



Neutral Citation Number: [2024] EWHC 1578 (KB)

Case No: QB-2020-001139

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 25/06/2024

Before :

MR JUSTICE JULIAN KNOWLES

Between :

SAYED ZULFIKAR ABBAS BUKHARI

Claimant

- and -

SYED TAUQEER BUKHARI

Defendant

Claire Overman (instructed by Stone White) for the Claimant
The Defendant appeared in person

Hearing dates: 13 October 2023

Judgment Approved by the court
for handing down
(subject to editorial corrections)

Mr Justice Julian Knowles:

Introduction

1. In this action Sayed Zulfikar Abbas Bukhari, the Claimant (C), sues Syed Tauqeer Bukhari, the Defendant (D), for libel and harassment. In broad terms, D has publicly accused C in tweets and other publications of being a criminal and being corrupt. C strongly denies these allegations.
2. There is before me an application by D to amend his Defence. The application notice is dated 14 June 2023. The document in question is headed ‘Draft Re-Amended Defence’, but strictly speaking this is D’s draft Amended Defence.
3. This case has something of a history and has already been the subject of three reported decisions of this Court: [2020] EWHC 3469 (QB) (Julian Knowles J); [2022] EWHC 173 (QB) (Murray J); and [2023] EWHC 427 (KB) (Steyn J). There have also been a number of other orders made in relation to costs and other matters.
4. In her judgment Steyn J considered C’s application to strike out D’s draft Amended Defence. This was brought, broadly, on the grounds that D had failed to comply with the relevant pleading rules. I will come back to these. For now, I take the factual background from her judgment:

“A. **Introduction**

1. The claimant and the defendant are cousins. The claimant is a dual British and Pakistani national, currently based in Pakistan where he was formerly an adviser to the Prime Minister of Pakistan, Imran Khan. He is also a very well known businessman in the United Kingdom. The defendant lives in England. This judgment follows a hearing of the claimant's application for an order striking out the defendant's defence, or alternatively entering summary judgment for the claimant, on his claim for libel and harassment.

B. **History of the proceedings**

2. The claim was issued and served on 20 March 2020, together with Particulars of Claim. The two causes of action relied on were libel and harassment. In respect of the harassment claim, the claimant relied on 249 tweets published by the defendant on Twitter in the period from early September 2019 to 20 March 2020, and 21 videos published during the same period. The claimant relied on a subset of these publications in respect of the libel claim.

3. The defendant filed an acknowledgment of service on 20 March 2020. On 19 May 2020, the parties signed a draft consent order, which was approved by Master Gidden on 29 May 2020, giving directions for the determination of certain matters as preliminary issues, including the meaning of the statements complained of. The consent order extended the time for service of a defence until 28 days after the court's determination of the preliminary issues. However, before that order was sealed (on 20 June 2020) a conflicting order was made by Nicol J on 12 June 2020 (who appears not to have been made

aware of Master Gidden's order) directing a case management hearing.

4. On 28 July 2020, Soole J set aside the consent order with a view to the matter being considered at a case management hearing in accordance with Nicol J's order. On 21 December 2020, following a case management hearing on 30 October 2020, Julian Knowles J gave directions for a trial of preliminary issues in respect of the libel claim, as to (i) the natural and ordinary meaning of each statement complained of, (ii) whether that meaning is defamatory at common law; and (iii) whether the statement is a statement of fact or opinion. His judgment sets out more fully the procedural history up to December 2020: [2020] EWHC 3469 (QB), [11]-[30]. When the matter was considered by Julian Knowles J, the claimant made clear that in the libel claim only 58 tweets and 13 videos were complained of as defamatory. The defendant was ordered to pay costs of £6,820 as no good reason for his change of position had been advanced.

5. At the hearing before Julian Knowles J, the defendant had been represented by specialist counsel. On 12 January 2021 he dismissed his legal representatives and has since been acting in person in respect of this claim.

6. The trial of those preliminary issues was heard by Murray J on 14 June 2021. He gave judgment on 1 February 2022: [2022] EWHC 173 (QB). In the circumstances described by Murray J at [16], '*in the interests of proportionality*', the claimant reduced the number of tweets and videos relied on in the libel claim to 32 and 8, respectively. By an order dated 1 February 2022, Murray J determined that the statements complained of bore the following meanings:

Tweet/Video No.	Natural and ordinary meaning
T16, T171, T172, T180, T206 and V15 (embedded in T210)	The claimant is corrupt
T18, T185, T201 and V17 (embedded in T218)	The claimant is dishonest
T75	The claimant is a criminal
T125	The claimant is a thief
T166, V13 (embedded in T165, T166, T187, T193)	The claimant is guilty of fraud
T212	The claimant is corrupt; the claimant is dishonest
V14 (embedded in T194,	The claimant is corrupt; the claimant is

T195, T198, T216)	a thief
T193	The claimant is corrupt; the claimant is guilty of fraud
T103, V5 (embedded in T84, T85, T101)	The claimant is dishonest; the claimant is guilty of fraud
T99	The claimant is dishonest; the claimant stole the defendant's assets
T67	The claimant stole from the defendant's father
T98	The claimant stole the defendant's assets
T50, V2 (embedded in T50, T201, T228)	The claimant has committed a fraud against, and stolen land and valuables from the defendant's father
T53, T142, T228	The claimant has stolen land and valuables from the defendant's father
T9, T63, T74	The claimant dishonestly pretends to have made his money as a businessman when in fact his wealth is derived from family money obtained from illegal activity.
T100	The claimant's source of income is from human trafficking
T177	The claimant manages illegal activities for Pakistan Prime Minister Imran Khan
T117, V10 (embedded in T117)	The claimant has been guilty of threatening the defendant
T119, V12 (embedded in T119)	The claimant has used thugs to threaten the defendant
T163	After the defendant exposed his corruption, the claimant was responsible for an attack on the defendant and for the defendant's aged parents being threatened by gangsters
T191	After the defendant exposed his corruption, the claimant staged an attack on the defendant's home in London

7. Murray J found that two of the statements complained of in the libel action (T198 and T216) were statements of opinion and not defamatory at common law. The remaining statements complained of, the meanings of which are referred to above, were all found to be statements of fact and defamatory at common law. By an order dated 8 February 2022, Murray J ordered the defendant to pay £21,500 costs as the defendant had not taken a realistic approach to the trial, resulting in a large portion of the costs of the trial that would otherwise have been avoided, and the claimant was overwhelmingly the successful party.

8. On 14 February 2022, in the light of Murray J's determinations, the claimant filed Amended Particulars of Claim ('AmPoC').

9. In accordance with the time limit imposed in Murray J's order of 1 February 2022, the defendant filed a defence on 7 March 2022. The claimant initially asked the defendant to agree an extension of time for his reply, on the basis that the defendant had served a 54 page 'purported defence' which would take time to consider. As the defendant did not respond to letters of 11 and 15 March 2022, the claimant issued an application on 16 March 2022. On 17 March 2022, the defendant declined to agree an extension of time. Master Gidden made an order on 18 March 2022 extending time for the claimant to file and serve his reply to 14 April 2022, and ordering the defendant to pay costs of £3,750.

10. On 24 March 2022, the claimant's solicitors wrote to the defendant:

"We have now had an opportunity to review your Defence in detail. It is clear to us from this review that your Defence is non-compliant with numerous important rules and pleading requirements, As a result of this non-compliance, it is not presently possible for a Reply to be pleaded in response to your Defence. Nor, in any event, would it be appropriate or proportionate to do so given the extent of the defects in your Defence as currently pleaded. The purpose of this letter is to put you on notice of the ways in which your Defence is currently non-compliant, and to afford you an opportunity to remedy these."

11. The letter outlined the requirements of CPR 16.5, Practice Direction 16, para 10.2, Practice Direction 53B, paras 2.1, 4.3-4.5 and 10.4, and referred to guidance given by the courts in *Foley v Lord Ashcroft* [2012] EMLR 25, *Bokova v Associated Newspapers Ltd* [2018] EWHC 2032 (QB), *Riley v Murray* [2021] EWHC 3437 (QB) and *Hijazi v Yaxley-Lennon* [2021] EMLR 7. It then

identified what the claimant described as the key issues rendering the Defence non-compliant, before inviting the defendant to remedy the defects by providing a draft amended defence.

12. In response, the defendant engaged legal representatives to assist with the drafting of an amended defence and he agreed an extension of time for the claimant's Reply. On 6 May 2022, the defendant provided the claimant's solicitors with his draft Amended Defence ('AmDef').

13. On 10 May 2022, the claimant's solicitors wrote to the defendant seeking further information:

'In order to assist our client to better understand your proposed case, please provide the following information:

1. As to paragraph 22 of the draft amended defence, please identify and give details of the land transfers referred to.

2. As to paragraph 24 of the draft amended defence, please identify and give details of the monetary transactions and land transfers referred to.

3. As to paragraph 28 of the draft amended defence, please provide details of what you have allegedly been told by our client's sister and cousin.'

14. The defendant has provided two responses to the request for further information. He first responded on 12 May 2022 that in relation to paragraphs 22 and 24 of the draft Amended Defence, "*your client and his father are well aware and informed of ... all the details of the transactions and land transfers in Punjab Pakistan and London United Kingdom*". With respect to paragraph 28 of the draft Amended Defence he wrote, "*the claimants sister Masooma Bukhari called my home phone number twice leaving a threatening message on the answer machine. I immediately contacted the Metropolitan police provided them the messages and logged my complaint[.] The claimants first cousins have also sent voice notes and text messages of a threatening nature...*"

15. On 13 May 2022, the claimant's solicitors wrote that the claimant would not consent to the draft Amended Defence as it did not comply with the requirements previously set out in detail in their correspondence, and stating that the defendant's letter of 12 May failed to provide the details sought in the claimant's letter of 10 May.

16. On 19 May 2022, the defendant provided a further response to the request for information:

‘As you are aware I am representing myself I didn't understand how much detail was required. Further to your letter dated 10 May 2022 followed by your letter dated 13 May 2022 I can give you further details that you require for the points you have raised.

1. I am referring to the land transfers of Kamra Village Attock Pakistan and 64 Fellows Road Hampstead NW3 Land registry Title number NGL729297.

2. Details of the monetary transaction were from NIB Bank Pakistan involving the claimant's nephew and the land in Kamra Village Attock Pakistan.

3. As mentioned in my previous letter the claimant's elder sister Masooma Bukhari called my home number after my mother's interview was aired on ARY TV Power Play threatening me that I will face the consequences this I believe is the most accurate translation I can provide from Urdu to English.’

17. On 20 May 2022, the claimant's solicitors confirmed that the claimant's position remained that he did not consent to the draft Amended Defence. The same day, the defendant sent an Application Notice to the court, copied to the claimant's solicitors, seeking permission to amend his Defence in the terms of the draft Amended Defence. Although that application is unsealed, the claimant accepts that the pragmatic course is to consider their application primarily by reference to the draft Amended Defence.

18. On 10 October 2022, the claimant issued the application notice which is the subject of this judgment. The application seeks:

‘An order: (1)(a) striking out D's Defence and (if applicable) draft Amended Defence; and (1)(b) granting summary judgment to C on his claim; (2) providing directions for a remedies hearing; (3) that D pay C's costs of the application.’

The claimant filed the third witness statement of Ushrat Sultana, the claimant's solicitor, in support of the application.

19. By an order dated 14 December 2022, Nicklin J gave directions for the hearing of the claimant's application. In accordance with those directions, the defendant filed a witness statement on his own behalf on 6 January 2023.

20. Finally, I note that on 4 March 2022, Bourne J dismissed applications made by the defendant on 12 January and 9 February 2022 seeking to vary the costs orders made by Julian Knowles J and Murray J. A further application dated 23 March 2022 to vary those costs orders was dismissed by Martin Spencer J on 27 April 2022, and certified as totally without merit. An application to vary the costs order made by Master Giddens on 18 March 2022 was also made by the defendant on 23 March 2022 but, as far as I am aware, has not been determined. The current position is that the defendant has not paid any of the costs orders made in the claimant's favour in this litigation, and his evidence is that he has no means of satisfying those costs orders.”

5. In her judgment at [68]-[72], Steyn J recorded C’s submissions on D’s draft Amended Defence:

“68. In relation to the libel claim, the claimant submits the defendant's plea to the claim of serious harm is defective. The claimant's plea of serious harm relies on an inferential case based on the extent of publication, the nature and identity of the publishees, and the gravity of the meanings of the statements complained of. The defendant has advanced a bare denial at paragraph 33 of the draft Amended Defence, and it is unclear what the reference in that paragraph to "*any of the matters relied upon by the Claimant*" is intended to signify.

69. The claimant acknowledges that in *Sivananthan v Vasikaran* [2022] EWHC 2938 (KB) at [53] Collins Rice J observed that (i) "a *purely* inferential case,, while in principle available, is not an *alternative* to an evidential process for establishing serious harm – it must *be* an evidential process for establishing serious harm"; and (ii) the "components of an inferential case must themselves be sufficiently evidenced and/or inherently probable to be capable of adding up to something which discharges a claimant's burden". However, the claimant notes that in this case the defendant has not chosen to make a non-admission, putting the claimant to proof on this issue, but has pleaded a denial which he has to make good. In any event, the claimant submits that in view of the gravity of the allegations, and the defendant's admissions regarding the claimant's reputation in this jurisdiction, and as to the extent of publication, he has no real prospect of success on this issue.

70. In relation to the truth defence, the claimant's position is that it is manifestly non-compliant with the stringent pleading requirements applicable where a defendant seeks to defend as true allegations of serious criminality. In particular, the claimant submits:

i) Many of the particulars do not refer to the claimant at all. Paragraphs 15-19 of the draft Amended Defence plead information regarding the claimant's and defendant's family, but make no reference to the claimant. At paragraph 20 it is said the claimant "*will never admit these matters*", but there is no pleading of what, if anything, the claimant is alleged to have known.

ii) There are no particulars capable of giving rise to a case that the claimant was dishonest which is the crux of the meanings.

iii) Certain elements of the pleaded meanings are not addressed at all in the particulars. Paragraph 22 of the draft Amended Defence purports to contain the plea of truth in relation to the allegation of fraud. It is unclear whether that is a separate matter to the allegation of stealing land and valuables. If it is, no particulars of the alleged fraud are provided. Nor are there any particulars in relation to the stealing of "valuables" such as, what has been stolen, by whom, when and from what location.

iv) Where factual matters are pleaded, the particulars are largely devoid of details enabling the claimant to understand what is being referred to. The claimant made a request for further information, but the responses proved insufficient to allow the claimant to understand the case he is required to meet. Paragraph 22 of the draft Amended Defence is in the passive voice: no particulars are given of, for example, who is said to have transferred the land into companies controlled by the claimant, when they are alleged to have done so, or of any alleged involvement or knowledge of the claimant. In relation to paragraph 28 of the draft Amended Defence and the further information provide, the defendant has not pleaded any link between the claimant and the alleged threats by other family members.

v) The same particulars are relied upon to prove the truth of substantively different allegations. And it is not appropriate for serious allegations to be dealt with, as the defendant has done in paragraphs 31-32 of the draft Amended Defence in a sweep up clause.

71. The claimant submits the deficiencies in the defendant's pleading are comparable to those in *Ashcroft v Foley*, [34], in which case the Court of Appeal held the pleading was defective.

72. The claimant acknowledges the observation of Tugendhat J in *Kim v Park* at [40] (see paragraph 36 above) but submits this is not a case in which the court should give the defendant a further opportunity to remedy

the defects. First, Ms Overman submits that the claimant has already given the defendant the opportunity that in *Kim v Park* it was suggested the court would normally give a party. The fact that the claimant has done so should not count against him on this application. Secondly, such an opportunity should only be given if there is reason to believe the defendant will be in a position to put the defect right. The claimant submits there is no basis for concluding that he could plead a proper truth defence, particularly in relation to the allegation of criminality, noting that he has never been convicted of any offence in any jurisdiction and nor are there any investigative findings against him. The claimant submits that there is nothing in the defendant's witness statement (or either version of his defence) to show that he would be able to replead his case in such a way as to remedy the defects. Thirdly, the claimant draws attention to the observation of Pill LJ and Sharp J in *Ashcroft v Foley*, [43], that there "*must come a point at which repeated attempts at amendment, necessary because of the defendants' wish to keep the pleading as general as they can, become an abuse of the process of the court*". The claimant submits an opportunity has already been provided and so the point has been reached at which no further opportunity should be given."

6. In her judgment at [96]-[135] Steyn J identified a number of defects in the draft Amended Defence as it then stood. However, at [136] she said that she was not 'persuaded that there is no reason to believe he will be able to remedy the defects.'
7. In her conclusion at [137], Steyn J said:

"The Defence was clearly and comprehensively defective. The draft Amended Defence is a marked improvement on the Defence, but as I have identified it is inadequately particularised. I will give the defendant a further opportunity to amend the draft Amended Defence and remedy the defects that I have identified."
8. Hence, she refused D permission to amend the Defence in the terms of his draft Amended Defence, but gave him a further opportunity to amend it.
9. On 17 May 2023, following Steyn J's judgment, D served a further draft Amended Defence (the May 2023 Draft). C declined to consent to the May 2023 Draft on the basis that aspects of it remained non-compliant, but confirmed that he would consent if the non-compliant aspects were excised. D declined to excise those aspects, but corrected some typographical errors that C had pointed out to him, and served a further version of the draft Amended Defence on 5 June 2023 (the June 2023 Draft). C confirmed that he declined to consent to the non-compliant aspects of the June 2023 Draft. Hence, the matter is now before me.

Legal principles

10. These were set out in Steyn J's judgment at [37]-[39], however I need to re-state them. They are not controversial.

Amendments to statements of case

11. Once served, a statement of case (such as a Defence) may be amended only with the written consent of all the other parties or the court's permission: CPR r 17.1(2).
12. CPR r 17.3 confers on the court a broad discretionary power to grant permission to amend. The applicable principles are well-established, and have been summarised in many reported judgments.
13. In *Amersi v Leslie* [2023] EWHC 1368 (KB), [140]-[142], Nicklin J summarised them as follows:
 - a. At [140](2): 'Amendments sought to be made to a statement of case must contain sufficient detail to enable the other party and the Court to understand the case that is being advanced, and they must disclose reasonable grounds upon which to bring or defend the claim: *Habibsons Bank Ltd v Standard Chartered Bank (HK) Ltd* [2011] QB 943 [12] per Moore-Bick LJ';
 - b. At [140](3): 'The court is entitled to reject a version of the facts which is implausible, self-contradictory, or not supported by the contemporaneous documents. It is appropriate for the court to consider whether the proposed pleading is coherent and contains the properly particularised elements of the cause of action or defence relied upon: *Elite Property Holdings Ltd* [42] per Asplin LJ'.
14. In *Habibson*, Moore-Bick LJ stated as follows (at [12]):

“Whether the matter is raised on an application to strike out under CPR r 3.4, or on an application for summary judgment under Part 24, or on an application for permission to amend, the court will not allow a party to pursue a case that has no real prospect of success, because to do is unfair to the other party and leads to nothing but a waste of costs and valuable court time... every case must be pleaded in sufficient detail to enable the other party to understand the case it has to meet. If a party seeking to amend is unable or unwilling to provide proper particulars of any allegation, it is not right to require the other party to deal with it as best he can.”
15. In *Elite Property Holdings Ltd v Barclays Bank Plc* [2019] EWCA Civ 204, Asplin LJ stated as follows (at [40]-[42]):
 - “40. ...it is important to bear in mind that the overriding objective applies and the question of whether permission to amend should be given must be considered in the light of the need to conduct litigation fairly and justly and at proportionate cost.
 41. For the amendments to be allowed the Appellants need to show that they have a real as opposed to fanciful prospect of success which is one that is more than merely arguable and carries some degree of conviction... A claim does not have such a prospect where (a) it is possible to

say with confidence that the factual basis for the claim is fanciful because it is entirely without substance; (b) the claimant does not have material to support at least a prima facie case that the allegations are correct; and/or (c) the claim has pleaded insufficient facts in support of their case to entitle the Court to draw the necessary inferences...

42. The court is entitled to reject a version of the facts which is implausible, self-contradictory or not supported by the contemporaneous documents and it is appropriate for the court to consider whether the proposed pleading is coherent and contains the properly particularised elements of the cause of action relied upon..."

Pleading requirements

16. CPR r 16.5, sets out the pleading requirements for a Defence. CPR r 16.5(2), in particular provides:

"where the defendant denies an allegation:- (a) he must state his reasons for doing so; and (b) if he intends to put forward a different version of events from that given by the claimant, he must state his own version."

17. CPR PD 53B Practice Direction 53B, contains specific pleading requirements applicable to claims in the Media and Communications List, as follows:

- a. Para 2.1: 'Statements of case should be confined to the information necessary to inform the other party of the nature of the case they have to meet. Such information should be set out concisely and in a manner proportionate to the subject matter of the claim'; and
- b. Para 4.3: 'Where a Defendant relies on the defence under section 2 of the Defamation Act 2013 that the imputation conveyed by the statement complained of is substantially true, they must:- (1) specify the imputation they contend is substantially true; and (2) give details of the matters on which they rely in support of that contention.'

18. In *Hunt v Times Newspapers Ltd* [2012] EWHC 110 (QB), Eady J said at [25], [60]-[62]:

"25. Where there is a general allegation of wrongdoing, it will ordinarily need to be supported by examples, which should be sufficiently particularised for the claimant to know what are the issues to be tried. As Ashurst J put it in a well known passage in *J'Anson v Stuart* (1787) 1 TR 748, 752:

'When [the defendant] took upon himself to justify generally the charge of swindling, he must be prepared with the facts which constitute the charge in order to maintain his plea: then he ought to state those facts specifically, to give the plaintiff an opportunity of denying them; for the plaintiff

cannot come to the trial prepared to justify his whole life.’

In so far as it may be appropriate to test these principles of English law against the values broadly expressed in the Convention, the words of Ashurst J can be justified by reference to the right to a fair trial guaranteed under Article 6.

...

60. At paragraphs 7.48 and 7.49, a very general allegation is made that over 20 years ago the Claimant (and someone called Jimmy Holmes) regularly imported cannabis from Spain and Holland in collaboration with criminal gangs run by a Terry Adams or a family known as ‘the Wrights’. If true, the allegation would be a legitimate plea in support of the first defamatory meaning. But how is the Claimant to deal with it in its present form? If the Defendant can give no better particulars than this, there would be no chance of establishing it at trial. If more information is available, it should be given now. Thus, the paragraph cannot be permitted to stand in its present form.

61. Similar considerations apply to the historic allegations raised in paragraph 7.50. The Claimant is said to have “kidnapped and tortured” a drug trafficker called James Masterson with a view to his revealing the whereabouts of more than £1m in cash. Again, a quite legitimate plea so far as it goes. But, since the Claimant “cannot come to the trial prepared to justify his whole life”, he is entitled to greater specificity. If he was convicted of such an offence, then that conviction would be likely to prove conclusive in accordance with the provisions originally brought into effect by s.13 of the Civil Evidence Act 1968, following the well known case of *Hinds v Sparks*. If not, however, this very serious allegation would have to be proved on its own merits (to the civil standard). This could only be done by calling evidence from the alleged victim or from someone else who witnessed the criminal activity in whole or in part.

Some indication of the time(s) and place(s) would have to be provided and the Claimant is entitled to be given such specificity as the Defendant can disclose (subject, for the time being at least, to any considerations of source protection). It cannot stand as it is.

62. The same paragraph also makes the remarkably casual allegation that the Claimant murdered a nightclub doorman in the Mile End Road by slitting his throat. Who

was he? When did it happen? If there is no recorded conviction to prove the Defendant's case, it will have to call evidence to establish the charge. The Claimant is entitled to know of what the relevant witness or witnesses will accuse him. In one sense, of course, the Claimant can deal with the allegation. Most of us could go into the witness box and say with confidence that we have never murdered any doorman. It is not like a parking offence, which might slip someone's memory. But that is not the point. The burden is upon the Defendant and it is not permitted simply to put an allegation as vague as this to the Claimant and, by what Mr Tomlinson calls a 'nudge and a wink', invite the tribunal of fact to disbelieve his denial ("He would say that, wouldn't he?"). He must know the case to be adduced by the Defendant. It is clear from inter alia the decision in McDonald's that grave allegations of criminal misconduct should not be pleaded on this basis, which amounts to no more than bare assertion. How can the pleader suppose that sufficient evidence is available to prove the murder, or that it will become available before trial, without being in a position to supply at this stage further particulars as to its nature? Further information about the murder in question (assuming it occurred) must be available. It would not have gone unreported."

19. In *Ashcroft v Foley* [2012] EMLR 25 Pill LJ and Sharp J (with whom Elias LJ agreed) said:

"42. We are surprised at the failure of the defendants to particularise their pleadings sufficiently. The defence is now in a fifth incarnation. We assume, in the absence of a different explanation, that there were tactical reasons for keeping it as general as possible. We are also somewhat surprised at the tolerance of the claimant towards the making of repeat applications and, with respect, to the judge for permitting them. When invited to make submissions about this, Mr Warby accepted that attempts at amendment will not normally be shut out in circumstances such as these though he added that the closer the case comes to trial the more difficult it is to obtain an amendment. At [38] and in other parts of his judgment, the judge has kept open the opportunity for the defendants to make still further amendments. That being so, we do not consider that this court at present should take a tougher line in that respect.

43. However, repeated satellite litigation on pleadings for tactical reasons is not, in our view, the best use of court resources and we would expect that to be recognised in this as in other areas of the law. There must come a point at which repeated attempts at amendment, necessary because of the defendants' wish to keep the pleading as

general as they can, become an abuse of the process of the court.

...

49 ... Particulars provided in support of a plea of justification must be both sufficient and pleaded with proper particularity. The former requirement is met if the (properly pleaded) particulars are capable of proving the truth of the defamatory meaning sought to be justified. The latter requirement is a factor to be judged not by the number of particulars provided, but by the pleading of a succinct and clear summary of the essential (and relevant) facts relied on, enabling a claimant to know the precise nature of the case against him, and providing him with sufficient detail so he can meet it. ...

...

56. Mr Epstein submitted that the judge's reference to the 'indictment' requirement was inapposite particularly in modern times, because it created an inappropriately high threshold for pleading defences of justification and fair comment; and the judge thus adopted a wrong approach to what was required of the defendants in this case. That argument it seems to us is based on a misunderstanding of a phrase, the meaning and use of which is well understood in the context of the pleading requirements in libel actions, and which is used to encapsulate an important principle.

57. The judge's reference was to an observation by Alderson B in *Hickinbotham v Leach* which was made in the course of argument but then expressly approved by the Court of Appeal in *Zierenberg v Labouchere* [1893] 2 QB 183, 187 and 190 and again in *Wootton v Sievier* [1913] 3 KB 499 at 503 where Kennedy LJ (with whom Cozens-Hardy MR agreed) said this:

'The degree of fulness and precision which ought to be required in an action for libel from a defendant, who has pleaded a justification and has been ordered to give particulars under that plea, is not infrequently a matter which admits of reasonable debate. Certain general propositions are now, I think, not open to controversy. In every case in which the defence raises an imputation of misconduct against him, a plaintiff ought to be enabled to go to trial with knowledge not merely of the general case he has to meet, but also of the acts which it is alleged that he has committed and upon which the defendant intends to rely as justifying the imputation. This rule of justice is not limited in its application to actions of libel, although, of course, it includes them (see per Kay L.J., *Zierenberg v. Labouchere* [1893] 2 QB 183, 190) and its propriety is most evident in a libel

case where the defendant has chosen to put the character of the plaintiff in serious jeopardy by the heinousness of the charges which are asserted or involved in the defendant's plea of justification. In such a case, at all events, the pronouncement of Alderson B in *Hickinbotham v. Leach* [(1842) 10M&W 361, 364], approved of and explained in reference to the modern system of pleading by Lord Esher M.R. in *Zierenberg v. Labouchere* [[1893] 2 QB 183, 187], is not one whit too strong: "The plea ought to state the charge with the same precision as in an indictment."

58. The 'precision of an indictment' rule if it can be so described, does no more than require a defendant to comply with the well-established principle that in pleading a defence of justification he must identify the acts which the claimant is said to have committed and which are relied on to justify whichever imputation they are directed to support.

59. This principle has particular resonance when the charges are serious ones, as they are here. In referring to the rule in our opinion the judge did not therefore set the pleading bar too high. He did no more than require the defendants to comply with principles which are not only well-established but which entirely accord with the modern approach to pleading. It is, in our view, consistent with the approach to an indictment in the criminal courts and the reference to an indictment is not inappropriate. In *R v Landy and Others* [1981] 72 Cr App R 237, at 244, Lawton LJ stated the rationale for the need for particulars in an indictment:

'... first to enable the defendants and the trial judge to know precisely and on the face of the indictment itself the nature of the prosecution's case, and secondly to stop the prosecution shifting their ground during the course of the case without the leave of the trial judge and the making of an amendment.'

...

70. ... Some of the matters alleged, if not properly anchored to the meaning, might otherwise be merely prejudicial rather than relevant ...

...

93. The second observation I wish to make is this. I agree with Pill L.J. and Sharp J. that it is not in the event necessary for the court to decide whether a pleading of fraud in the context of justification should be subject to the same stringent requirements as it is in other contexts. But

my strong preliminary view is that it should. I can see no obvious reason why a pleading which asserts the truth of a allegation of fraud should be subject to less stringent rules than the plea of fraud itself. However, it is a point of some importance on which we heard only limited argument, so it would not be appropriate to determine that question in this appeal.”

20. Although the defence of ‘justification’ in libel has been replaced by the statutory defence of substantial truth in s 2 of the Defamation Act 2013 (DA 2013), these principles remain apposite, as Steyn J noted at [39] of her judgment.
21. More recently, in *Riley v Sivier* [2021] EWHC 79 (QB), [15]-[16], Collins-Rice J said:

“15. I am guided by well-established authority in assessing whether a defence is capable of establishing the substantial truth of defamatory allegations of fact. Particulars in support of a defence must be both *sufficient* and pleaded with proper *particularity*. Sufficiency means they are capable of proving the truth of the defamatory meaning. Particularity is judged not by the number of particulars cited, but by the pleading of a succinct and clear summary of the essential facts relied on, enabling a claimant to know the precise nature of the case against them, and giving them enough detail so they can meet it. (*Ashcroft v Foley* [2012] EWCA Civ 423, paragraph 49).

16. I am also directed to the well-established ‘*Musa King*’ principles - the distillation of law set out at paragraph 32 of *Musa King v Telegraph Group Ltd* [2003] EWHC 1312. The principles pre-date the 2013 Act, and that case concerned weaker allegations of fact than the present case, but the framework is clear and relevant:

1) There is a rule of general application in defamation (dubbed the ‘repetition rule’ by Hirst LJ in *Shah*) whereby a defendant who has repeated an allegation of a defamatory nature about the claimant can only succeed in justifying it by proving the truth of the underlying allegation — not merely the fact that the allegation has been made.

2) More specifically, where the nature of the plea is one of ‘reasonable grounds to suspect’, it is necessary to plead (and ultimately prove) the primary facts and matters giving rise to reasonable grounds of suspicion objectively judged.

3) It is impermissible to plead as a primary fact the proposition that some person or persons (e.g. law enforcement authorities) announced, suspected or believed the claimant to be guilty.

4) A defendant may (e.g. in reliance upon the Civil Evidence Act 1995) adduce hearsay evidence to establish a primary fact — but that in no way undermines the rule that the statements (still less beliefs) of any individual cannot themselves serve as primary facts.

5) Generally, it is necessary to plead allegations of fact tending to show that it was some conduct on the claimant's part that gave rise to the grounds of suspicion (the so-called 'conduct rule').

6) It has recently been acknowledged, however, by the Court of Appeal in *Chase* at [50]-[51] that this is not an absolute rule, and that for example 'strong circumstantial evidence' can itself contribute to reasonable grounds for suspicion.

7) It is not permitted to rely upon post-publication events in order to establish the existence of reasonable grounds, since (by way of analogy with fair comment) the issue has to be judged as at the time of publication.

8) A defendant may not confine the issue of reasonable grounds to particular facts of his own choosing, since the issue requires to be determined against the overall factual position as it stood at the material time (including any true explanation the claimant may have given for the apparently suspicious circumstances pleaded by the defendant).

9) Unlike the rule applying in fair comment cases, the defendant may rely upon facts subsisting at the time of publication even if he was unaware of them at that time.

10) A defendant may not plead particulars in such a way as to have the effect of transferring the burden to the claimant of having to disprove them.

...

60. Where a defence of substantial truth is raised to an allegation that a claimant has definitely done something (a 'Chase level 1' allegation), then the authorities, including the *Musa King* principles, are clear that primary facts must be pleaded with enough specificity capable of establishing that truth. The allegation to be established as true here is that Ms Riley did, in objective fact, engage in, support and encourage a campaign of online abuse and harassment of Rose. For the reasons given, I cannot agree that Ms Riley's tweets and/or alleged omissions could sustain a defence of the truth of those allegations. Her own online speech does not arguably constitute a campaign of harassment (or, perhaps, any nature of 'campaign': no specific particulars of a campaign are pleaded) and omissions in relation to others' speech, deliberate or otherwise, are not pleaded in a way capable of constituting

relevant primary facts about Ms Riley's conduct and its consequences."

22. Finally, C also places reliance on Steyn J's detailed guidance in her judgment earlier in these proceedings ([2023] EWHC 427 (KB)). He says she could not have been more clear about what D was specifically required to do in this case.

Outline of C's position

23. On behalf of C, Ms Overman said that the objection was to D's truth defence in its own terms and as it feeds into the harassment claim and the defence under s 1(3)(a) of the Protection from Harassment Act 1997. She said that the June 2023 Draft was still defective, despite the guidance given by Steyn J. The specific objections were as follows.

24. Paragraph 4 of that Draft pleads:

"4. The first three sentences of paragraph 6 of the amended particulars of claim are admitted. It is denied that every tweet contains what is described as 'a common theme'. It is admitted that many contain one or more of the following assertions: that the Claimant is corrupt; that his family wealth has been derived from serious crime; that the Defendant and his father were victims of the Claimant, and the Claimant's father's serious criminal conduct. Those assertions are true."

25. C objects to the final sentence in this paragraph.

26. Paragraph 8 is as follows:

"8. It is denied as alleged in paragraph 10 of the amended particulars of claim that the acts of the Defendant relied on by the Claimant amount to harassment. The matters of which complaint are made are substantially true and the Defendant's course of conduct was pursued for the purposes of preventing or detecting crime and in the particular circumstances the pursuit of the course of conduct was reasonable. The Defendant relies on the defences to a claim in harassment provided by s 1(3)(a) and 1(3)(c) Protection from Harassment Act 1997."

27. C objects to the words 'The matters of which complaint are made are substantially true and the Defendant's course of conduct was pursued for the purposes of preventing and or detecting crime' and the reference to s 1(3)(a) Protection from Harassment Act 1997 (PHA). This provides:

"(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 amounts to 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 ...”

28. Paragraph 10 pleads:

“10. The Defendant repeats the matters set out in paragraphs 14-33 of this defence and in particular: the forgery of a power of attorney in respect of the Defendant’s father; the theft of land in Kamra Village, Attock; the theft of 64 Fellows Road in Hampstead; the theft of jewellery from a safe deposit box in the HPL Bank in locker No 1114 situated in Habib Bank Ltd Attock City Branch (Branch Code No 0662) Punjab Pakistan; the vandalism of the Defendant’s car in London; the laundering of monies derived from people smuggling; the illegal dealing in and supply of arms. Further, as an advisor to the prime minister the Claimant had a particular duty to help stamp out corruption and wrong doing and to help and not hinder the investigation of either in particular in relation to his own family.”

29. C objects to the words from the beginning of this paragraph down to ‘... supply of arms.’

30. Lastly, but most substantially, C objects of all of [15]-[47], which plead the defence of substantial truth pursuant to s 2 DA 2013. I do not propose to set these out here (although I will quote some of them later). Ms Overman helpfully produced an Annex to her Skeleton Argument which I have reproduced as an Annex to this judgment setting out the relevant paragraphs from D’s May 2022 Draft and the version in his June 2023 Draft, highlighting in red the material added by D following Steyn J’s judgment (deletions made by D have not been included). The ‘Discussion’ section of this judgment below should be read in conjunction with the Annex.

Submissions

31. For various health reasons which I need not go into, D’s wife addressed me on his behalf. I am grateful to her. C was a special assistant to then Prime Minister Imran Khan (among other things) who had to resign over corruption charges in May 2021. He was ordered to resign. She read the helpful written submissions which D had prepared. I had obviously read these in advance. I invited D to note Ms Overman’s submissions rather than reply orally, and to put his reply in writing, which he did.

32. Through his wife D said that he had drafted the ‘Re-Amended Defence’ to be compliant with the guidance set out by Steyn J. He had put efforts into it. He said that C has been leveraging his power to withdraw consent by offering only to consent to the draft Re-Amended Defence if D withdrew main pleaded defences. This would leave him with no defence. He has offered mediation which C has refused. D says C has current cases in Pakistan which the Government is investigating. He made a number of other points about C’s alleged conduct, all of which I have read but do not need to set out. I have also read the document which D produced in Reply to Ms Overmans’s submissions. He said that he strongly believes these legal proceedings

are unfair and ultimately the goal is to silence my voice and ‘I have been left in a very difficult position and am trapped.’

33. Ms Overman began by emphasising that C denies all the allegations of criminality. She submitted that the amendments did not begin to meet the relevant pleading requirements for the defence of substantial truth, and in some cases even the specific deficiencies that Steyn J had identified. By way of example, she argued in her Skeleton Argument at [18]:

“18. As to the key deficiencies identified at [97] and [99] of Steyn J’s judgment ... regarding the absence of particularisation as to whether and how C had knowledge of: (i) illegal activity and/or human trafficking; and (ii) whether and how family money derived from it, C is entitled to more than the single line now pleaded at [20] of the June 2023 Draft, to the effect that he was present at unspecified family meetings where unspecified matters were discussed. There is also vanishingly little particularisation regarding the alleged illegal arms trading (at [18]).”

34. I will turn to other specific criticisms made by Ms Overman in the next section. I should emphasise that I have well in mind all of the points made by both parties.

Discussion

35. I recognise and accept the difficulties D faces in this litigation, not the least of which is that he is unrepresented in what is not an entirely straightforward case, whereas C is represented by professional lawyers who are experts in libel law. I accept that he has done his best with his attempts at drafting his Defence. However, for reasons I will come on to explain, I do consider that there is force in the various criticisms which Ms Overman made in relation to the most recent June 2023 Draft. Difficult though they may be for D to comply with, the libel pleading rules in the CPR and the case law apply to him as a litigant in person just as they do to a professional lawyer. In *Barton v Wright Hassall LLP* [2018] 1 WLR 1119, [18], Lord Sumption JSC said:

“18. ... The [CPR] provide a framework within which to balance the interest of both sides. That balance is inevitably disturbed if an unrepresented litigant is entitled to greater indulgence in complying with them than his represented opponent. Any advantage enjoyed by a litigant in person imposes a corresponding disadvantage on the other side, which may be significant if it affects the latter’s legal rights, under the Limitation Acts for example. Unless the rules and practice directions are particularly inaccessible or obscure, it is reasonable to expect a litigant in person to familiarise himself with the rules which apply to any step which he is about to take.”

36. This *dictum* applies with particular force in the present case, given the very serious allegations of criminality which D has made against C.
37. I begin with [15]-[26] of the June 2023 Draft. Paragraph 15 pleads:

“[15] The following tweets and videos bear the meaning that the Claimant: (i) dishonestly pretends to have made his money as a businessman when in fact his wealth is derived from family money obtained from illegal activity (9, 63, 74); (ii) his source of income is human trafficking (100).”

and later paragraphs in this section allege, eg, involvement in arms dealing as the alleged ‘illegal activity’.

38. In her judgment at [96]-[100], Steyn J said:

“96. At paragraphs 15-19 of the draft Amended Defence, the defendant has pleaded that the claimant's family's wealth was derived from human trafficking, in or around 1980, of people from Pakistan to the regime in Libya, and thereafter from the illegal supply of weapons to the Libyan regime, and subsequently to other countries including Chad. He has also pleaded (AmDef, para 20), that the claimant will never admit these matters but will suggest his wealth is derived from his and his father's investments in hotels and property.

97. However, there is no pleading in respect of a number of elements of the meanings above. First, there is no assertion in the draft Amended Defence as to the identity of the family members who are alleged to have engaged in human trafficking, whether the claimant has knowledge of this activity (and, if so, how), who directly derived money from this activity, how and by whom any such money has been passed on to the claimant, and whether the claimant knows that such money was derived from human trafficking (and, if so, how).

98. Secondly, there is no direct pleading as to the claimant's father's alleged involvement in illegal arms trading. It may be implicit, but it is a very serious allegation which, if it is made, should be made clearly and expressly. The pleading makes no express allegation that the claimant was involved, but there is a vague reference to "*other members of the family*", all of whom are alleged to have been heavily involved in the illegal arms trading business. That is unfair: if, as I surmise, there is in fact no allegation the claimant ever participated in illegal arms trading or human trafficking that ought to be made clear in the defence.

99. Thirdly, although it appears to be the defendant's case that the claimant knows about his father's and/or family's involvement in illegal arms trading, the draft Amended Defence does not say so, nor provide any particulars as to how or why the claimant is alleged to have such knowledge. There is no assertion in the draft Amended Defence as to who directly derived money from illegal

arms trading, how and by whom any such money has been passed on to the claimant, and whether the claimant knows that such money was derived from illegal arms trading (and, if so, how).

100. Finally, the draft Amended Defence does not give particulars of any occasions on which the claimant is alleged to have been dishonest about the provenance of his wealth, including setting out what the claimant has said that is allegedly dishonest.”

39. It seems to me that D’s re-drafted defence does not meet these deficiencies. The main attempted correction is in [20] where D has pleaded ‘These matters were openly discussed between the **four brothers, in the presence of their wives and children, on any occasion that the brothers met whether all or only some of them were present ...**’ etc. These added details do not meet the deficiencies which Steyn J identified. The bare assertion that C was present at unparticularised family meetings ‘from about 2000 onwards’ will not suffice. As Ms Overman said, the key issue is C’s state of knowledge. The reference to ‘these matters’ in [20] is very vague – it could refer to some or all of the matters referred to in this section at [16]-[19]. She said, with some force, that what this pleading is doing is requiring C to come and justify what was discussed at every family meeting he has ever attended from about 2000 onwards. If not his whole life, then this challenges him to justify a very significant proportion of it (cf *J’Anson v Stuart*, which I quoted earlier). There is little detail given about the alleged arms dealing in [18]. She also identified the point that the ‘matters’ in [20] must refer to what is identified in the earlier paragraphs, which do not include the important matter that C’s father benefitted (which is only pleaded later, in [24]). This is as an element of the assertion that C knows his wealth was illegally obtained.
40. Ms Overman also criticised the lack of detail about alleged false statements made by C about his wealth (Steyn J’s [100]). She said D’s [26] was an attempt to meet this but observed, correctly in my view, that no particulars are given as to what C is said to have said. It is therefore deficient. She said that [26] contains less particularisation in respect of C’s supposed non-disclosure to the ‘National Accountability Investigation’ than was in the original Defence. In her judgment at [111(ii)], Steyn J said:
- “ii) The defendant states the claimant (and his father) have failed to give the National Accountability Inquiry, which was authorised to probe allegations against the claimant on 15 January 2018, ‘a satisfactory explanation of the money trail of offshore companies and all the properties and business located in the United Kingdom’ and of their surge of wealth (Defence, Tweet 9, Tweet 16, Tweet 63, Tweet 185). In particular, he alleges a failure to provide a satisfactory explanation for allegedly suspicious transactions in respect of two UK based companies, Martin Kemp Design Limited and HPM Developments Limited, in respect of which the claimant is alleged to have changed the records, and resigned, after the National Accountability Inquiry began.”
41. Ms Overman said that D had served 234 pages of documents and six videos in this application. C has been unable to identify within those documents any of the statements referred to at [26] of the June 2023 Draft, save for one article from 10 May

2016 article by Murtaza Ali Shah and nothing in the documents D has served provides even *prima facie* evidence of the case D advances.

42. I looked at the report. It contains the statement, ‘Zulfi Bukhari explained that his personal as well as family’s businesses have been in the UK for over several decades and all his money is legitimate’, and refers to property holding in London, but its focus is not on the provenance of his wealth but on his use of off-shore vehicles and giving donations to Imran Khan. It is not about whether his wealth is derived from arms trading or human trafficking.

43. I have not overlooked [19] of D’s Skeleton Argument where he said:

“19. (Response to C Skeleton Argument 19) D disagrees. In C’s own admission he has inherited all his wealth from his father. 234 documents include conviction, articles and land registry documents identify C money trail and C failure to identify or comprehend from any of the statements in 6 videos or 234 documents save for the 10th May 2016 report by Murtaza Ali Shah (D/262) is absurd. The Truth Trackers Report By murdered investigatory journalist Arshad Sharif and tweets (D/190,D/191,D/192,D/193,D/194,D/195,D/196,D/197,D/198,D/199) documents served provide substantial *prima facie* evidence. D would like to bring the courts attention to an article by Islamabad Insider : How Zulfi Bukhari hounded Arshad Sharif on Imran Khans orders 5 September 2023. Islamabad Insider is a media website reporting on Pakistan’s current affairs. D evidences and witnesses (who are also C victims of misuse of power) supporting his claims need to be considered and allowed to be presented at a trial.”

44. I looked at the cited pages D/190, etc, in the bundle. They appear to be some sort of investigative journalistic article which contains allegations of criminal wrongdoing but not, so far as I can see, any statements by C about the source of his wealth, which was the complaint being made in [19] of C’s Skeleton Argument. _

45. I come next to [27]-[33]. These plead D’s defence in respect of the tweets and videos with the following meanings: (a) ‘The Claimant has committed a fraud against, and stolen land and valuables from, the Defendant’s father’ (Tweet 50; Video 2); (b) ‘The Claimant has stolen land and valuables from the Defendant’s father’ (Tweets 53, 142, 228); (c) ‘The Claimant stole from the Defendant’s father’ (Tweet 67); and (d) ‘The Claimant is a thief’ (Tweet 125). These are *Chase* level 1 allegations, ie, accusations that C actually did do these things.

46. In her judgment at [115] Steyn J said, having referred to these allegations:

“115. The pleading is clearly inadequate to support a plea of truth in respect of the meanings above. First, the passive tense is used: the [defendant] has not alleged that the claimant effected the transfers of these two properties out of the defendant's father's name into companies he controls. Secondly, no particulars are given of when, or how, any such transfers occurred without the defendant's

father's consent. There is no explanation in the draft Amended Defence of what 'valuables' belonging to the defendant's father the claimant is alleged to have stolen, or when or from where he is said to have done so; or of the allegation of "fraud". Nor is there any basis asserted for the allegation of stealing the 'defendant's assets', as opposed to his father's, provided."

47. I consider that C is right to submit that the main defect identified by Steyn J remains: none of the subsequent paragraphs in the June 2023 Draft, namely [28]-[33], allege that C personally did any of the matters pleaded. For example, [28] avers:

"28. The Defendant's father had land and property in England and in Pakistan. Some of the land was leasehold land held through companies some was freehold. Transfers were effected out of the name of the Defendant's father into companies controlled by the Claimant without the Defendant's father's consent both in Pakistan and in England.

[29] The Defendant's father owned land at 64, Fellows Road, Hampstead NW3 in London under Land Registry Title No NGL 729297. That property was transferred without his knowledge or consent in 1995 into a company controlled by the Claimant's father and subsequently into a company owned or controlled by the Claimant. That can only have been done by forging the consent of the Defendant's father to a change of ownership."

48. Moreover, these particulars (and those at [30]-[31]) do not allege that C had any knowledge of any fraudulent activity. Knowledge *is* pleaded in [32]-[33], but I agree with Ms Overman the averments fall far short of being able to sustain the truth of direct allegations of theft by C.
49. Next, [34]-[35] plead the defence in respect of the tweets and videos with the meaning that 'the Claimant is dishonest', 'the Claimant is guilty of fraud', or both. D merely relies on a general cross-reference to the particulars of the truth defence at [15]-[33], and hence the same criticisms as set out earlier can be made. C points out that D no longer seeks to defend as true other tweets also alleging that 'the Claimant is dishonest', and that the Claimant stole the Defendant's assets' (Tweets 98 and 99).
50. [36]-[38] plead the defence in respect of the tweets and videos with the following meanings: (a) 'The Claimant has been guilty of threatening the Defendant' (Tweet 117, Video 10); (b) 'The Claimant has used thugs to threaten the Defendant' (Tweet 119, Video 12); (c) 'After the Defendant exposed his corruption, the Claimant was responsible for an attack on the Defendant and for the Defendant's aged parents being threatened by gangsters' (Tweet 163); and (d) 'After the Defendant exposed his corruption, the Claimant staged an attack on the Defendant's home in London' (Tweet 191). These are direct allegations by D.
51. In her judgment at [128]-[130] Steyn J said:

"128. The defendant's particulars of his plea of truth in respect of these meanings are at paragraph 28 of the draft

Amended Defence. The defendant states that following his mother's appearance on television in Pakistan in June 2018, 'exposing the behaviour of the Claimant and his family', the defendant has been threatened, the defendant's mother and father were threatened, and the defendant's car was vandalised in England. The defendant asserts that the only reasonable inference is that the claimant was responsible for these threats/acts being carried out by others. He also asserts this inference is 'supported by what the Defendant has been told by the Claimant's sister and cousin'.

129. In response to the request for further information, the defendant has alleged that the claimant's sister, Masooma Bukhari's home phone number twice after his mother's interview was aired. He states that she left a message on the answering machine, in Urdu, 'threatening that I will face the consequences'. The claimant's first cousins have sent voice notes and text messages of a threatening nature.

130. The draft Amended Defence gives no particulars of any threats to himself by 'thugs', any 'attack' on the defendant's London home, or any threats made by 'gangsters' against the defendant's parents, such as when and where each incident is alleged to have occurred, and a description of what occurred (e.g. how many people were involved, what they said and/or did). No particulars of what the claimant's first cousin is alleged to have said are given in the draft Amended Defence, and the pleading also gives no explanation for the assertion that the only reasonable inference is that the claimant was responsible. However, I note that other than seeking information as to what the claimant's first cousin is alleged to have said, the claimant did not seek further information in respect of these matters."

52. I also note the last sentence. However, as Ms Overman said, aside from now providing particulars of what C's cousin is alleged to have said to D, these paragraphs do not remedy the gaps identified by Steyn J at [130].
53. Paragraphs 39-40 plead the defence in respect of Tweet 75, which bears the meaning that 'the Claimant is a criminal.' Paragraph 40 simply says, 'The Defendant repeats paragraphs 1-38 of this defence.' This will not suffice, given the issues I have identified with some of these earlier paragraphs. Also, to cite again *Wootton v Sievier*, it does not provide C with the knowledge of the acts which it is alleged that he has committed and upon which the defendant intends to rely as justifying the imputation.
54. Paragraphs 41-43 plead the defence in respect of the tweets and videos with the meaning that 'the Claimant is corrupt.' At [125]-[126] of her judgment, Steyn J said:

"125. The defendant has given particulars in support of his defence of truth in respect of the allegation that 'the claimant is corrupt' at paragraph 32 of the draft Amended

Defence. He asserts that the claimant occupied a prominent position in a government of Pakistan which was ostensibly committed to rooting out corruption and imposing high standards of probity, and yet the claimant (i) resisted any attempt to explain where his family money came from, (ii) prevented governmental and judicial agencies investigating the defendant's allegations about 'his personal ill doing', and (iii) (mis)used his position to facilitate wrongdoing in relation to the defendant and his father.

126. As currently pleaded, paragraph 32 is opaque, and therefore defective. In light of the defendant's Defence and statement it is apparent that (i) is a reference to the claimant's alleged dishonesty, and lack of openness with the National Accountability Bureau, in relation to the source of his initial fortune allegedly being derived from illegal activity, and the trail of funds. It is also apparent that (iii) concerns the allegation that the claimant protected his uncle and cousin, and prevented the defendant and the defendant's father from obtaining justice, when the claimant's uncle and cousin stole the Kamra village land and valuables from the defendant's father. However, it is not clear to me what the defendant is referring to in the point I have identified as (ii). If he wishes to maintain reliance on it, it will need to be particularised so that the claimant can understand what the allegations and 'personal ill doing' are, and what steps the claimant is alleged to have taken, when and where, to prevent any governmental or judicial bodies (which should be identified) from investigating."

55. Paragraph 32 of the May 2022 Draft was in the following terms:

"[32] The Claimant occupied a prominent position within the government of Pakistan which was ostensibly committed to rooting out corruption and imposing high standards of probity in the administration and in society. He resisted any attempt to explain where his family money came from. He prevented government and judicial agencies from investigating the Defendant's allegations about his personal ill doing. He used his position to help facilitate wrongdoing by him in relation to the Defendant and his father. All of this was incompatible with his duties to the government and prime minister of Pakistan and its people."

56. New [43] is as follows:

"[43] The Claimant occupied a prominent position within the government of Pakistan which was ostensibly committed to rooting out corruption and imposing high standards of probity in the administration and in society. His father had been a minister in the government of

Pakistan, his uncle and cousins S Ijaz Bukhari and Syed Yawer Abbas Bukhari were members of Parliament for a party in alliance with that of the prime minister. He resisted any attempt to explain where the family money came from. He prevented government and judicial agencies from investigating the Defendant's allegations about his personal ill doing. He used his position to help facilitate wrong doing by him in relation to the Defendant and his father. All of this was incompatible with his duties to the government and prime minister of Pakistan and its people.”

57. I do not consider that this re-drafted paragraph and in particular the insertion of names meets the deficiencies which Steyn J identified. Similarly, the general averment, at [42] ‘The Defendant repeats paragraphs 9 and 14-40 of this defence’ is not sufficient, given the problems with those paragraphs.

58. Next, are [44]-[47]. These plead the defence in respect of Tweet 177, which bears the meaning that: ‘the Claimant manages illegal activities for Pakistan Prime Minister Imran Khan.’

59. D did not previously particularise a truth defence for this Tweet in the May 2022 Draft, as Steyn J noted at [133] when she said said:

“133. The defendant has not given any particulars in support of his defence of truth in relation to this meaning. It is not encompassed in the ‘sweep up’ paragraph 31, as the meaning is not that ‘the Claimant is corrupt’, albeit there is a degree of crossover between those meanings. In any event, the particulars given in paragraph 32 of the draft Amended Defence make no reference to the claimant managing any illegal activities for the (former) Prime Minister of Pakistan. This part of the defendant's pleadings, therefore, also defective.”

60. She added at [135]:

“This is a serious allegation and if it is to be maintained it must be properly particularised ...”

61. The pleaded meaning is a *Chase* Level 1 meaning, in other words, an allegation that C *does* (or did) manage illegal activities for Imran Khan. This requires D to plead primary facts with enough specificity capable of establishing that fact (see *Riley* at [60]).

62. Paragraphs 45 and 46 allege:

“[45] The Claimant and Imran Khan were involved in and are being investigated for corrupt practices in relation to tendering and contracting for the Rawalpindi Ring Road scheme. Very large sums of money improperly flowed to political supporters of Imran Khan. This matter is being investigated by the relevant authorities in Pakistan and the Claimant was heavily involved in facilitating corrupt practices to the benefit of both the Claimant and Imran Khan.

[46] The Claimant and Imran Khan are being investigated by the relevant authorities in Pakistan in relation to the so called Tosha Khana gift case in which the Claimant facilitated corrupt practices and substantial payments to prominent supporters of Imran Khan.”

63. I do not think these paragraphs are adequate. Pleading third party reports of such alleged conduct as managing illegal activities will not suffice (see *Riley* at [61] (‘... Ms Riley’s speech and omissions form the principal elements of the proposed defence. As the conduct rule stipulates the pleading of objective primary facts, third-party reports of her authorship of a campaign against Rose, or Mr Sivier’s or Rose’s own opinions to that effect, will not suffice ...’)). I also think that Ms Overman was right to say D’s pleaded references to matters that are (or were) being investigated – even if they were true (and she says C has been cleared in relation to the Rawalpindi Ring Road) and even if they were sufficiently particularised – cannot suffice.
64. I therefore uphold C’s objections to these paragraphs in relation to the libel claim.
65. I turn to the harassment claim. As I said earlier, C objects to parts of [8] of the June 2023 Draft, which I set out. In her judgment at [83] Steyn J said:
- “83. The defendant's reliance on s.1(3)(a) of the 1997 Act is inadequately pleaded. No proper basis for asserting that he published the statements that he did ‘for the purpose of preventing or detecting crime’ has been pleaded. In particular, in the context of the harassment claim (and the draft Amended Defence more broadly), the defendant has not particularised the alleged crime or crimes that he was seeking to prevent or detect by publishing any of the tweets and videos. Nor has he specified whether his purpose was the prevention or the detection of such alleged crimes.”
66. I consider that this criticism remains valid in relation to the current draft of the Defence as do the other matters in relation to [4] and [10] of the current draft.
67. For these reasons I refuse the application to amend the Defence in the terms of the June 2023 Draft.

Annex

Wording of May 2022 Draft	Wording of June 2023 Draft (additions in red)
<p>[14] The following tweets and videos bear the meaning that the Claimant dishonestly pretends to have made his money as a businessman when in fact his wealth is derived from family money obtained from illegal activity (9, 63, 74, 100, 198). Those allegations and the meanings are substantially true.</p>	<p>[15] The following tweets and videos bear the meaning that the Claimant: (i) dishonestly pretends to have made his money as a businessman when in fact his wealth is derived from family money obtained from illegal activity (9, 63, 74); (ii) his source of income is human trafficking (100).</p>
<p>[15] The Claimant's and Defendant's family were of humble origin in Pakistan but by about 1980 had developed a lucrative, clandestine, business supplying very large numbers of former members of the Pakistani armed forces or police to the regime in Libya. The trade was facilitated by the payment of bribes to members of the security, immigration and customs authorities in Pakistan to turn a blind eye to what was happening. Those being recruited by the family were told that they were to act as security contractors in Libya. They were in fact required to act as mercenaries fighting for the Libyan government and if they refused they were kept in detention in very poor conditions. Securing their return to Pakistan was almost impossible.</p>	<p>[16] The Claimant's and Defendant's family were of humble origin in Pakistan but by about 1980 had developed a lucrative, clandestine, business supplying very large numbers of former members of the Pakistani armed forces or police to the regime in Libya. The trade was facilitated by the payment of bribes to members of the security, immigration and customs authorities in Pakistan to turn a blind eye to what was happening. Those being recruited by the family were told that they were to act as security contractors in Libya. They were in fact required to act as mercenaries fighting for the Libyan government and if they refused they were kept in detention in very poor conditions. Securing their return to Pakistan was almost impossible.</p>
	<p>[17] Those members of the family who were involved in running the business were brothers, namely the Claimant's father SW Bukhari, the Defendant's father SG Bukhari, the Claimant and Defendant's older uncle SM Bukhari, and their younger uncle SI Bukhari. A company called Al Murtaza Associates was used for the purposes of the business but the shares in it were held by the Claimant's father SW Bukhari, who was the managing director, and by SM Bukhari. This company was named after the Defendant's grandfather, the father of the brothers. The family banker was SI Bukhari.</p>

<p>[16] The family thereafter branched out into the illegal supply of weapons to the Libyan regime. As that trade grew the supply of illegal arms was extended to other countries including Chad.</p>	<p>[18] The four brothers thereafter branched out into the illegal supply of weapons to the Libyan regime. As that trade grew the supply of illegal arms was extended to other countries including Chad.</p>
<p>[17] The sums of money made were very large and the money was put into extensive purchases of property in London and elsewhere and in Pakistan and into businesses so that income could be disguised as coming from legitimate sources. Very little tax was paid on any of these activities until there was apparently reputable income source to justify paying tax.</p>	<p>[19] The sums of money made were very large and the money was put into extensive purchases of property in London and elsewhere and in Pakistan and into businesses so that income could be disguised as coming from legitimate sources. Very little tax was paid on any of these activities until there was apparently reputable income source to justify paying tax.</p>
<p>[18] These matters were openly discussed between the Defendant's father and the Claimant's father and other members of the family (all of whom were heavily involved in all of this behaviour and freely admitted it to be the case) in the hearing of the Defendant on many occasions in Pakistan and, when the family had grown sufficiently rich to buy properties in London and to trade out of the United Kingdom, in England. The Defendant's father never resiled from any of this until his death in late 2019. The Defendant himself saw many of these activities in Pakistan as he was growing up.</p>	<p>[20] These matters were openly discussed between the four brothers, in the presence of their wives and children, on any occasion that the brothers met whether all or only some of them were present. These conversations happened in Pakistan No 6 Street 25 F6/2 Islamabad Pakistan Uncle SM Bukhari house, 3 Civil Lines Attock City Defendant fathers house, AI-Murtaza House No. 3-A, Attack Cantt Pakistan uncle SI Bukhari. When the family had grown sufficiently rich to buy properties in London and to trade out of the United Kingdom these conversations occurred at Al Murtaza 58 The Bishops Avenue London N2 0BE uncle SM Bukhari house, Al Murtaza 27 Tillingbourne Gardens N3 3JJ Claimants fathers house SW Bukhari. The Defendant first remembers hearing these conversations in Pakistan in 1981 and in London in 1983 The Claimant was present to the knowledge of the Defendant when these conversations happened from about 2000 onwards when he was about 20 The Defendant's father never resiled from any of these conversations nor denied any of the activities happened until his death in late 2019. The Defendant himself saw the recruitment and transportation of illegal labour in Pakistan referred to in paragraph 16 of this defence.</p>
<p>[19] A military tribunal in Pakistan in 1982 sentenced the Claimant's</p>	<p>[21] A military tribunal in Rawalpindi Pakistan sentenced the</p>

<p>father to a 14 year sentence of imprisonment for the arms trading, as well another uncle of both the Claimant and the Defendant.</p>	<p>Claimant's father to 14 years imprisonment for human smuggling, as well as another uncle SM Bukhari (FIR No161/82 dated 3rd of November 1982). Whilst confiscation orders were made nothing was in fact confiscated as all assets were said to exist only in the UK and so were not in Pakistan.</p>
	<p>[22] Since approximately 2006 the Defendant's father and the defendant have had no part in the running or operation of the family business which was carried on by the 3 other brothers and by their sons and daughters, the Defendant's cousins, who operate in conjunction with one another in all matters of business and in anything to do with the Defendant and his father.</p>
	<p>[23] For the avoidance of doubt neither the Defendant nor the Claimant themselves took part in people trafficking or illegal arms dealing through the family business.</p>
	<p>[24] The Claimant's father directly benefitted from this illegal activity and took at least 1/3rd of all the profits derived from it. He was one of only two shareholders in the trading company Al Murtaza Associates. The Claimant himself directly benefitted from these profits as heir to and business partner of his father. After 2007 when properties were sold, including the Defendant's father's house in Fellows Road, they were transferred into the ownership of offshore companies which were linked to and owned and or controlled by the Claimant and his two sisters Masouma and Sakina Bukhari. These companies included K-factor Ltd, Bradbury Resources Ltd and Baytec Ltd whose existence became known through the Panama Papers disclosure leak. Other companies used by the Claimant include Martin Kempe Ltd and HPM Developments Ltd from which he has derived substantial benefit.</p>
<p>[20] The Claimant will never admit any of these matters but will</p>	<p>[25] The Claimant will never admit any of these matters but will</p>

<p>suggest that his money is derived from his and his father's investments in hotels and property rather than being ultimately derived from these improper activities.</p>	<p>suggest that his money is derived from his and his father's investments in hotels and property rather than being ultimately derived from these improper activities.</p>
	<p>[26] The Claimant has been dishonest about the source of his wealth. The Claimant has made statements during the National accountability Investigation 2018 and in his Assets and Liabilities June 2000 failing to report his inherited source of money derived from human trafficking. A report by Umer Cheema was published by The News on the 10 May 2016 reporting that the Claimant is the owner/beneficiary of companies as stated in the Panama Leaks. Geo News 10 May 2016 by reported by Murtaza Ali Shah Claimant spoke out after it was revealed in a report by Umer Cheema for The News that he and his family are linked with six known offshore companies. 'Zulfi Bukhari explained that his personal as well as family's businesses have been in the UK for several decades and all his wealth is legitimate. It is understood that Zulfi's Bukhari's has vast property interests in Central London areas of Swiss Cottage, Knightsbridge, Mayfair, Hampstead and Canary Wharf. Claimants G News Network 21 November 2018 Gharidah interview Claimant dishonestly "My money was made in the UK and invested in the UK"</p>
<p>[21] The following tweets and videos bear the meaning that the Claimant is dishonest has committed a fraud and stolen land and valuables from the Defendant's father and is a criminal (Tweets: 50, 53, 67, 75, 142, 228, Video: 2). Those allegations and the meanings are substantially true.</p>	<p>[27] The following tweets and videos bear the meaning that the Claimant is (i) dishonest has committed a fraud and stolen land and valuables from the Defendant's father (Tweets: 50 Video: 2) (i) has stolen land and valuables from the Defendant's father (Tweets 53, 142, 228) (ii) stole from the Defendant's father (Tweet 67) (v) is a thief (Tweet 125) Those allegations and the meanings are substantially true.</p>
<p>[22] The Defendant's father had land and property in England and in Pakistan. Some of the land was leasehold land held through</p>	<p>[28] The Defendant's father had land and property in England and in Pakistan. Some of the land was leasehold land held through</p>

<p>companies some was freehold. Transfers were effected out of the name of the Defendant's father into companies controlled by the Claimant without the Defendant's father's consent both in Pakistan and in England.</p>	<p>companies some was freehold. Transfers were effected out of the name of the Defendant's father into companies controlled by the Claimant without the Defendant's father's consent both in Pakistan and in England.</p>
	<p>[29] The Defendant's father owned land at 64, Fellows Road, Hampstead NW3 in London under Land Registry Title No NGL 729297. That property was transferred without his knowledge or consent in 1995 into a company controlled by the Claimant's father and subsequently into a company owned or controlled by the Claimant. That can only have been done by forging the consent of the Defendant's father to a change of ownership.</p>
	<p>[30] In 2006 when Camden Council prosecuted in respect of serious landlord dilapidation at 64, Fellows Road the Claimant's father denied any involvement with the property and asserted that it was owned and controlled by the Defendant's father who was fined £80000 by the Highbury Corner Magistrates Court.</p>
	<p>[31] The Defendant's grandfather Syed Murtaza Hussain Bukhari owned land at Kamra Village, Attock, in the Punjab in Pakistan which on his death devolved to the four brothers. In 2014 that land was transferred out of the name of the Defendant's father without his knowledge or consent. In order to carry out that dishonest transfer a fraudulent power of attorney was executed. The Defendant's father had nothing to do with that. The Claimant's father was thereafter in possession of that land.</p>
	<p>[32] In 2011 the Defendant's bank account at NIB bank Ltd G-9 Markaz Branch Islamabad Account No ****5601 was emptied of rupees to the approximate value of £200,000 fraudulently by the Claimant and Defendant's nephew Zain Bukhari bank manager on instructions of Claimant's first cousin Syed Mohsin Bukhari acting</p>

	with the knowledge of the Claimant.
	[33] In 2014 the Defendant's father's safe deposit box Locker No1114 at Habib Bank Ltd Attock City Branch (Branch No. 0662) Punjab Pakistan was opened using a fraudulent power of attorney presented to the bank by Syed Ijaz Bukhari Uncle of Claimant and Defendant and the following jewellery was taken Gold precious jewellery sum of £50000 belonging to the Defendants mother, sisters, wife and daughter. The Claimant knew of this action and did nothing to stop it or investigate it or help to remedy it with the bank.
[23] The following tweets and videos bear the meaning that the Claimant is dishonest and stole the Defendant's assets (tweets: 98, 99) Those allegations and the meanings are substantially true.	[Paragraph deleted]
[24] The Defendant's bank account in Pakistan was emptied of some approximately £200,000 worth of rupees in 2012 at the suit or behest of the Claimant. Title to land in Pakistan in the name of the Defendant father was transferred without his knowledge or consent.	[Paragraph deleted]
[25] The following tweets and videos bear the meaning that the Claimant is dishonest, is guilty of fraud, (tweets: 103, 166, 185, 193, 212 videos: 5, 13, 17). Those allegations and the meanings are substantially true.	[34] The following tweets and videos bear the meaning that the Claimant is (i) dishonest, is guilty of fraud (tweet: 103 Video 5) (ii) guilty of fraud (Tweets: 166, 193 Video 13) (iii) is dishonest (Tweets 185, 201, 212 video 17). These allegations and the meanings are substantially true.
[26] The Defendant repeats paragraphs 14 20; 21-22; 23-24.	[35] The Defendant repeats paragraphs 14-33 of this defence.
[27] The following tweets and videos bear the meaning that the Claimant has been responsible for an attack on the Defendant, for the Defendant's parents being threatened by gangsters, and for being responsible for thugs threatening the Defendant. (tweets: 119, 163, 191 videos: 10, 12). Those allegations and the meanings are	[36] The following tweets and videos bear the meaning that the Claimant (i) has been responsible for an attack on the defendant, for the Defendant's parents being threatened by gangsters (Tweet 163) (ii) staged an attack on the Defendant's home (Tweet 191) (iii) was responsible for thugs threatening the Defendant (Tweets 119 Video

substantially true.	12) (iv) the Claimant has been guilty of threatening the Defendant (Tweet 117 Video 10). Those allegations and the meanings are substantially true.
[28] The Defendant has been threatened following a television expose of the Claimant and his family in June 2018. The only reasonable inference supported by what the Defendant has been told by the Claimant's sister and cousin is that the Claimant was responsible for this. Following the Defendant's mother's appearance on television in Pakistan in June 2018 exposing the behavior of the Claimant and his family, she and her husband were threatened...	[37] In 2019 following the airing of an interview by the Defendant's mother on ARY TV Power Play in which allegations of dishonest and corrupt behaviour on the part of the family and of the Claimant were made the Claimant's eldest sister Masooma Bukhari telephoned the Defendant's home telephone number and speaking in Urdu left answerphone messages that he would face the consequences for the interview being broadcast. She repeated these threats in a later telephone call. The only reasonable inference supported by what the Defendant has been told by the Claimant's sister is that the Claimant was responsible for this threat. The Defendant's cousin Syed Khawer Bukhari sent WhatsApp messages telling the Defendant that repeating allegations about the family would have consequences and that the Defendant would be in trouble. These too were at the instigation of the Claimant.
[28] (contd.) ...and the Defendant's car was vandalized in England. The only reasonable inference is that the Claimant was responsible for these acts being carried out by others on his behalf.	[38] The Defendant's car was stolen and vandalised very shortly thereafter. The only reasonable inference is that this was as a consequence of the interview and that the Claimant was responsible for the acts being carried out by others on his behalf.
[29] The following Tweet bears the meaning that the Claimant is a criminal (Tweet 75) The allegation and the meaning is substantially true.	[39] The following Tweet bears the meaning that the Claimant is a criminal (Tweet 75) The allegation and the meaning is substantially true.
[30] The Claimant repeats paragraphs 14-20; 21-22; 23-24 of this defence.	[40] The Defendant repeats paragraphs 1-38 of this defence.
[31] The remaining tweets and videos bear the meaning that the Claimant is corrupt. Those allegations and the meanings are	[41] The following Tweets and Videos (Tweets; 16, 171, 172, 180, 193, 206, 212 Videos: 14, 15) bear the meaning that the Claimant is

substantially true.	corrupt. Those allegations ad the meanings are substantially true.
	[42] The Defendant repeats paragraphs 9 and 14-40 of this defence.
<p>[32] The Claimant occupied a prominent position within the government of Pakistan which was ostensibly committed to rooting out corruption and imposing high standards of probity in the administration and in society. He resisted any attempt to explain where his family money came from. He prevented government and judicial agencies from investigating the Defendant's allegations about his personal ill doing. He used his position to help facilitate wrongdoing by him in relation to the Defendant and his father. All of this was incompatible with his duties to the government and prime minister of Pakistan and its people.</p>	<p>[43] The Claimant occupied a prominent position within the government of Pakistan which was ostensibly committed to rooting out corruption and imposing high standards of probity in the administration and in society. His father had been a minister in the government of Pakistan, his uncle and cousins S Ijaz Bukhari and Syed Yawer Abbas Bukhari were members of Parliament for a party in alliance with that of the prime minister. He resisted any attempt to explain where the family money came from. He prevented government and judicial agencies from investigating the Defendant's allegations about his personal ill doing. He used his position to help facilitate wrong doing by him in relation to the Defendant and his father. All of this was incompatible with his duties to the government and prime minister of Pakistan and its people.</p>
	[44] The following tweet bears the meaning that the Claimant manages illegal activities for Pakistan Prime Minister Imran Khan (Tweet 177). This allegation and the meaning is substantially true.
	[45] The Claimant and Imran Khan were involved in and are being investigated for corrupt practices in relation to tendering and contracting for the Rawalpindi Ring Road scheme. Very large sums of money improperly flowed to political supporters of Imran Khan. This matter is being investigated by the relevant authorities in Pakistan and the Claimant was heavily involved in facilitating corrupt practices to the benefit of both the Claimant and Imran Khan.
	[46] The Claimant and Imran Khan are being investigated by the relevant authorities in Pakistan in relation to the so called Tosha Khana gift case in which the Claimant facilitated corrupt practices

	and substantial payments to prominent supporters of Imran Khan.
	[47] The Defendant repeats paragraphs 9 and 14-43 of this defence. After becoming the Special Assistant to Prime Minister of Pakistan for Overseas Pakistanis and Human Resources Development 2018

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