disclosure or publication will on the face of it constitute the tort of invasion of privacy, (iii) repetition of such a disclosure or publication on further occasions is capable of constituting a further tort of invasion of privacy, even in relation to persons to whom disclosure or publication was previously made - especially if it occurs in a different medium ...”

32. Indeed, Mr J would have a reasonable expectation of privacy in respect of the details of his affair with Ms O. Here, it is noteworthy that Ms O has not claimed some public interest in disclosing the details of their relationship. Their story does not, at least on his account, involve any criminal offences or especially reprehensible behaviour. Nor does it involve, for example, a relationship between a chief executive or senior public official with a subordinate employee in the same organisation where it might be said that the relationship was by its very nature an abuse of power.”

In relation to blackmail Pepperall J ruled thus:

“Blackmail

40. Blackmail is a criminal offence contrary to s.21(1) of the *Theft Act 1968*:

“A person is guilty of blackmail if, with a view to gain for himself or another or with intent to cause loss to another, he makes any

unwarranted demand with menaces; ... a demand with menaces is unwarranted unless the person making it does so in the belief –
(a) that he has reasonable grounds for making the demand; and
(b) that the use of the menaces is a proper means of reinforcing the demand.”

41. The “menaces” in a privacy or confidentiality case are likely to be threats of publication. Here, Mr J says that the allegation that he infected Ms O is untrue. Blackmail can, however, be committed and the court may still restrain publication even where the underlying information at the core of the threat of publication is true. As Warby J observed in *LJY*, at [40], much blackmail gains its persuasive power from the fact that the allegation is true.

42. The presence of blackmail will be an important matter in determining applications for injunctive relief. In *LJY*, Warby J said, at [29]:

“Generally, the court has taken the view that blackmail represents a misuse of free speech rights. Such conduct will considerably reduce the weight attached to free speech, and correspondingly increase the weight of the arguments in favour of restraint. The court recognises the need to ensure that it does not encourage or help blackmailers, or deter victims of blackmail from seeking justice before the court. All these points are well-recognised ... It can properly be said that the grant of a privacy injunction to block a blackmail serves the additional legitimate aim of preventing crime.”

Applying the law to the facts – confidential information

40. At this very early stage this Court is in no position to determine any issues. I cannot determine whether the parties went through a verbal Islamic marriage; whether either has or has had an STD; whether the Claimant was involved in any crimes. However, what is plain from the written communications, is that the Defendant has made ever increasing demands of money from the Defendant in writing, rising eventually to some millions, then falling down to hundreds of thousands, under various threats: (1) to sue (beginning legal proceedings being her right, should she choose to do so, but she has not) but also (2) to publish and hence disclose his confidential, private information (including naked photos and his asserted medical conditions – which are denied) to his business colleagues; his family and the world. Those threats were the ones which the Claimant relied upon as being unjustified menaces, possible blackmail, tortious and harassment.

41. I consider that photos, taken without consent and surreptitiously, of the Claimant naked, the details of his sexual relationship with the Defendant and his medical conditions (if any) are matters over which the Claimant has a legitimate expectation of privacy. In my judgment, there is no public interest justifying their publication by the Defendant. As for the Defendant’s right to freedom of expression, to tell her own life story, that

can be achieved without blackmail style threats to obtain money from him and without disclosure of the Claimant's private and confidential information, so the balance to be struck weighs heavily in favour of protecting the Claimant's rights at this stage.

42. In my judgment the Defendant's written and asserted verbal threats are evidence of attempts to blackmail the Defendant for money by disclosing to his family and the world the confidential private photos and by asserting that he had a sexually transmitted disease and infected the Claimant with it in December 2024 and that he uses prostitutes. I consider that these threats, both in writing and verbal and the part publication already effected by the Defendant, are quite sufficient to be able, at this interim stage, to rule that the Claimant has good prospects of success in his claim for damages and an injunction on a quia timet basis (what he fears she will do) and partly on the basis of what the Defendant already done.
43. I consider that the balance of convenience at this stage strongly favours maintaining the Claimant's privacy until the return date.
44. I do not consider that damages would be an adequate remedy for the Claimant. Once mud is thrown, there may remain some stains whatever the washing powder used to attempt to clean it off. Reputation is not a purely financial matter. Privacy once broken, cannot be fully regained but it can be further protected.

Potential defences

45. I do not consider that the Defendant's right to freedom of speech and freedom of expression can or should outweigh the Defendant's right to privacy in relation to the information the subject of this application in the circumstances of this application. There is no general public interest in other people's sex lives. In *PJS v. News Group Newspapers* [2016] UKSC 26, [2016] A.C. 1081, Lord Mance said, at para. 32:

“Every case must be considered on its particular facts. But the starting point is that (i) there is not, without more, any public interest in a legal sense in the disclosure or publication of purely private sexual encounters, even though they involve adultery or more than one person at the same time, (ii) any such disclosure or publication will on the face of it constitute the tort of invasion of privacy, (iii) repetition of such a disclosure or publication on further occasions is capable of constituting a further tort of invasion of privacy, even in relation to persons to whom disclosure or publication was previously made - especially if it occurs in a different medium ...”

46. In cases where the threat to disclose private information amounts to probable blackmail, the Article 10 rights of the Defendant are either not engaged at all, or at the least, less assertable and so the higher threshold for an interim injunction under s.12(3) of the *Human Rights Act 1998* probably does not apply, see para. 29 of the judgment of Warby J in *LJY v Person Unknown* [2017] EWHC 3230. Whilst the facts were rather more

stark, see also my judgment in *Armstrong*, at para. 45. If the Claimant must satisfy the higher test and establish that he is likely to succeed at trial in his claim for injunctive relief, in my judgment he is able to do so, in part, because probable blackmail represents a gross misuse of the right to free speech and will considerably reduce the weight attached to the persons asserting the right to free speech and correspondingly increase the weight of the arguments in favour of restraint thereof. The assertion by the Defendant that the confidential information may be true is not a full defence: see *SOJ* at para. 40:

“40. I add that if there was a trial, I would expect the Court to find for the claimant, even if it were not persuaded that the allegation was false. Truth is not a defence to a charge of blackmail. Indeed, much blackmail gains its persuasive power from the fact that the allegation is true. Nor is truth a defence to harassment. Depending on the circumstances, it may or may not be relevant to the existence of one of the statutory defences under [s 1\(3\)](#) of the PHA: see the discussion in *Hourani v Thomson* [2017] EWHC 432 (QB) [187]-[188]. But the defence under [s 1\(3\)\(a\)](#) of the PHA could not be argued here; there is no question of publication serving the purpose of preventing or detecting crime. On present information, it seems unlikely that a Court would be persuaded that the truth of the allegation, if established, would be enough to satisfy [s 1\(3\)\(c\)](#) and justify the defendants in carrying out their blackmail threat. The considerations already canvassed at [29] above are persuasive in the context of harassment, as they are in misuse of private information.”

Harassment

47. The *Protection from Harassment Act 1997* (“the PHA”) provides as follows:

“S.1 Prohibition of Harassment

- (1) A person must not pursue a course of conduct –
 - (a) which amounts to harassment of another, and
 - (b) which he knows or ought to know involves harassment of the other.
 [...]
- (2) For the purpose of this section, . . . the person whose conduct is in question ought to know that it amounts to or involves harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to or involved harassment of the other.
- (3) Subsection (1) or (1A) does not apply to a course of conduct if the person
 - who pursued it shows –
 - (a) that it was pursued for the purpose of preventing or detecting crime;
 - (b) that it was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any

enactment, or

(c) that in the particular circumstances the pursuit of the course of conduct was reasonable.

...

S.3 Civil remedy

(1) An actual or apprehended breach of section 1(1) may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question.

...

S.7 Interpretation of this group of sections

(1) This section applies for the interpretation of sections 1 to 5A.

(2) Reference to harassing a person include alarming the person or causing the person distress.

(3) A “course of conduct” must involve – in the case of conduct relating to a single person (see section 1(1)), conduct on at least two occasions in relation to that person [...]

48. The legal principles relating to civil claims for harassment under the Act were summarised by Saini J in *Davies v Carter* [2021] EWHC 3021. The defendant was liable for defamation and harassment for engaging in a course of conduct targeting the wife of a man with whom he had a business dispute, based on his irrational belief that she was involved in the husband’s company. He engaged in a targeted campaign of vilification over three years across multiple social media platforms, undermining her both professionally and personally. The relevant law was summarised at paras. 69 – 76 of the judgment:

- Harassment is a "*persistent and deliberate course of unreasonable and oppressive conduct, targeted at another person, which is calculated to and does cause that person alarm, fear or distress*", see *Hayden v Dickenson* [2020] EWHC 3291 (*Hayden*) at para. 44.
- The conduct "*must cross the boundary between that which is unattractive, even unreasonable, and conduct which is oppressive and unacceptable. To cross the border from the regrettable to the objectionable, the gravity of the misconduct must be of an order which would sustain criminal liability*": *Hayden* at para. 40.
- It is not sufficient to cause a person alarm or distress: the references in S.7(2) of the PHA to alarm and distress are merely guidance as to one element of the tort, see *Hourani v Thomson* [2017] EWHC 432 (QB) at para. 138, and *Hayden* at para. 44 (iii). Rather, the test is wholly objective: D "ought to know" the course of conduct amounts to harassment if a "reasonable person in possession of the same information" would think it amounted to harassment, see s1(2) PHA, see *Hayden* at para 44(iv).
- Publication of material to the world at large can constitute harassment: *Thomas v News Group Ltd* [2002] E.M.L.R 78 at para. 30.

- Regard will be had to the ECHR (in particular, Article 10), see *Thomas* at paras. 32-33; *Majrowski v Guy's & St Thomas's NHS Trust* [2007] 1 AC 224 at para. 20.
 - Publication on a website of the name of an individual in the knowledge that such publication will inevitably come to his/her attention on more than one occasion and on each occasion cause him alarm or distress may constitute harassment: *Law Society v Kordowski* [2014] EMLR 2, at para. 61.
 - Harassment by speech will involve consideration of the defendant's Article 10 right to freedom of expression which may have to be balanced against the Claimant's Article 8 rights: "the ultimate balancing test".
 - The truth or falsity of the information in question is not determinative but will be a significant factor in the Court's "overall assessment".
49. Campaigns of vilification involving the publication of defamatory allegations, indecent images, or private and personal information are increasingly the subject of interim injunctions in harassment: see *The Law of Privacy and the Media* 4th Ed para. 6.109; *ZAM v CFW* and *TFW* [2013] EWHC 662 (QB) at para. 21. In *AMP v Persons Unknown* [2011] EWHC 3454 (TCC), C obtained an injunction restraining those in possession or control of intimate images of C from publishing them. The relief was granted both on grounds of privacy and harassment. Similarly, blackmail and other repeated threats to publish private and/or defamatory material about a person may also amount to harassment. The observations made by Warby J (as he then was) in *LJY* in relation to the reduced weight given to the Article 10 rights of a blackmailer, apply equally to harassment.

Effect in the jurisdiction

50. The Claimant lives mainly in Asia. But he has large business interests in the UK and a property here. In *Shakil-ur-Rahman v ARY Network* [2017] EMLR 10, Sir David Eady rejected the claimant's harassment claim on the basis that the effects of the harassment had not been suffered in this jurisdiction, which is an essential part of the cause of action, see paras. 116-119. A similar conclusion was reached in *Lawal v Adeyinka* [2021] EWHC 2486 (QB) para. 21 (Nigeria). However, in *XLD v KZL* [2020] EWHC 1558 (QB), Nicol J, granted an interim injunction for both misuse of private information and harassment in respect of a claimant who was a US-domiciled US citizen, who sometimes made visits to the UK. He was able to establish a strong prima facie case in blackmail in respect of an England-based defendant who had been demanding money in exchange for not disclosing information that the claimant had been using the "Sugar Daddy" dating website, to his family. The court noted that counsel for the claimant had drawn to its attention the issue of jurisdiction. This did not alter the court's conclusion that he was likely to succeed at trial in relation to the harassment as well as the misuse of private information claims, see paras. 35-38.

51. The Claimant submitted that if there is a doubt as to whether the Claimant is entitled to injunctive relief in relation to the effects of the harassment felt while he was in Asia, he is still likely to be able to establish a course of conduct on at least two occasions in the past where the effects were felt while he was in this jurisdiction. I take into account that the following conduct by the Defendant took place when the impact was felt by the Claimant, in England:
- a. The demand for £30,000 made shortly before the social media post in March 2024.
 - b. The publication of the first social media post on 8 March 2024.
 - c. The covert filming and photographing of the Claimant while naked in the Defendant's home in London in December 2024.
 - d. The threatened disclosure of the intimate images of the Claimant by the Defendant on 31 December when the Claimant was present in her home in London.
 - e. The emails sent to the Claimant's UK lawyers with threats in them.
 - f. The demands sent directly to the Claimant for payment to the Defendant's bank account in England.
 - g. The emails sent to the Claimant's work colleagues who work in or work some of the time in England.
 - h. The Claimant has a home in London.

For a person who works in England from time to time for his businesses, part of which is situated in England and has a house in England, in my judgment, part of the adverse effect of the Defendant's actions takes place in England even if he is abroad at the time.

Analysis on Harassment

52. In my judgment, the complained of threats and acts by the Defendant fall within the definition of harassment. The Defendant has carried out a persistent and deliberate course of unreasonable, potentially criminal and oppressive conduct, targeted at the Claimant, which were calculated to and have caused him distress and embarrassment and alarm in the UK (and abroad). The Claimant has a good prima facie case that the demands for money and threats of disclosure are blackmail. They were plainly calculated to cause him alarm and distress and to extort money from him. I accept that, for this application, he has proven that they did so. I find, insofar as I need to at this early stage, that this must have been obvious to the Defendant in all the circumstances. I find, insofar as I need to at this stage, that the Defendant intended this. The Claimant will have to return to the jurisdiction to manage his business interests. He does not want to return to England while the Defendant continues her campaign against him. In my judgment an anti-harassment injunction should be granted in relation to the feared breaches in this jurisdiction, even though the Claimant is not currently here, because he has been here and will be here in future.

Causes of action

53. On the evidence before me I consider that the Claimant has good prospects of success in the claims put forwards for protection of his confidential information and for harassment.

Privacy injunction

54. There is clearly a serious issue to be tried. Damages would not be an adequate remedy. I consider that the balance of convenience heavily favours prohibition of the disclosures and the blackmail style threats being carried out.

Defences

55. In my judgment, on the evidence before me, the Defendant is unlikely to be able successfully to defend her conduct under her right to freedom of expression or under s1(3) of the PHA. She has gone far beyond what is reasonable. She has made demands for money which went up (£1 million), then down (£98,000), then up (£2 million), then down (£458,000). She has threatened disclosure of the Claimant's private information and has already disclosed one intrusive photo of him on her bed. The Defendant has also made extremely serious allegations, including of a criminal nature and about sexually transmitted diseases, to his business associates and to the media. In such circumstances her conduct would probably not fall with S.1(3) of the PHA. Nor could she properly suggest that her conduct was being pursued for the purpose of preventing or detecting crime under s1(3)(a) of the PHA. The Defendant has not provided evidence that she has reported any activities which she alleges are criminal to the police.
56. I also note the press reports in the bundle relating to previous legal proceedings in which the Defendant was involved against another wealthy man which bore, in some respects, remarkable similarities to the marriage issue in this action and her demands for money.

Conclusions

57. In the circumstances I consider that an urgent interim prohibitory injunction to prevent publication of the Claimant's confidential and private information and photos is necessary and just to maintain the status quo. I also consider that an urgent interim anti-harassment injunction is necessary and just. I restricted the anti-harassment injunction only to para. 5.2 (e) of the draft order. I granted the private and confidential information injunction.

NB

58. After the confidential version of this judgment was sent out to the Claimant's lawyers for service on the Defendant (the Court having no address for service) a request was made for further redactions to prevent jigsaw identification of the parties before public handing down. I acceded to that request. I read both the Claimant's and the Defendant submissions which were delivered by 2pm on 20.3.2025 as directed. This is the public judgment.

END