Courts and Tribunals Judiciary

JUDGMENT SUMMARY

BETWEEN:

THE DUKE OF SUSSEX

NIKKI SANDERSON

MICHAEL TURNER

FIONA WIGHTMAN

- and -

MGN LIMITED

[2023] EWHC 3217 (Ch): Mr Justice Fancourt

15 December 2023

1. This judgment is given in the claims of Prince Harry, the Duke of Sussex, Nikki Sanderson, Michael Turner (also known as Michael Le Vell) and Fiona Wightman against MGN Limited ("Mirror Group") for damages for misuse of their private information. The full judgment will be deemed handed down when I conclude reading this summary. A copy of the summary will be made available to the Press, the parties and anyone else who requests one. The full judgment and its two schedules will be published by The National Archives in the usual way and emailed shortly to the parties, to Press representatives and to anyone else who requests an electronic copy.

2. The wrongs alleged by all four claimants were (essentially) hacking of their and their associates' mobile phones, and using private investigators to blag or otherwise obtain private information from third parties and carry out unlawful searches and investigation into their private data, information or whereabouts, which the newspapers then used to publish stories or photographs of them.

3. Each of the claimants complained about a number of articles that were published by Mirror Group newspapers containing their private information, and about a number of invoices for private investigator work that was unconnected to the published articles but which appeared to relate to other unlawful information gathering.

4. The claims tried were only in respect of the underlying unlawful information gathering (i.e. the hacking, blagging, searching or other private investigator activity), not in respect of the publication of articles themselves. That is because I had previously decided in 2022 that the

claims based on the acts of publication themselves were brought too late, according to the terms of the Limitation Act 1980.

5. There are very many more claimants in the Mirror Newspapers Hacking Litigation, whose claims have been made to wait to allow these four test cases to be tried first. These claims were selected for trial first because they raise most of the important issues that arise in the other claims. It gave the court an opportunity to decide some important points, the decisions on which are likely to apply in the same way in many other cases, and thereby help the parties to settle those claims by agreement.

6. The important points that have been decided in my judgment are the following:

(1) The extent to which phone hacking and other unlawful information gathering was being carried on by Mirror Group journalists and editors outside the period 1999-2006 (the court decided in 2015 that hacking was "extensive and habitual" during that 7-year period);

(2) Which private investigators, out of the 51 alleged by the claimants to have been acting unlawfully on behalf of Mirror Group, had been acting unlawfully, to what extent, and during which years;

(3) At what stage directors of Mirror Group's parent company, then known as Trinity Mirror plc, and the in-house lawyers at Mirror Group, knew that illegal phone hacking was being carried on by the journalists and editors of their newspapers, and whether they concealed that wrongdoing from the board, the shareholders of the company, the Leveson Inquiry and the public;

(4) Whether the claims of Nikki Sanderson and Fiona Wightman were barred completely by the Limitation Act 1980, and if so for what reasons;

(5) Whether the claimants can recover damages in respect of distress that was the consequence of publication of the articles, despite their claims for the publication itself being barred.

7. In addition to these matters, I have decided to what extent the individual claimants' claims based on the content of the articles and private investigator invoices were justified, and, if their claims succeeded, I have awarded damages for the losses caused by each occasion of wrongful conduct that was proved.

8. My conclusions on the five generally important issues that I have just identified are as follows.

(1) <u>The periods of unlawful activity.</u> On the extent to which phone hacking and other unlawful information was being carried on outside the period 1999-2006, I have found that in respect of the years 1991-1999 there was:
(a) some unlawful activity in 1995;

(b) unlawful information gathering was widespread at all three newspapers from 1996 onwards;
(c) phone hacking started in 1996 and became widespread and habitual from 1998;
(d) nothing was proved in relation to the years 1991 to 1994.

In respect of the years 2006-2011, I have found that:

(a) unlawful information gathering and phone hacking continued throughout that period;
(b) phone hacking remained an important tool for the kind of journalism that was being practised at the Mirror, the Sunday Mirror and The People from 2006 up to 2011, even to some extent during the Leveson Inquiry; it was fed by extensive unlawful information gathering. The phone hacking was still extensive during those years, but it was done in a more controlled way, and not done as habitually as before August 2006;
(c) the unlawful information gathering activity involving private investigators did reduce in amount during those years, but it remained extensive throughout.

(2) Private investigators. Of the 51 private investigators pleaded as being involved in different types of wrongdoing, I have found the following:
(a) 11 private investigators (and their associates) were used very substantially by Mirror Group journalists and editors in connection with extensive and habitual unlawful information gathering and phone hacking activities. They were an integral part of the system that existed at all three newspapers to collect private information unlawfully and then publish it.
(b) Another 13 private investigators (and their associates) did a significant amount of unlawful information gathering work for Mirror Group, in connection with the journalists' and editors' phone hacking activities, but they were relatively less important than the first 11 private investigators in terms of the volume of work that they did.
(c) 5 more private investigators did some work for Mirror Group that appears to have involved unlawful information gathering, but not to such an extent that I can say that they did a large volume of work that was unlawful.
(d) There were then a further 14 private investigators where there was no sufficient evidence of unlawful activity at all, or in more than an isolated case.
(e) Finally, there were 10 more private investigators who were based and operating abroad, and there was no case proved that what they were doing abroad was unlawful, even though it would have been unlawful in England and Wales.

I set out my conclusions in relation to each of the individual private investigators in a schedule to my judgment, called the PI Schedule, and summarise my conclusions at paras 265-295 of the judgment.

(3) Board knowledge. The only directors of Trinity Mirror plc and Mirror Group who knew before the end of 2011 about phone hacking being carried on at Mirror Group's newspapers were Paul Vickers, the group legal director, and Sly Bailey, the chief executive officer. I have found that the chairmen up to 2012, Sir Victor Blank and Sir Ian Gibson, Mr Vijay Vaghela, the finance director, and Mr Stephen Parker, who retired from the board in 2004, did not know about phone hacking or the extent of the use of private investigators to conduct unlawful information gathering, and that the non-executive directors did not know either.

The board as a whole was not told about it. That was because the editors of the three newspapers, the editorial managers of the company and Ms Bailey and Mr Vickers did not

report what they knew, or suspected, to the board. I have found that Mr Vickers certainly knew about phone hacking from about the end of 2003, but quite possibly before then; and that Ms Bailey knew or – what in law amounts to the same thing – turned a blind eye to it from about the end of 2006. The likelihood of extensive illegal activity should have been investigated properly by Ms Bailey and Mr Vickers, at the latest in early 2007, but it never was. Instead, it was concealed from the board, from Parliament in 2007 and 2011, from the Leveson Inquiry, from shareholders, and from the public for years, and the extent of it was concealed from claimants in the Mirror Newspapers Hacking Litigation and even from the court at and before the trial in 2015.

The company's in-house lawyers knew about the use of phone hacking and extensive unlawful information gathering because of their involvement in "legalling" articles for publication. I have found that Mr Marcus Partington, who became the Deputy Group Legal Director under Mr Vickers from 2007 and then Group Legal Director in 2014, when Mr Vickers left Trinity Mirror, was aware of the use of illegal phone hacking from no later than the end of 2003.

(4) Mirror Group's Limitation Defence. Ms Sanderson's claim was issued on 7 December 2020; Ms Wightman's on 30 July 2021. The relevant limitation issue in both cases was whether they could have realised, by exercising reasonable diligence, that they had a worthwhile claim against Mirror Group by a date 6 years before they issued their claims – so by 7 December 2014 in Mr Sanderson's case and by 30 July 2015 in Ms Wightman's case. I have explained in my judgment how the legal test applies in the cases of individual claimants who complain about the underlying unlawful information gathering lying behind published articles. An important question is the extent to which any claimant was misled by the terms of the articles, or by what Mirror Group was saying, into believing that a friend or family member had leaked their private information to the Press. That could be material because it might lead a claimant not to pay attention to news coverage relating to phone hacking, which they might have done if they had not been misled. However, in both Ms Sanderson's and Ms Wightman's cases, I have found that they were not misled in that way.

The question is therefore whether each of them could have realised much earlier, by the relevant dates in 2014 and 2015, that they had a worthwhile claim against Mirror Group. In their cases, that turned on whether, by being reasonably attentive to the news and social media from 2012 to 2015, they would have been alerted to a possible claim that they should investigate further. I have concluded in both their cases that if they had been reasonably attentive, they would have been alerted to a possible claim, and so they could reasonably have found out by the end of October 2014 that they had a worthwhile claim against Mirror Group. Accordingly, time for their claims expired six years after that date. Both claims are therefore barred by the Limitation Act and must be dismissed.

(5) Causation. I have decided that where private information that was unlawfully obtained was then published by Mirror Group newspapers, the unlawful obtaining of the information was both a factual and a legal cause of the distress and other losses resulting from the publication. It would, in my view, be contrary to good sense and good law to conclude that where private information is effectively stolen, in order to publish it, the recoverable loss did not extend to the consequences of the publication. The fact that the publication was a separate legal wrong that could be sued for separately does not make a difference. Accordingly, the court is entitled to award claimants damages for distress that they suffered when their private information that had been unlawfully obtained appeared in the Mirror Group's newspapers.

9. I turn now to my conclusions on the two claims where there was no limitation defence relied on by Mirror Group.

Duke of Sussex.

10. I have found the Duke's case of voicemail interception and unlawful information gathering proved in part only. I found that 15 out of the 33 articles that were tried were the product of phone hacking of his mobile phone or the mobile phones of his associates, or the product of other unlawful information gathering. I consider that his phone was only hacked to a modest extent, and that this was probably carefully controlled by certain people at each newspaper. However, it did happen on occasions from about the end of 2003 to April 2009 (which was the date of the last article that I examined). There was a tendency for the Duke in his evidence to assume that everything published was the product of voicemail interception because phone hacking was rife within Mirror Group at the time. But phone hacking was not the only journalistic tool at the time, and his claims in relation to the other 18 articles did not stand up to careful analysis.

11. There were also a number of separate invoices, unconnected to published articles, which I consider to be evidence of unlawful gathering of the Duke's private information.

12. I have accordingly awarded the Duke damages in respect of each of the articles and invoices where unlawful information gathering was proved. I have also awarded a further sum to compensate the Duke fully for the distress that he suffered as a result of the unlawful activity directed at him and those close to him. I recognise that Mirror Group was not responsible for all the unlawful activity that was directed at the Duke, and that a good deal of the oppressive behaviour of the Press towards the Duke over the years was not unlawful at all. Mirror Group therefore only played a small part in everything that the Duke suffered and the award of damages on this ground is therefore modest.

13. I have also awarded a sum for aggravated damages, to reflect the particular hurt and sense of outrage that the Duke feels because two directors of Trinity Mirror plc, to whom the board had delegated day-to-day responsibility for such matters, knew about the illegal activity that was going at their newspapers and could and should have put a stop to it. Instead of doing so, they turned a blind eye to what was going on, and positively concealed it. Had the illegal conduct been stopped, the misuse of the Duke's private information would have ended much sooner.

14. The total sum that I have awarded the Duke in damages is **£140,600**.

Michael Turner

15. I have found Mr Turner's case of voicemail interception and unlawful information gathering proved only to a limited extent, and mainly only in respect of the period in 2011 when he was the subject of prosecution in the Crown Court and so was of particular interest to the Press at that time. Mr Turner brought a claim in respect of 27 articles, some of which were exceedingly trivial and others were, on sensible reflection, obviously not the result of unlawful information gathering.

16. The conclusion that I have reached is that, in contrast with his co-star Nikki Sanderson, although Mr Turner was well-known for his Coronation Street role, his personal life was not considered to be of great interest to the Mirror Group's readers. As a result, he was not on the newspapers' phone hacking lists. That changed with his arrest in 2011, and I find that there were in all 4 articles out of the 27 where phone hacking or other unlawful information gathering was proved, and two additional invoices that show unlawful information gathering.

17. I awarded Mr Turner a total of **£31,650** in damages, which includes a sum for aggravated damages for the same reason as in the Duke's case.

Nikki Sanderson

18. As I have explained, Ms Sanderson's claim is dismissed on limitation grounds. I have nevertheless dealt in my judgment with all the articles and invoices about which she complained and have reached conclusions about them. Ms Sanderson's allegations were proved in relation to 9 out of 37 articles and 3 other invoices.

Fiona Wightman

19. Ms Wightman's claim is also dismissed on limitation grounds. I found in her case that her complaint about 1 article was proved, as were complaints about 15 invoices that demonstrated unlawful gathering of Ms Wightman's private information.

Disposal

20. Accordingly, for the reasons I have briefly summarised, there will be judgment for the Duke of Sussex for the principal sum of £140,600 and interest to be assessed, and judgment for Mr Turner for the principal sum of £31,650 and interest to be assessed. The claims of Ms Sanderson and Mr Wightman are dismissed.