



Neutral Citation Number: [2019] EWHC 281 (QB)

Case No: HQ18M00594

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 15 February 2019

Before :

THE HONOURABLE MR JUSTICE NICKLIN

Between :

Tony Greenstein

Claimant

- and -

Campaign Against Antisemitism

Defendant

David Mitchell (instructed under **Direct Access**) for the **Claimant**
Adam Speker (instructed by **Reynolds Porter Chamberlain LLP**) for the **Defendant**

Hearing date: 14 February 2019

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....
THE HONOURABLE MR JUSTICE NICKLIN

The Honourable Mr Justice Nicklin :

1. Principally, this is a claim for libel. This is the judgment after a trial of preliminary issues of meaning and fact/opinion as ordered by Master Davison on 4 October 2018.
2. The Claim Form was issued on 14 February 2018. The Defendant was named as “Gideon Falter and the Trustees of the Campaign Against Antisemitism”. There is an issue as to whether this is the correct defendant, but it is not relevant to the issues I have to determine. I shall refer to “the Defendant” and, where it is important for context, to “the CAA” where I refer to the Campaign Against Antisemitism.
3. In his Particulars of Claim, the Claimant describes himself as a “*well-known political activist with a focus on issues related to anti-racism, anti-fascism and Palestine*”. He complains of five articles alleged to have been published by the Defendant on the website antisemitism.uk on 26 February 2017, 30 July 2017, 25 September 2017, 3 January 2018 and 24 January 2018. I shall refer to them as, respectively, the First to Fifth Articles.
4. The Articles are set out in the Appendix to this judgment. Paragraph numbers have been added in square brackets. The underlined sections of each Article are the specific words that the Claimant has selected for complaint. Double-underlining indicates that the words were a hyperlink to further material. The balance of each Article is set out because the Court must have regard to the context in which the words appeared. Finally, I have redacted the names of most third parties. This is a public judgment. The Court is not in any position to know whether what is said about them is true or otherwise defensible, and their names have no bearing on the issue of meaning that I have to determine.
5. The natural and ordinary meanings that the Claimant contends that the words bore are as follows:
 - i) All five Articles are said to bear the meaning (“the Principal Meaning”):

“... the Claimant is a notorious anti-Semite; a racist prejudiced against all Jews on the grounds that they are Jewish.”
 - ii) In addition, the First Article is said to bear the meaning (“the Second Meaning”):

“... the Claimant is a generally dishonest fraudster with a history of criminal drug abuse who is making knowingly false statements to the Charities Commission.”
6. The Defendant served a Defence on 29 March 2018. Given the issues that I have to decide, I have deliberately not considered it in any detail. I have simply looked at it to identify the Defendant’s case on meaning. Specifically, I have not considered any of the substantive defences, which are irrelevant for present purposes.
7. A Reply was filed on 7 June 2018. It is a substantial document running to 49 pages. I have not read it for the same reasons.

8. In his skeleton argument, Mr Speker for the Defendant said: “*The service of [the Claimant’s] Reply prompted [the Defendant] to consider whether the issues in dispute could be reduced.*” The Defendant considered that determination of these preliminary issues might achieve a reduction in those issues.
9. I am not going to repeat what I have said previously about the desirability of an early determination of meaning as soon as it becomes clear that meaning is an issue of dispute between the parties. The same is true where the contest is whether (and the extent to which) the publication(s) complained of contain allegations of fact or expressions of opinion: see *Morgan -v- Associated Newspapers Ltd* [2018] EMLR 25 [8]-[10] and *Bokova -v- Associated Newspapers Ltd* [2019] 2 WLR 232; [2019] EMLR 6 [9]-[10].
10. In this case, like most defamation claims, publication and reference are not disputed and the Claimant advances no innuendo meaning. That clears the way for a routine ruling on meaning and fact/opinion; preliminary issues that typically can be determined, as they have been in this case, following a hearing of around 2 hours. If (and to the extent that any of) the other issues currently in dispute between the parties, expansively set out in nearly 90 pages of Defence and Reply, and premised upon their rival contentions on these preliminary issues, remain relevant after determination of the preliminary issues, then that will be a product of luck not design. I do not criticise either party in this case for this – the statements of case were filed before the decisions in *Morgan* and *Bokova* – but, in the post-jury era, defamation litigation does not need to be (and should not be) conducted in this unfocused and potentially wasteful fashion. The preliminary issues I am determining, on the anniversary of the issue of this claim, could have been determined at any time since service of the Particulars of Claim.
11. Mr Speker has set out his arguments as to meaning and fact/opinion in his skeleton. Like the Claimant, the Defendant contends that the five Articles all bear the same meaning in relation to anti-Semitism.
 - i) He contends all five Articles expressed opinion in the following meaning:

“... the Claimant is a notorious anti-Semite, given how often, and how well he is known for, drawing comparisons of contemporary Israeli policy to that of the Nazis; characterising the creation of Israel as ‘racist’; accusing Jews as a people, and Israel as a state, of inventing or exaggerating the Holocaust; and making mendacious, dehumanising, demonising or stereotypical allegations about Jews”
 - ii) If the Court finds that the Articles make allegations of fact, then he contends that the meaning of the Articles is:

“... the Claimant is a notorious anti-Semite who regularly and persistently: draws comparisons of contemporary Israeli policy to that of the Nazis; characterises the creation of Israel as ‘racist’; accuses Jews as a people, and Israel as a state, of inventing or exaggerating the Holocaust; and makes mendacious, dehumanising, demonising or stereotypical allegations about Jews.”

12. As to the Second Meaning in the First Article, Mr Speker's primary submission is that the Second Meaning should be rejected as not a meaning the words bear, or alternatively that it is defective in form. In the alternative, the meaning that the Defendant seeks to defend is that the Claimant:
- “(a) lied when he claimed in The Guardian newspaper that the International Definition of Anti-Semitism prevents criticism of Israel;
 - (b) lied to the Charity Commission when he claimed that the CAA is not concerned with fascist groups who were anti-Semitic Holocaust deniers; and/or
 - (c) has been guilty in the past of various offences relating to dishonesty and drug-taking”.
13. At this stage, the Court is determining solely the issues of meaning and fact/opinion. The Court is not adjudicating upon the truth or falsity of the allegations contained in any of the Articles.

Determining meaning and fact/opinion: the Law

14. In determining the meaning and fact/opinion, I apply the well-established principles set out in *Koutsogiannis -v- The Random House Group Ltd* [2019] EWHC 48 (QB) [12]-[18].
15. Although the Claimant has selected only parts of the Articles for complaint, the Court must ascertain the meaning of these sections in the context of each Article as a whole: *Koutsogiannis* [12(viii)].
16. In this case, there is an issue about hyperlinks. As made clear in Warby J's judgment in *Yeo -v- Times Newspapers Ltd* [2015] 1 WLR 971 [87], contextual material relied upon by way of hyperlinks is a matter which, as an exception to the rule that no evidence is admissible when determining the natural and ordinary meaning, can and should be proved by evidence. The Defendant has filed a witness statement from Alex Wilson dated 29 January 2019. In it, Mr Wilson helpfully sets out each Article, with hyperlinks underlined. In respect of each hyperlink, he has exhibited what a reader would have been taken to if s/he had followed the hyperlink.
17. The extent to which hyperlinked material in an article would be read by the ordinary reasonable reader does not admit of a hard and fast rule; it is a matter to be judged on the facts of each case: *Falter -v- Atzmon* [2018] EWHC 1728 (QB) [12]-[13]. As with most issues relating to meaning in defamation claims, context is everything.
18. Mr Mitchell submitted, based on *Telnikoff -v- Matusевич* [1992] 2 AC 343, 352, that in determining whether the statement was an expression of opinion or an allegation of fact, no reference can be made to other material to which reference is made. That is to state the principle too widely. *Telnikoff* was a newspaper case in which the claimant had written an article which was published in a national daily newspaper. The defendant had written a letter in reaction to that article which was published in the same newspaper 5 days later. It could not be said, therefore, that all readers of the defendant's letter would have read the earlier article and few, if any of them, would have that earlier article to hand. We live in a different world now. Where

hyperlinks are provided in an online article, there is no reason to exclude that contextual material. Indeed, depending on the context of the article, it may well lend significant support to the submission that readers would have understood the publication to be an expression of opinion.

19. He also relied upon the statement of Eady J in *Hamilton -v- Clifford* [2004] EWHC 1542 (QB) [60] that a defendant cannot “*seek shelter behind a defence of fair comment when the defamatory sting is one of verifiable fact*”. The Judge made a similar observation in *Wasserman -v- Freilich* [2016] EWHC 312 (QB) [16] and [21]-[22], but it is important not to elevate this to an inflexible rule: see *Zarb-Cousin -v- Association of British Bookmakers* [2018] EWHC 2240 (QB) [26]:

“... some caution must be applied before overly prescriptive rules are adopted as to the assessment of fact or opinion. The pitfalls of doing so are perhaps demonstrated by *Singh*. In my judgment, what Eady J is saying in those passages is that context is likely to play a critical role in this assessment. It is the fourth point... about bare comment. There is no fixed rule that a statement that someone has been dishonest must be treated as an allegation of fact. The real question is whether, in context, the allegation of dishonesty would be understood to be the deduction or inference of the speaker. In most cases, it will be the context in which the words appear or are spoken that will provide the answer to whether the words are (or would be understood to be) opinion or whether the statement is ‘bare comment’ and therefore potentially liable to be treated as an allegation of fact. Asking a question of whether the statement is ‘verifiable’ is perhaps a dangerous gloss on this approach.”

20. Finally, I need to deal with an issue that has arisen over the extent to which, on a meaning application, the Court should refer to dictionary definitions of words used in a publication. In my judgment, reflecting the general principle that evidence extrinsic to the words complained of is not admissible in the determination of meaning, the position was clearly settled by the Court of Appeal in *Stocker -v- Stocker* [2018] EMLR 15 [17], *per* Sharp LJ:

“The use of dictionaries does not form part of the process of determining the natural and ordinary meaning of words, because what matters is the impression conveyed by the words to the ordinary reader when they are read...”

21. What is, or amounts to, anti-Semitism, is a principal issue of contention in this case. Resort to dictionary definitions of “anti-Semitism” is therefore particularly inapt.

Parties’ submissions

22. In summary, Mr Mitchell for the Claimant makes the following submissions applicable to all five Articles:

- i) It is plainly defamatory to state that the Claimant is an “*anti-Semite*”. The libel is given added force by the adjectival prefix “*notorious*” in each of the five Articles. The Claimant’s Principal Meaning sets out what the ordinary reasonable reader would understand by the label “*anti-Semite*”: “*a racist prejudiced against all Jews on the grounds that they are Jewish.*” He referred to a series of dictionary definitions (and indeed other materials touching on the definition of “*anti-Semitism*”), but (applying *Stocker*) I must ignore those.

The meaning of the word must be ascertained by an assessment of its use in the context of each publication.

- ii) The Defendant's meaning is founded on a definition of "*anti-Semitism*" based on the definition given by the International Holocaust Remembrance Alliance ("IHRA") adopted on 26 May 2016. Whether this is correct or not, it cannot be material to the assessment of meaning. It is an extrinsic fact that is irrelevant and inadmissible.
 - iii) Contrary to the settled principles, the meaning contended for by the Defendant "*can only emerge as the produce of some strained, or forced, or utterly unreasonable interpretation*" of the words complained of.
 - iv) As to fact/opinion, he makes four points:
 - a) The reasonable reader would consider the Defendant's statements, coming as they do, from an organisation with an avowed commitment to, "*exposing and countering antisemitism... [through] zero-tolerance enforcement of the law*" to be authoritative statements of fact, not opinion.
 - b) This is consistent with the style of each of the articles. They are not opinion or comment pieces. Rather, they are declaratory and didactic. The Defendant is the arbiter of who and what is anti-Semitic. The repeated statement that the Claimant is an "*antisemite*" is presented as settled fact.
 - c) The purported credence of this fact is then reinforced in the mind of the reader by repeated use of the prefix "*notorious*" (or, "*well known*") in order to fix the Claimant with special renown. By this device the reader is left with no doubt as to the essential fact of the Claimant's anti-Semitism.
 - d) Whilst accepting that the publisher's intention is strictly irrelevant to the exercise, it is nonetheless pertinent that the matters set out at (a) to (c) above are consistent with the Defendant's clear intention that its readers should understand its publications to mean that that the Claimant is an anti-Semite, not as a matter of mere opinion, but as a statement of fact.
23. Mr Mitchell has also made submissions as to the individual Articles. His principal argument is that, in each Article, the Claimant is described as the "*notorious antisemite*" and that is unsupported by any facts and therefore falls to be characterised as a 'bare comment' and treated as an allegation of fact. In relation to the Second Meaning, he submits that this meaning naturally arises from the words of the First Article ([1.11]-[1.12]) and is an allegation of fact. Some of his further submissions strayed into the area of whether the facts the Defendant did state in the Articles were factually correct. Again, these are extrinsic facts, relevant to the viability of any opinion/truth defence, but irrelevant to meaning.

24. In relation to the Claimant's Primary Meaning, Mr Speker, for the Defendant, made his submissions by reference to each Article:

First Article

- i) There is no dispute that the Claimant is described as a "*notorious antisemite*" and the Defendant accepts that this is a defamatory statement at common law. But the reason why the Claimant is called an anti-Semite is explained in the Article (see [1.4]-[1.8]). It explains that there are many variants of anti-Semitism of both far-right and far-left variations and the article goes on to discuss a particular kind; the indulging in a discredited historical distortion that Hitler supported Zionism. The Article contends that the Claimant is to be seen to be an anti-Semite based upon what he has said and done when judged against the IHRA definition as recorded in the article (and provided by hyperlink). Readers would clearly have understood this to be an expression of the author's opinion.
- ii) The Claimant's meaning is artificial and contrived. The definition of an "*anti-Semite*", advanced as part of this meaning, is not contained in the words complained of. It is designed to be so narrow that virtually no-one could be included. Even more objectionable than that, it deliberately ignores the actual words used in the First Article. The meaning that the ordinary, reasonable reader would understand the words to bear must be tied to the words complained of themselves; the Claimant's meaning is not.

Second Article

- iii) The hyperlink under the Claimant's name ([2.11]) takes the reader to the First Article. Earlier, the Article refers to the IHRA definition (with hyperlink) [2.6] and variants of anti-Semitism are discussed in [2.7] to [2.10]. It is clear to readers that the author's advances accusations of anti-Semitism by reference to the IHRA definition. Likewise, readers would understand that the description of the Claimant as an anti-Semite is also tied to the IHRA definition.

Third Article

- iv) The article is about a fringe event at the Labour Party Conference where there were calls to allow Holocaust denial to be discussed and to expel Jews and "*Zionists*" from the Labour Party. There was said to be raucous cheering when a speaker demanded that Jews should be thrown out of the party. Israel is described as an apartheid state. Anti-Semitism in this context is tied to particular variants of it on the far-left in politics that readers would understand as coming within the IHRA definition. The link under Claimant's name ([3.5]) returns the reader to the First Article.

Fourth Article

- v) The Article also places anti-Semitism in the context of the far-left and is about a group called Labour Against the Witch-Hunt. The reference to the Claimant expressly refers back to the First Article with its references to his petition to shut down CAA and his crowdfunding for this litigation. The express

reference back to the contents of the First Article make it even more likely that a reader would click on the link. Alternatively, readers were likely to know who the Claimant is and why he is described as an anti-Semite.

Fifth Article

- vi) This is another story about anti-Semitism in the context of the Labour Party, as the reader would understand. Readers would appreciate that the author relies upon the IHRA definition (although not in this Article available via the hyperlink) and would link back to the First Article visiting the hyperlink under the Claimant's name ([5.1]).
25. In summary, the Claimant's Principal Meaning said to be carried by each Article is, artificial, contrived and not contained in the words complained of. Readers of each Article would understand the criticism of the Claimant to be an expression of opinion not a statement of fact.
26. In relation to the Claimant's Second Meaning (alleged to be borne by the First Article), Mr Speker submitted:
- i) It is for a claimant to establish that words complained of bear a proper defamatory meaning about him. Without that it is difficult to determine what imputation has caused or is likely to cause serious harm or the parameters of any defence.
- ii) The Claimant's meaning is defective as failing "*the reasonable test of distinctness*": *Lewis -v- Daily Telegraph [1964] AC 234, 282* per Lord Devlin.
- iii) Making false statements to the Charity Commission is different from fraud. Both are different from drug abuse. Whilst there might be said to be a general sting – a man guilty of various offences – the case should not proceed in a confusing way.
- iv) The Defendant has advanced three alternative meanings (see [12] above) but the Defendant's primary position is that the Claimant's meaning should be rejected, and he should have to re-plead it.
- v) In any event, if the words complained of give rise to the Second Meaning then they are an expression of opinion. The actual words in [1.12] explain why it is said that the Claimant is lying. It quotes what he says about Defendant, that it is not concerned with "*fascist groups, who are antisemitic Holocaust deniers.*" The context surrounding the statement means that the readers can see that it is an opinion.

Decision

27. To put myself, so far as possible, in the position of the hypothetical ordinary reader, I read each of the Articles *once* before the hearing. I also tried to read them separately, as the hypothetical ordinary reasonable reader would not have read all five Articles one after the other. I also read the Articles *before* I read or heard any of the parties' submissions as to meaning. In that way, I can capture my immediate reaction to the

publication and the meaning that I think it bears. That, largely, avoids the risk of over analysis. The Court must still consider the submissions of the parties – and I have – but the Court must be astute not to allow consideration of the submissions to cause the Court to drift away from the impression the publication would have on a reader and towards the meaning ascribed by lawyers after prolonged analysis. It is the former, not the latter, which governs the assessment of the natural and ordinary meaning of words in defamation actions.

28. Equally, whilst the parties are entitled to a reasoned judgment explaining my decision, I must try to avoid an over analytical approach to explaining the meaning I have found.

First Article

29. There is a high degree of artificiality in the Claimant’s selection of words for complaint which, whether by accident or design, tends to divorce particular sentences from the overall context in which they appear. The meaning that the ordinary reasonable reader would understand the First Article to bear, and importantly, whether s/he would consider that defamatory imputations against the Claimant were allegations of fact or the expression of opinion, must be assessed by reading the whole Article.

30. In my judgment, this is a good example of the importance of the principle identified in *Koutsogiannis* [16(iii)] (itself derived from *British Chiropractic Association -v- Singh* [2011] 1 WLR 133): whether the publication is making a defamatory statement of fact or is an expression of opinion is highly context-specific. I am satisfied that an ordinary reasonable reader who read the First Article could not fail to regard it, generally, as expression of opinion. Of course, in doing so, the Article does make factual points. Further, the fact that the Article overall would appear to readers to be an expression of opinion does not insulate the publisher from liability if it also conveys a defamatory allegation of fact, but, as *Singh* emphasises, this overall context and impact can be very important in the assessment of whether the *defamatory* sting complained of is an allegation of fact or an expression of opinion.

31. The hallmarks of opinion in relation to the Principal Meaning are:

- i) the clear identification of the subject of the criticism;
- ii) an explanation for the author’s basis for the criticism (including in important respects the use of hyperlinks to indicate upon what the author is relying);
- iii) the overall context of what is obviously a highly contentious subject: the definition of, and what amounts to, anti-Semitism; and
- iv) the fact that it would be clear to the reader that the Article was itself a contribution to an ongoing public dispute between the Claimant and the CAA (in particular the petition that the Claimant was said to have launched asking the Charity Commission to “*shut down*” the CAA) [1.1]. Mr Mitchell described the First Article as “*retaliatory*”. That is a laden term, but inherent within it is an acceptance that the Article was *responsive*. The Claimant argues that: “*it was an act of retribution against [him] following his... petition*

seeking that the Charity Commission deregister the Defendant". Whatever label is applied to it (which itself is a value judgment), readers of the First Article would have understood this overall dynamic.

32. In relation to the Second Meaning, I consider that there is force in Mr Speker's submission that the Claimant's meaning is a confusing jumble of separate defamatory imputations. But I reject the submission that the answer to this is simply to reject it as a meaning and to require the Claimant to replead it. That would have the effect of derailing the determination of these preliminary issues which would have to be adjourned until the Claimant had repleaded his meaning. I am satisfied that the constituent elements of what the Claimant is complaining about are clear; the Defendant knows the substance of his case. It would not serve the overriding objective to allow the form in which they are presented to prevail over the substance. In my judgment, I should proceed to determine this aspect of the meaning.
33. In my judgment, the imputations fall into two distinct categories. The allegation of lying is divorced, in the text, from the specific allegation that the Claimant has various previous convictions. The former is *capable* of being an expression of opinion, the latter is a clear allegation of fact.
34. In context, the allegation of lying is and would be understood to be an expression of opinion. In both instances, the premise for the allegation of lying is identified in the Article: the letter to *The Guardian* and the complaint to the Charity Commission. The reader therefore would understand that this is the author's deduction or conclusion. It is not a bare allegation of lying. This conclusion is also supported by my decision as to the overall opinion nature of the First Article as a whole. No reader could fail to appreciate that it was fundamentally critical of the Claimant.
35. As I have noted, the allegation about previous convictions is different. It is a clear allegation of fact.
36. For these reasons, my conclusion is that the First Article means:

"the Claimant:
 - (a) was anti-Semitic;
 - (b) had lied when he claimed in *The Guardian* newspaper that the International Definition of Anti-Semitism prevents criticism of Israel;
 - (c) had lied to the Charity Commission when he claimed that the CAA was a right-wing political Zionist organisation that is not concerned with fascist groups who were anti-Semitic Holocaust deniers; and/or
 - (d) had committed several criminal offences including offences of dishonesty, vandalism and drug possession".
37. Meanings (a) to (c) are expressions of opinion and meaning (d) is an allegation of fact. All four are defamatory of the Claimant at common law. For the avoidance of doubt, the Court is not determining any issues that arise under s.1 Defamation Act 2013.

38. Given that I have found meaning (a) to be an expression of opinion, I have not included within it either of the parties' definition of the meaning of anti-Semitism. I consider that the Claimant's version does not arise from the words complained of; it is simply his contention of what "anti-Semitism" means. The essential sting, and what the Claimant complains about, is the defamatory allegation of anti-Semitism.
39. The parties' position was that the remaining Articles all bore the same Principal Meaning (i.e. meaning (a): "the Claimant was anti-Semitic"). I agree. In my judgment, for the same reasons as the First Article, in context in the remaining Articles this was also an expression of opinion. The Second Article identifies various aspects of the IHRA definition of anti-Semitism (which is hyperlinked) in [2.6], [2.9] and [2.10]. In context, the labelling of the Claimant as "*antisemitic*" would clearly be seen as the author's opinion of the Claimant and that the definition of anti-Semitism was itself a matter of argument and dispute.
40. I have considered carefully whether there is force in Mr Mitchell's submission that, in the Third, Fourth and Fifth Articles, the statement that the Claimant was "*antisemitic*" is a 'bare comment'. Mr Mitchell is correct that, in these three Articles, little or no basis for this criticism is set out in the Article itself. Mr Speker relies upon the hyperlinks under the Claimant's name in each subsequent Article and contends that the reasonable reader would follow that link back to the First Article. It is right that the Claimant's name does provide a hyperlink back to the First Article, but I do not consider, on the facts of this case, that the hypothetical ordinary reasonable reader *must* be taken as having clicked on this link and read (or re-read) the First Article. A reader certainly is not directed to do so. It is not essential to follow the hyperlink to understand the Third to Fifth Articles and only in the Fifth Article (with the words "*the case of Tony Greenstein*" [5.1]) is there any real indication to the reader that the hyperlink takes him/her back to the premise of the criticism. Mr Speker's fall-back position is that, he submits, readers know very well by the time of the Third Article why the author is calling the Claimant an "anti-Semite". I cannot accept that argument. Not all the readers would have read these Articles together as chapters in a story. They were divorced in time by substantial periods and the meaning of each falls to be assessed separately.
41. Nevertheless, I have reached the conclusion that the reader would see, from the overall context of the Second to Fifth Articles, that the allegation that the Claimant was a "*notorious antisemite*" was expression of opinion; the author's deduction or conclusion. The fact that the allegation was therefore a 'bare comment' does not lead, in this case, to the conclusion that it would have been understood by the hypothetical ordinary reader as an allegation of fact. My reasons for this conclusion are:
- i) the overall context of each article and its presentation would lead the reader to conclude that the description of the Claimant was an expression of the author's view of him; the adjective "*notorious*" itself is a powerful indication that the author is expressing his opinion; and
 - ii) the context of the Third to Fifth Articles was a very public dispute about alleged anti-Semitism in the Labour party which itself had brought attention to a dispute about the correct definition of anti-Semitism. Who was, or who was not, an "anti-Semite" would have clearly been understood by readers to depend upon what definition was being used. The Second Article included three

express references to the IHRA definition of anti-Semitism. As such, and in the context of each Article, the description of the Claimant as a “*notorious antisemite*” would be seen as the author’s opinion or value-judgment.

42. For these reasons, I determine the preliminary issues as follows:
- i) the First Article means:
 - “the Claimant:
 - (a) was anti-Semitic;
 - (b) had lied when he claimed in *The Guardian* newspaper that the International Definition of Anti-Semitism prevents criticism of Israel;
 - (c) had lied to the Charity Commission when he claimed that the CAA was a right-wing political Zionist organisation that is not concerned with fascist groups who were anti-Semitic Holocaust deniers; and/or
 - (d) had committed several criminal offences including offences of dishonesty, vandalism and drug possession”.
 - ii) Meanings (a) to (c) are expressions of opinion. Meaning (d) is an allegation of fact. All four are defamatory of the Claimant at common law.
 - iii) the Second, Third, Fourth and Fifth Articles mean:
 - “the Claimant was anti-Semitic”
 - iv) The meaning is an expression of opinion defamatory of the Claimant at common law.

Appendix – The Articles complained of

The First Article: 26 February 2017

Tony Greenstein’s attempt to shut down Campaign Against Antisemitism showcases the similarities between far-left and far-right

- [1.1] When [name] opens her mouth to speak on a subject involving Jews, then it is near-guaranteed that her utterances will cause offence. Her track record, from invoking the blood libel to hosting an event in Parliament where Jews were blamed for the Holocaust, is without parallel for a peer, and has earned her — along with Jeremy Corbyn’s Labour Party — the second-highest spot on the Simon Wiesenthal Centre’s global top 10 antisemites of 2016, as well as jumping before she was pushed following suspension from the Liberal Democrat party. Her views are vile and discredited. We were therefore unsurprised that she signed up to a petition proposed by notorious antisemite Tony Greenstein, demanding that the Charity Commission shuts Campaign Against Antisemitism down.
- [1.2] In a *Daily Mail* article yesterday morning, Mr Greenstein’s petition was scorned by both MPs and peers alike with comments including that it was “a sad comment on the rise of hate speech”, “a ridiculous attempt to close down an organisation fighting antisemitism”, “...absurd, and perhaps motivated by fear...[which] demonstrates just how effective the Campaign Against Antisemitism has been...”, “The CAA deserves every support and we need real antisemites to be shown up for what they are, even if they try to disguise their Jew-hatred” and “abject nonsense that has no place in public life”...
- [1.3] At Campaign Against Antisemitism, we have experience in combating the many variants of antisemitism of both far-right and far-left. They are united by certain constants, for example a well-worn belief that when Jews complain about antisemitism, they are lying to cover up some other hidden motive in order to further ‘Jewish power’. In this case, we have been challenged by an antisemitism of the far-left which indulges the discredited historical distortion that Hitler in some way supported Zionism. The arguments involved are arcane, but most Britons are now familiar with the derision with which that assertion was met by expert historical opinion when articulated by [name], especially when he owned up to basing his statements entirely on his reading of a single notorious book by a journalist called [name] decades earlier. [Name] was later forced to admit that [name] himself was an antisemite, and that his work was badly flawed.
- [1.4] [Name]’s intent was to somehow historically decontextualise Zionism, paint a particular group of Zionists of the 1930s and 1940s as fascistic co-travellers with Hitler, and by association paint all Jews associated with the creation of the Jewish State — then and now — as alien fascists, acting at the expense of ‘real Jews’. This bizarre and long-discredited distortion of history is an attack on the Jewish community of this country: it attempts to diminish Hitler’s responsibility for the Holocaust, shifts that blame on to Jews, and by demonising Zionism as a fascistic movement and contemporary Israel in the same breath, it attempts to coerce British Jews into choosing between being labelled as ‘good Jews’ by rejecting Israel or being labelled as ‘bad Jews’ by supporting it. This means of classification is hurtful, insulting and a completely false and distorted version of history.

- [1.5] Even [name], the leader of Momentum, has now called out this false distinction between Zionists and Jews. He knows that the overwhelming majority of Jews of all political persuasions support the existence of Israel. However, none of this prevented Mr Greenstein from writing that “[name] got it right”. Mr Greenstein regularly returns to this theme in his blog, and never misses an opportunity to abuse others who debunk his ideas, by characterising them as “Zionist scum”. By backing [name]’s Nazi apologism in saying Hitler “supported Zionism, before he went mad and ended up killing six million Jews.” Mr Greenstein is to be squarely defined as an antisemite under the International Definition of Antisemitism, which states that “Denying the...intentionality of the genocide of the Jewish people at the hands of National Socialist Germany...during World War II” is antisemitic.
- [1.6] Mr Greenstein is to be classified as an antisemite on other grounds too. He openly and readily admits to Holocaust inversion (calling Jews Nazis). This breaches the International Definition of Antisemitism by “Drawing comparisons of contemporary Israeli policy to that of the Nazis.”
- [1.7] Mr Greenstein regularly characterises the creation of Israel as “racist,” which is also in breach of the International Definition of Antisemitism by “Denying the Jewish people their right to self-determination (e.g. by claiming that the existence of a State of Israel is a racist endeavour)”. To boot, on his blogs he claims that Jews inflate the Holocaust in order to defend Israel, writing: “The holocaust has...been the alibi for every atrocity of the Israeli state.” However, under the definition: “Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust” is antisemitic.
- [1.8] On all these counts, and more, Tony Greenstein is also guilty under the International Definition of Antisemitism of “Making mendacious, dehumanising, demonising, or stereotypical allegations about Jews”.
- [1.9] Mr Greenstein, unsurprisingly then, has been previously expelled from the Labour Party, silently readmitted (as many antisemites were when Jeremy Corbyn became leader) and then, when publicly exposed, re-suspended by the Party, where he remains alongside other Labour antisemites against whom the Labour Party refuses to act, safe behind the cloak of anonymity afforded by Shami Chakrabarti’s whitewash report on antisemitism.
- [1.10] Mr Greenstein may be known also for the company he keeps: often appearing supporting [name], who has also (twice) suspended by the Labour Party for antisemitism. [Name]’s antisemitism is well known, and Mr Greenstein embraces her as a colleague and friend, as does Jeremy Corbyn. Tony Greenstein is also allied with the Palestine Solidarity Campaign - an organisation which our recent investigation shows to be a viper’s nest of antisemitism - recently speaking with [name] at the Brighton and Hove branch.
- [1.11] Mr Greenstein is not above lying. In letters to *The Guardian* he has stated that the International Definition of Antisemitism prevents criticism of Israel, when, in fact, it explicitly states that it does not, confirming that: “criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic.” He has claimed that Campaign Against Antisemitism is a lobby group acting on behalf of the Israeli government, a ridiculous allegation that would not stand up to any examination or

audit. In this context, then, it is entirely relevant to mention that Mr Greenstein has previous criminal form for brazen deception, having past convictions for credit card theft and subsequent use, vandalism, drug possession and a number of other petty crimes. He also appears to also be a misogynist, for example saying about a woman who challenges him “I suspect when [you] drop your knickers everyone runs away”.

- [1.12] All antisemites have to maintain a level of denial and self-deception. Without it, their beliefs cannot bear contact with the light. Mr Greenstein is no exception — for him, in order to prove to himself that our own charity is “a McCarthyite Zionist propaganda organisation whose aim is to smear and libel opponents of Israel’s apartheid regime”, he has had to deny reality by brazenly lying to the Charity Commission, claiming that Campaign Against Antisemitism is “...a nakedly right-wing political Zionist organisation” that is not concerned with “fascist groups, who are antisemitic Holocaust deniers.” When Mr Greenstein’s charges arrive on the desk of the Charity Commission, this will no doubt raise eyebrows, as it is well known that challenging fascist neo-Nazis is a primary focus of our work, and has been since our campaign was founded. We can only imagine the mental somersaults he has had to turn in order to avoid acknowledging this, but he must, for if he acknowledged our fight against fascists and Holocaust deniers, his whole thesis would collapse.
- [1.13] Perhaps he would like to come to court in March, to see members of our organisation and *pro bono* lawyers — who have suffered violent threats and intimidation — unflinchingly challenge alleged neo-Nazi Holocaust deniers, and witness a private prosecution we have brought against a reluctant Crown Prosecution Service, which has refused to prosecute open-and-shut cases of fascist antisemitism. There, in the public gallery, he will (if previous hearings are a guide) rub shoulders with some of Europe’s foremost Holocaust deniers — or even [name] — who have made the same charge as Mr Greenstein: that Campaign Against Antisemitism is the hidden hand of a ‘Zionist’ conspiracy to repress free speech.
- [1.14] Mr Greenstein and those neo-Nazis are nothing more than two sides of the same antisemitic coin, and we will continue to challenge them both.

The Second Article: 30 July 2017

CAA writes to Sajid Javid after review of evidence from Palestine Expo finds concerns over antisemitism and extremism were well founded

- [2.1] Campaign Against Antisemitism has now analysed a large volume of evidence captured by the brave volunteers of our Demonstration and Event Monitoring Unit who attended Palestine Expo earlier this month, and also evidence from members of the public who sent us videos us or posted them on social media.
- [2.2] Palestine Expo 2017 was held on 8th and 9th July at the government-owned Queen Elizabeth II Centre in Westminster, opposite the Houses of Parliament.
- [2.3] The organiser, Friends of Al-Aqsa, chose to advertise a number of controversial speakers, which gave cause for concern about what the nature of the event would be. Prior to the event, we wrote to the Secretary of State for Communities and Local Government warning about the risk of giving a platform to speakers with a history of making extremely troubling statements. Had the event merely been “the biggest social, cultural and entertainment event on Palestine to ever take place in Europe”, as it was advertised to be, we would not have objected, but sadly our concerns were proven to be correct.
- [2.4] We will now be writing to the Secretary of State for Communities and Local Government again, this time asking for his assurance that he will intervene should the organisers attempt to hold another event at the government-owned venue. We will include the following concerning speeches and incidents in our letter.
- [2.5] First, in a speech on “Democratic Engagement and Justice for Palestinians”, [name], an Egyptian-Swiss academic, claimed that the genocidal antisemitic terrorist group, Hamas, should not be regarded as terrorists, stating: “Netanyahu said that, just in 2001, what we heard is ‘what you’ve got in the States, is what we are getting in Israel.’ As if, Al Qaeda is exactly like Hamas and the Palestinian resistance. By saying that they are all terrorists, that’s exactly the game. And we are saying we contain terrorists? But there is a legitimate resistance to your state terrorism. Your state terrorism. What you are doing with the civilians in Gaza or in the West Bank, the way you are treating the Palestinians — this is something which has to be said and we know there is a connection...This way of playing with the word terrorist, is like yesterday you were a terrorist, today you are a freedom fighter — the way they did with Mandela.” Hamas calls for the genocide of Jews worldwide, whilst committing and condoning terrorist attacks targeting civilians and oppressing Palestinians, for example by hurling homosexuals from rooftops. To suggest that they may merely be freedom fighters is a gross and deliberate distortion.
- [2.6] Next, [name], a lawyer, allegedly said “Lobbying? Let me tell you about lobbying. I come from Washington DC, OK, that is where I was born and raised. My mother is a Palestinian who was raised in Nazareth and kicked out with her family, the [name] family, in 1948. Where I come from, the Jewish Lobby is omnipresent. AIPAC the American Jewish lobby is omnipresent. 40,000 employees and that’s the start. East Coast, West Coast, the centre.” AIPAC is not a “Jewish lobby”, nor does it have 40,000 employees pulling strings throughout the United States ([name] appears to have inflated the number by a factor of approximately one hundred). According to

the International Definition of Antisemitism, “Making mendacious, dehumanising, demonising, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions” is antisemitic.

- [2.7] In another speech, a speaker for a group called Free Speech on Israel allegedly stated that there were false accusations of antisemitism in the Labour Party, saying: “So, we switch now quickly to the UK Labour Party. We’ve had this wave of false antisemitism accusations. I’m in the Labour Party, I know lots of people in the Labour Party, we’ve also been on the left, I’m sorry where’s this antisemitism? Doesn’t exist in the Labour Party, it’s less in the Labour Party than in the population at large and... even in my branch I’ve got a fairly right — the leadership of my Labour Party branch is still the Blairites, the right wingers — they don’t like being accused of antisemitism either, it’s a false program, it’s a false set of accusations.” We have extensively chronicled antisemitism in the Labour Party and we consider attempts to smear those Jews who complain of antisemitism as conspiratorial liars to be an antisemitic endeavour.
- [2.8] Disgraced Labour activist, [name], also provided evidence of very concerning statements when she posted a number of videos on her Facebook page from the breakout session at Palestine Expo. In one of the videos, [name], an academic at the London School of Economics, can be heard defending [name], who claimed and maintains that Zionists collaborated with the Nazis, claiming: “What happened was that in a rather confused radio interview, [name] used the words ‘Hitler’ and ‘Zionism’ in the same sentence...What he did was to reveal in a slightly gullible way something which people should have known more about, which was the fact that the Zionists and the Hitler regime did combine together and talk about how to get more Jews out of Germany into Palestine in the 1930s. So...we’re supposed to say that [name] is an antisemite. He’s not, he’s a hero.” In another video, [name] is heard making the spurious and discredited claim and myth about the invention of the Jewish people and that Ashkenazi Jews are descended from Khazars. He said that: “Interestingly enough, an Israeli historian, not the most favourite Israeli historian of Israelis, called [name], who gave quite convincing evidence that most Jews are not Jewish [laughter] in that a high proportion of them are actually the result of forced conversions in the Middle Ages in central Europe. So in fact not only have those people not been to Israel but none of their relatives ever came from Israel before.” We will be writing to the London School of Economics, requesting a disciplinary investigation into [name]’s comments.
- [2.9] Outside the venue, attendees also engaged in antisemitic discourse. [Name], an activist who blogs about antisemitism and the Middle East, posted a video on YouTube of an unidentified man outside the venue who demanded: “Who founded Israel? Rothschild. Who was Rothschild everybody?...They might have the nuclear weapons, they might have the tanks, they might have the media, they might have the banking system, they might have everything on their side but Jesus has G-d on his side...Who gives them the right to pull money out of thin air and then lend it to us as interest.” The libel that Jews control banking, media and government is one of the most well-known antisemitic conspiracy myths, which explicitly falls foul of

the International Definition of Antisemitism. A woman is also visible in the video performing a Nazi salute, in full view of security officers.

- [2.10] Another activist, [name], also posted a video from outside the event. In the footage, a young child could be seen dressed up in military uniform as worn by armed Palestinian groups, while an unnamed man asked: “Who’s under the table running the world?... Who’s got the money in America?... American Jewish.” When a Jewish man asked who has the money in the Middle East, the man replied: “The leaders, they’re your crooks.” In the background, a group stood outside the venue chanting “From the River to the Sea, Palestine will be free,” a chant that only makes sense as a call for the destruction of the Jewish state and its replacement with a Palestinian state. Under the International Definition of Antisemitism, “Denying the Jewish people their right to self-determination” is antisemitic.
- [2.11] We are also concerned about the admissions policy in effect at the event which we believe may have breached the Human Rights Act and other legislation by discriminating against attendees on the basis of their political or religious beliefs. One man posted a video online in which he is asked to leave by the venue’s head of security and then a police officer, which the man alleges happened because he was wearing a Jewish skullcap. He claimed that he had been in the venue filming events peacefully for hours but was only ejected when he donned his skullcap. In the footage he posted, security officers are heard claiming that he was being asked to leave for filming, but numerous other bystanders were also filming without attracting attention from the venue or police officers. The incident is now being investigated by the police and the videos have been removed from social media. In another incident, notorious antisemite Tony Greenstein alerted security staff to the presence of the blogger [name] who had gone to observe the event. Whilst eating lunch at the venue with his wife and child, at Greenstein’s behest, [name] and his family were allegedly made to leave by the venue’s staff, which Mr Greenstein said he was responsible for arranging on the basis that [name] is a “Zionist snoop”. Supporting Zionism (the movement for the Jewish people’s right to self-determination) is a perfectly legitimate position and no person should be excluded from a public event for adhering to it, particularly not at the behest of a well-known antisemite.
- [2.12] Having warned the Department for Communities and Local Government about the event in advance, we are disturbed that the government-owned venue, which is an executive agency of the government, did not appropriately train its security officers or monitor what was being said.
- [2.13] Prior to the event we also wrote a letter, along with military leaders and MPs, calling on the Prime Minister to ensure that the government acted on her pledge in the wake of the recent terrorist atrocities to “deprive the extremists of their safe spaces” and to “become far more robust in identifying [extremism] and stamping it out across the public sector and across society.” Palestine Expo 2017 was a failure to deliver on that promise which the Department for Communities and Local Government must learn from and not repeat.

The Third Article: 25 September 2017

Calls to allow Holocaust denial and expel the Jewish Labour Movement electrify Labour Conference fringe event

- [3.1] Calls by speakers at a Labour Conference fringe event to allow Holocaust denial and expel the Jewish Labour Movement from the Labour Party were reportedly met with rowdy applause and cheering earlier today.
- [3.2] The packed event run by “Free Speech on Israel” heard from American-Israeli activist [name] that people should be free to ask “Holocaust, yes or no” because “there should be no limits on the discussion”, for which he was cheered.
- [3.3] [Name], a member of the International Jewish Anti-Zionist Network, reportedly asserted that claims of increasing antisemitism were intended to undermine Jeremy Corbyn and the left, before demanding that the Jewish Labour Movement be expelled from the Labour Party. He reportedly said: “The thing is, if you support Israel, you support apartheid. So what is the JLM [Jewish Labour Movement] and Labour Friends of Israel doing in our party — kick them out”, to raucous cheering and calls of “throw them out”.
- [3.4] Ironically for an organisation called “Free Speech on Israel”, the organisers reportedly ordered attendees not to tweet or take photographs for fear of “hostile coverage” whilst leaflets were passed around claiming that concerns about rising antisemitism were a “manufactured moral panic”.
- [3.5] The event was also reportedly addressed by [name], who had earlier been given a standing ovation by the Labour Party Conference plenary for stating that “There is no problem with Jews in the Labour Party”, and notorious antisemite Tony Greenstein, who was among a number of attendees able to attend and participate despite being currently or previously suspended from the Labour Party over allegations of antisemitism. ...
- [3.8] It is repugnant to see a thronged officially-advertised fringe event at the Labour Party Conference at which Labour supporters cheered in favour of freedom for Holocaust deniers, and chanted their approval for censoring and expelling Jews and ‘Zionists’. It is a reminder of how low the Labour Party has plunged.

The Fourth Article: 3 January 2018

Labour Against the Witch-Hunt expels member over antisemitism, prompting formation of group against antisemitism witch-hunt within Labour Against the Witch-Hunt

- [4.1] In a strange twist of events, a group set up to protest the expulsion of Labour members for alleged antisemitism has begun expelling members for, antisemitism.
- [4.2] Labour Against the Witch-Hunt (LAW) was launched in October 2017 as a group protesting expulsion of Labour party members following antisemitism claims. It swiftly won the support of the Labour Party Marxists group.
- [4.3] However, LAW has now reportedly expelled one of its founders, [name], for antisemitism. [Name] is planning a protest meeting to coincide with a LAW meeting on Saturday this week in an effort to be readmitted. Both the protest meeting and the LAW meeting will take place in the same pub.
- [4.4] [Name] was suspended by Labour in 2016 after he tweeted a link to an article by the far-left group, Socialist Fight, a group he is involved with, which encouraged Marxist Labour members to “address the Jewish question” as well as claiming the “Jewish-Zionist bourgeoisie” had “played a vanguard role for the capitalist offensive against the workers”. Shortly following this, he was expelled from the Labour party after David Cameron quoted a blog by [name] during Prime Minister’s Questions, in which he had written about 9/11, suggesting violence against the United States is “progressive, no matter how distorted its actions are, and must never be ‘condemned’”.
- [4.5] [Name] was dismissed from LAW shortly after it was established and told not to attend meetings.
- [4.6] [Name] has now set up his own group called Reject Bogus Left Antisemitism, and used its Facebook claim to accuse LAW of wanting a “witch hunt [against] genuine anti-Zionists and revolutionary socialists”.
- [4.7] Some of LAW’s key aims include ending the practice of automatically ending or suspending Labour membership following claims of antisemitism and demanding “the Labour Party rejects the International Definition of Antisemitism, claiming that it “conflates antisemitism with anti-Zionism and support for the rights of the Palestinian people”.
- [4.8] At its meeting this Saturday, LAW will debate a motion demanding that anyone suspended by the Labour Party over claims of antisemitism have their membership reinstated. They will also be motioning that Labour’s own Compliance Unit, which investigates disciplinary matters including antisemitism, be abolished. The meeting will be addressed by [name], who declared on the BBC during last year’s Labour Party Conference that allegations of antisemitism in the Party were a fallacy “without validation or any evidence” despite the fact that Campaign Against Antisemitism had just published detailed evidence.

[4.9] Amongst the foremost members of LAW are notorious antisemites including [name], and also Tony Greenstein who has organised a petition calling for the Charity Commission to shut down Campaign Against Antisemitism by deregistering it as a charity and is currently crowdfunding in an attempt to sue us for calling him a “notorious antisemite”.

The Fifth Article: 24 January 2018

[Name], Chair of Labour's Disputes Panel, fails to recuse herself from sitting in judgement of anti-Semitic 'friend'

- [5.1] Last week, Campaign Against Antisemitism was in direct contact with [name], Momentum's newly-appointed chair of the Party's National Executive Committee's Disputes Panel, requesting that she clarify her position with regard to the case of Tony Greenstein, a notorious antisemite previously expelled from Labour for antisemitism, inexplicably re-admitted, and now re-suspended for antisemitism once more. As chair of the Disputes Panel, [name] has the casting vote in disciplinary matters, such as whether to refer a member of the Party to the National Constitution Committee (NCC) for expulsion from the Party.
- [5.2] In her initial reply to us, [name] confirmed to us that she had indeed elected to be Mr Greenstein's "silent friend" at his recent disciplinary hearing, and that as such there was a "potential conflict" in her continuing to act in that role. However, she failed, after two requests, to confirm whether or not she would be recusing herself from any future case in which Mr Greenstein was involved, in which she would hold the casting vote.
- [5.3] The Disputes Panel's behaviour last week in merely issuing a warning to former council candidates [name] and [name], instead of referring their cases to the NCC for potential expulsion, has already brought condemnation. What is more, [name]'s refusal to countenance taking the antisemitism education the Disputes Panel sent him for has made a laughing stock of National Executive Committee (NEC) member [name], who interceded on his behalf.
- [5.5] Campaign Against Antisemitism believes that the NCC will be reviewing Mr Greenstein's case this Friday. Whatever their verdict, it would heap more ridicule on the Labour Party were [name] to chair future NEC panels considering Mr Greenstein's case, and Campaign Against Antisemitism calls on the Labour Party to immediately confirm that she will not be permitted to chair any such meeting.
- [5.6] Meanwhile, sources within Labour have suggested that it is still possible that [name] could, *ex officio*, sit on the NCC tomorrow to hear Mr Greenstein's case. As lists of those who sit on NCC cases are not published, it is impossible to say whether this will happen, but were it to happen it would be damning for the Labour Party.