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Judgment: approved by the Court for handing down (subject to editorial corrections)*	*Delivered:* **06/11/2017**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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QUEEN'S BENCH DIVISION

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Between

KEVIN WINTERS, NIALL MURPHY, JOSEPH McVEIGH, GERARD McNAMARA, PETER CORRIGAN, MICHAEL CRAWFORD, PAUL PIERCE, DARRAGH MACKIN and KRW LAW LLP

Plaintiffs

and

NEWSGROUP NEWSPAPERS LIMITED

Defendant

_____

STEPHENS LJ

Introduction

[1] The first eight named plaintiffs are all partners in the ninth named plaintiff, KRW Law LLB. The plaintiffs allege that they have been defamed by the defendant, Newsgroup Newspapers Limited, which published three articles, the first and third of which were on its online media outlet known as "The Sun online" and the second of which was published in the Sun newspaper. In broad terms all three articles concern criminal investigations into, civil litigation surrounding and inquests into deaths caused by British troops during the course of the troubles. The amended statement of claim sets out what the plaintiffs allege is the natural and ordinary meanings of each of the articles. Relying on words appearing in the articles such as "witch hunt" the plaintiff's assert that the articles mean that they as lawyers retained on behalf of various families of those killed by British troops have been "engaged in a malicious campaign to target ex-British servicemen with unmeritorious allegations and litigation."

[2] The defendant relies on a number of defences including justification. At paragraphs 9 and 12 of its defence it sets out the natural and ordinary meaning of first and second articles and also the third article as follows:

> "… as a result of his/their substantially publicly funded representation of the families of individuals killed by British soldiers, including but not limited to their representation of families associated with Republican terrorists or suspect Republican terrorists, he/they was/were party to a witch-hunt against British soldiers involved in historical killings in Northern Ireland, … "

That pleaded meaning used the phrase "party to a witch-hunt against British soldiers …" and in a reply to a notice for particulars the defendant stated that phrase was synonymous with "party to a concerted campaign discrediting British soldiers."

[3] The plaintiff by summons dated 26 May 2017 and the defendant by summons dated 30 May 2017 brought applications pursuant to Order 82 Rule 3A of the Rules of the Court of Judicature (Northern Ireland) 1980 seeking orders determining whether the words complained of are capable of bearing the meanings attributed to them in both respectively the amended statement of claim and in paragraphs 9 and 12 of the defence. At this stage the role of this court is to delimit the range of meanings of which the words are reasonably capable of bearing and to rule out meanings outside that range.

[4] Mr Humphreys QC and Mr Girvan appeared on behalf of the plaintiffs. Mr Simpson QC and Mr Scherbal-Ball appeared on behalf of the defendant. I am grateful for the assistance provided to me.

Factual Background

[5] The first article ("the first article") entitled "BLOODY OUTRAGE Decision to investigate brave British troops over all killings in Northern Ireland's 30 years of The Troubles branded 'Witch hunt'" was first published by the defendant online at 11 p.m. on 7 December 2016. I attach the text of the first article as schedule 1 to this judgment. The first article stated that the Sun could reveal that "all 302 killings by British troops during Northern Ireland's 30 years of the troubles are being investigated afresh, …." It stated that information passed to the Sun reveals 238 fatal incidents are being reinvestigated by the Police Service of Northern Ireland's newly created Legacy Investigations Branch and that the Sun understands the huge investigation was quietly nodded through by the PSNI's Chief Constable under pressure from Sinn Fein politicians. The article includes a report of what "Tory MP Johnny Mercer, a former army officer who has battled against tank chasing lawyers" is reported to have said which was:

> "This is a brand new witch hunt, as well as total and complete betrayal by the Government of those who have done its bidding. If we could demonstrate in Government just some of the courage our Armed Forces have displayed

> over the years in Northern Ireland, the entire historical allegations money machine would end."

The article also quotes Ulster Unionist MP Ian Paisley Jnr as warning:

> "the dam is about to burst on our heroes."

The DUP MP for North Antrim is reported to have "dubbed the investigations an abuse of individuals and their service on an industrial scale." He is reported to have added:

> "It's a very bad day when soldiers are living in fear of the legal system while terrorists are sitting at home with their feet up. The Government must immediately stop the legal aid rip-off which fuels so much of this."

The article having referred to the criminal investigation contains a paragraph in the following terms:

> "On top of the criminal probes, the Sun can also reveal Republican-linked law firms have helped force the re-opening of 31 inquests into 57 killings by Army personnel."

[6] The first article also contains a photograph of the aftermath of the Warrenpoint bomb attack under the caption "The Outrage" with text below the photograph stating that "18 soldiers were slaughtered in Warrenpoint blasts." The first article then continues under the heading "The terrorists" stating that:

> "The deaths of convicted IRA terrorists and killers are believed to be among the hundreds set to be investigated.
>
> SAS heroes and British soldiers were behind the deaths of some of the IRA's most feared members at the height of the troubles. They include the following men: …"

There then followed photographs of and descriptions of Patrick Kelly, Jim Lynagh, Dessie Grew, Seamus McElwaine and Peter Cleary. In relation to Patrick Kelly it was stated that "he was among eight so-called "Loughgall Martyrs" killed by the SAS in May 1987." In relation to Jim Lynagh it was stated that "he was also killed in the Loughgall Ambush in 1987." In relation to Dessie Grew it was stated that "he was killed by the SAS in 1990" and that Seamus McElawine was an IRA commander also "killed by the SAS …." Finally in relation to Peter Cleary it was stated that he "was shot dead as he tried to grab an SAS soldier's rifle."

[7] The first article does not name any of the plaintiffs.

[8] On 8 December 2016, hours after the first article was published online at 11pm on 7 December 2016, the second article ("the second article") was published on the front page and pages 6 and 7 of the Sun. The headline on the front page was "Sun Investigation" under which there was a photograph of a police officer and two members of the army patrolling the aftermath of a bomb attack which the article identifies as being in South Armagh in 1998. Against the backdrop of that photograph and involving almost the entirety of the front page there were three headings, all in capitals, with the third in larger font size. The headings were "NEW PROBE INTO ALL 302 ARMY IRELAND KILLINGS", "TANK-CHASE LAWYERS TARGET 1,000 TROOPS" and "WAR ON SOLDIERS." The heading across the adjoining pages 6 and 7 was "OUTRAGE AS GREEDY LAWYERS PILE IN." The headings on page 7 were "TROOPS FACE NIGHTMARE," "SOLDIERS WILL BE QUIZZED ON HISTORIC DEATHS" and "MEANWHILE IRA KILLERS ARE FREE OR IMMUNE."

[9] The content of the second article was substantially the same as the content of the first article. However, the second article contains different headlines. The first article has as part of its headline "Bloody outrage" which does not appear in the second article. The second article has the headline "Tank-chase lawyers target 1,000 troops" together with "Greedy lawyers pile in" which do not appear in the first article. The layout of photographs differs as between the first and second articles.

[10] The second article does not name any of the plaintiffs.

[11] On 10 December 2016 the third article entitled

> "OUR LIONS, THE RICH AND THE WAR PROBE Northern Irish law firms who scored £12m in legal aid will make millions more in "witch hunt" probe into killings by Brit Troops during The Troubles"

was first published by the defendant online at 1:47am ("the third article"). I attach the full text of the third article together with some of the photographs published with it in schedule 2 to this judgment.

[12] The third article names KRW Law the ninth named plaintiff. It also names Kevin Winters and Darragh Mackin the first and eighth named plaintiffs. The references to these plaintiffs in the third article are admitted in paragraph 6 of the defence.

[13] In the middle of the third article, which was an online article, there was a hyperlink to the first article, also an online article, so that the third and first articles could be read together as a single publication. The hyperlink was one of four which appeared in the third article under the heading in capitals "RELATED STORIES." The particular hyperlink relied on by the plaintiffs was entitled "The Sun Says Reopening investigations into Brit soldiers during The Troubles is hell for heroes and will cost

millions." The plaintiffs relied on this hyperlink referring to paragraphs 3.33 and 3.34 of Gatley on Libel and Slander 12th Edition. Mr Humphreys submitted that the hyperlink meant that the third and first articles should be considered as sufficiently closely connected so as to be regarded as a single publication. He submitted that the question as to whether both articles should be regarded as a single publication can only be answered by asking whether they were sufficiently closely connected and in that respect for instance this was a hyperlink to another part of the same website. It was agreed by Mr Simpson on behalf of the defendant that I have to determine the range of permissible meanings at this stage based on the proposition that it may be established at trial that there is a sufficient link between the third and first articles. He also stated that whether in fact the third and first articles were read together could depend on the evidence called at trial, on the discovery process by the defendant and potentially also on interrogatories to the defendant. However at this stage Mr Simpson conceded that the range of permissible meanings is taken from a combination of both the third and first articles taking into account the conflated or conjoined words of both of those articles. If at trial it transpires that there was no evidence of a sufficient link between those two articles then any meaning based on the link would be withdrawn from the jury. If there was evidence then the issue would be left to the jury.

[14] I note that in Islam Expo Ltd v The Spectator (1828) Ltd [2010] EWHC 2011 (QB) Tugendhat J. was prepared, "without intending to imply any ruling, one way or the other", to approach the case on the basis that text on web pages, to which a reader of the words complained of will be directed if the reader clicks on the hyperlink, is to be treated as parts of the words complained of for the purposes of determining what the words mean."

[15] I consider that it is not necessary at this stage for this court to articulate the test as to whether the third and first articles should be regarded as a single publication it being agreed for the purposes of these applications that I should proceed on the basis that they are a single publication.

The amended statement of claim

[16] The amended statement of claim contains a number of typographical errors for instance referring to "defendants" in paragraph 10 when it is clear that the reference should have been to "plaintiffs." It alleges that there were two articles by referring to the first and second articles as if they were the same when in fact they were published in different ways, on different dates and are not identical. The amended statement of claim should have distinguished between all three articles. It is also asserted that full copies of the articles were set out in schedules 1 and 2 to the amended statement of claim. In fact copies of the articles were not included in those schedules which were blank and indeed given the differences between the first and second articles they could not have been referred to in the same schedule. If this approach was to have been adopted then there should have been three schedules.

[17] In general pleadings require precision and this is particularly important in relation to proceedings for defamation which require meticulous attention to detail. These and any other matters which occur to the plaintiffs' legal advisors should be corrected.

The meanings pleaded by the plaintiffs

[18] In paragraph 11 of the amended statement of claim in relation to the *first two articles* the plaintiffs alleged that the words in their natural and ordinary meaning meant and were understood to mean:

(i) The Plaintiffs support Republican terrorism;

(ii) The Plaintiffs are engaged in a malicious campaign to target ex British servicemen with unmeritorious allegations and litigation;

(iii) That this campaign has been mounted for the financial gain of the Plaintiffs;

(iv) The Plaintiffs are greedy;

(v) The Plaintiffs have acted and are acting in breach of their professional ethics and code of conduct for the pursuit of financial gain;

(vi) The Plaintiffs lack integrity;

(vii) The Plaintiffs have obtained and will seek to obtain legal aid inappropriately;

(viii) The Plaintiffs should be shunned by right-thinking members of society.

[19] Also in paragraph 11 of the amended statement of claim in relation to *the third article* the plaintiffs alleged that the words in their natural and ordinary meaning bore exactly the same meanings as in (ii) – (viii) in respect of the first and second articles. The plaintiffs did not allege that the third article meant that "the Plaintiffs support Republican terrorism." Mr Humphreys explained that this was because the phrase "Republican-linked law firms" only appeared in the first and second articles and did not appear in the third article. He accepted that support of Republican terrorism was not within the permissible range of meanings in the third article even though the third article set out various links in that the plaintiffs had represented Republican terrorists or suspected Republican terrorists. So the only difference between the pleaded meanings as between the first and second articles on the one hand and the third article on the other is that the plaintiffs do not allege that the third article on its own means that "the Plaintiffs support Republican terrorism."

[20] In the amended statement of claim and relying on the hyperlink in the third article the Plaintiffs repeat the natural and ordinary meaning of the words published in the first article as the natural and ordinary meanings of the words published in the single publication of the first and third articles and by this route allege that the first and third articles also mean that "the Plaintiffs support Republican terrorism."

Rhetorical innuendoes

[21] The law distinguishes between different forms of insinuation reflecting adversely on character. The major distinction is between a false innuendo on the one hand and a true or legal innuendo on the other. An innuendo that is capable of being detected in the language used is deemed to be part of the ordinary meaning. Such innuendoes arise indirectly by inference or implication from the words published relying on general knowledge (known as a false innuendo). However, if the innuendo requires the support of an extrinsic fact then the plaintiff has to identify the relevant extrinsic fact and prove that the fact was known to at least one of the persons to whom the words were published (known as a true or legal innuendo).

[22] Lord Devlin in Lewis v Daily Telegraph Limited [1964] AC 234, [1963] 2 All ER 151 at page 278 referred to what he termed rhetorical innuendoes:

> "Moreover, there were some pleaders who got to think that a statement of claim was somehow made more forceful by an innuendo, however plain the words. So rhetorical innuendoes were pleaded, such as to say of a man that he was a fornicator meant and was understood to mean that he was not fit to associate with his wife and family and was a man who ought to be shunned by all decent persons and so forth."

He went on to state at page 281:

> "I should certainly like to see what I have called rhetorical innuendoes discouraged."

[23] As a matter of logic if the central defamatory meanings alleged by the plaintiffs are within the range of potential meanings, then there are also other innuendo meanings within the range, which are that:

(a) "the plaintiffs have acted and are acting in breach of their professional ethics and code of conduct" which is a lengthy way of saying that "the plaintiffs are unprofessional" ("the first rhetorical innuendo").

(b) "the plaintiffs lack integrity" (" the second rhetorical innuendo").

(c) "the plaintiffs should be shunned by right-thinking members of society" ("the third rhetorical innuendo").

All of these rhetorical innuendoes are deductions from what is suggested to be the central defamatory meanings. The third, more strikingly than the others, is an assertion of the effect of the defamatory statement conflating the defamatory meaning with the impact on the plaintiff. As Carswell LCJ stated in Neeson v Belfast Telegraph [1999] NIJB 200:

> "It is a difficult task for a court to strike a fair and proper balance between the right of a plaintiff in a libel case to rely upon any inferences which may correctly (be) drawn from the words published and the interest of a defendant in having the issues simplified to a proper extent and preventing the jury from being misled or confused by *prolix, repetitive or unsustainable assertions* relating to meanings propounded." (my emphasis)

Mr Humphreys accepted that second and third rhetorical innuendoes added nothing to this case and agreed that the meanings that "the Plaintiffs lack integrity" and "the plaintiffs should be shunned by right-thinking members of society" should be struck out. I make that order.

[24] Mr Humphreys continued to rely on the first rhetorical innuendo. I consider that if the words are capable of bearing the central defamatory meanings alleged by the plaintiffs then that those words are also capable of bearing that rhetorical innuendo. However, I consider that whilst such a rhetorical innuendo could be sustainable as being within the range of potential meanings, it adds nothing. I consider that rhetorical innuendoes of that nature add to complexity. The whole purpose of pleading meanings accurately is to identify the central meanings which are to be determined.

[25] However, though rhetorical innuendoes should be discouraged, I consider that I do not have jurisdiction under Order 82 rule 3A to strike out the first rhetorical innuendo if the central defamatory meaning is within the range of potential meanings, because also it would be within that range. However, a further application could be made under Order 18 rule 19 or to the trial judge to leave that meaning out of account given the obligation to leave the issues precisely and relevantly delineated to the jury.

The connection between meanings and identification

[26] It was suggested by Mr Simpson that the issue of identification was a part of the meanings application in that the words would have to be capable of bearing a defamatory meaning of each of the plaintiffs so that each of the plaintiffs was identified. He stated that this would involve the court considering each and every meaning in relation to each plaintiff and determining whether they meant that the

particular plaintiff was for instance a greedy tank chasing lawyer involved in having obtained or seeking to obtain legal aid inappropriately in order to conduct a malicious campaign to target ex-British servicemen with unmeritorious allegations and litigation.

[27] I do not consider that a meanings application is the appropriate method of dealing with the issue of identification. I was not referred to any authority by Mr Simpson to the effect that although the words carried a defamatory meaning that it did not have that meaning in relation to the plaintiff and therefore should be struck out on an application such as this. Furthermore, Mr Humphreys indicated that this issue was not before the court as the defendant's summons did not suggest that there was insufficient identification or reference to any of the plaintiffs. He also pointed out that paragraph 10 of the amended statement of claim which gives particulars of identification was not sought to be struck out by the plaintiff.

[28] In paragraph 10 of the amended statement of claim the plaintiffs alleged the words complained of referred to and were understood to refer to them. The particulars of identification with further amendments in italics made in order to conform with the terminology used in this judgment, were:

(a) The first *and second articles* of 7/8 December did not mention the Plaintiffs by name but it is widely known that the individuals and the firm act in many 'legacy' cases for the families of victims, including the Loughgall killings;

(b) Of the five individuals named in the "the terrorists" section in the first *and second articles* of 7/8 December, solicitors from the Ninth Plaintiff have acted for the families of three of those men;

(c) The online version of the *third* article of 10 December contained a link to the first *and second articles* of 7/8 December. The First and Eighth Plaintiffs are specifically named in the *third* article of 10 December. The Ninth Plaintiff is specifically named in the *third* article of 10 December;

(d) Of those named in the *third* article of 10 December as KRW clients in the section "Solicitors' IRA clients" in the article solicitors from the Ninth Plaintiff have acted for the families of five of those men.

It is then alleged in the amended statement of claim that:

> "by reason of their knowledge of the said facts and matters, the Plaintiffs were identified by a large but unquantifiable number of readers of the words complained of as the individuals and the firm referred to by the said words including but not limited to the following individuals and classes of individuals:

(i) The clients of the Plaintiffs;
(ii) The solicitors and administrative staff employed by the Ninth plaintiff;
(iii) Solicitors and Counsel working in Northern Ireland;
(iv) Human Rights lawyers, advocates and campaigners;
(v) Journalists who had previously reported upon the actions and related issues;
(vi) Every reader of the article who was privy to prior publications identifying the Plaintiffs as the legal representatives of those mentioned in the articles as belonging to the IRA;
(vii) Those who, of their own general knowledge, knew of the fact that those referenced in the article as belonging to the IRA were being represented by the Plaintiffs and each of them."

[29] It is apparent from the pleading in paragraph 10 of the amended statement of claim that identification depends on extrinsic facts which are not capable of determination on the present summons in relation to meanings.

Legal principles for determining whether the words are capable of bearing a defamatory meaning

[30] At paragraphs [9] – [11] of my judgment in Winters & others v Times Newspaper Limited [2016] NIQB 12 I set out the legal principles for determining whether the words are capable of bearing a defamatory meaning. I incorporate those paragraphs as part of this judgment and I seek to apply those principles.

[31] I would add that in Thornton v Telegraph Media Group Ltd [2010] EWHC 1414, [2011] 1 WLR 1985, [2010] All ER (D) 169 Tugendhat J set out and considered the various definitions of the word defamatory. One of the definitions considered was that set out by Lord Atkin in Sim v Stretch [1936] 2 All ER 1237 at 1240 who concluded that:

> ". . . after collating the opinions of many authorities I propose in the present case the test: would the words tend to lower the Plaintiff in the estimation of right-thinking members of society generally?"

Applying that test the question as to whether a meaning is defamatory is to be assessed by reference to *right-thinking members of society generally*. In a different area of law the attributes of a fair minded and informed observer were considered in amongst other cases Helow v Secretary of State for the Home Department [2008] UKHL 62; [2008] 1 WLR 2416 at paragraphs [1] to [3]. However it is obvious that in this area of law one of the attributes of right-thinking members of society is that they apply appropriate standards. For instance, in some circles, particularly criminal circles, an individual who is called "a police informer" is lowered in the estimation of

those within that circle. However, right thinking members of society will readily accept that the provision of information to the police that leads to the detection or prevention of crime is a positive benefit to society so that the term police informer is not defamatory. There may be other associated meanings connected to the term "police informer" which depending on context could be defamatory such as that the individual associates with criminals, has a criminal background or belongs to a criminal social environment (in a different context see An Informer v a Chief Constable [2012] EWCA Civ 197 per Toulson LJ at para 61). However the label "police informer" in the estimation of right thinking members of society does not in itself have a defamatory meaning.

[32] Also right thinking members of society will also be informed. On that basis and in cases such as this, right thinking members of society are aware that our adversarial system of justice requires that those who have or may have committed heinous crimes receive legal representation. To say of a solicitor or barrister that he has or continues to represent terrorists does not carry the defamatory meaning without more that the barrister or solicitor supports terrorism, see Madden v Sunday Newspapers [2006] NIQB 18 and Doherty & others v Telegraph Group Ltd [2000] NIJB 236.

The defence of justification

[33] I have set out in paragraph [2] the Lucas Box meaning alleged by the defendant in relation to the defence of justification. The particulars of justification do not suggest that the plaintiffs have done anything wrong but rather assert for instance that the plaintiffs offer and promote a "Legacy Litigation" service which includes representing "a number of families in relation to civil actions against the PSNI and/or the Ministry of Defence in relation to allegations of collusion by state agencies and paramilitaries in the deaths of their loved ones during the recent conflict."

[34] The defendant in its skeleton argument set out one of the definitions of a witch hunt in the Concise Oxford English Dictionary as being a "campaign directed against a person or group holding views considered unorthodox or a threat to society." It also set out one of the definitions in the Collins Dictionary as being "a rigorous campaign to expose and discredit people considered to hold unorthodox views on the pretext of safeguarding the public welfare." The defendant contended that neither dictionary definition requires that a "witch hunt" must necessarily be unmeritorious. It is clear from the pleading and from the skeleton argument that the defendant does not seek to justify any allegation that the witch hunt involved the plaintiffs in bringing unmeritorious claims. The plaintiffs assert that neither of these dictionary definitions are relevant in the context of the words published by the defendant.

The defence of honest comment

[35] In paragraph 10 of the defence the defendant pleads in the alternative that the words "witch hunt" was an honest comment on a matter of public interest, namely

the appropriateness or otherwise of (i) historical enquiries into the actions of British soldiers and/or the British state in legacy enquiries in Northern Ireland (ii) the use of very substantial amounts of public money to fund lawyers to pursue such claims and/or investigations and/or enquiries; and (iii) the use of very substantial amounts of public money to fund police investigations into the actions of British soldiers and/or the British state, which would divert resources from other policing objectives.

[36] The application by the plaintiffs for an order delimiting the range of meanings of which the words are reasonably capable of bearing and to rule out meanings outside that range is confined to the defence of justification. It has no impact on this alternative defence of honest comment.

Discussion

[37] Amongst the principles to be applied is that the court should be cautious of an over-elaborate analysis of the material in issue and in the context of these articles should have regard to the impression the words made on a single reading. Words are not to be taken out of context but rather to be read as a part of the particular article as a whole and in the context of both article three and article one read together. The test at this stage is not what the words mean but rather whether the defamatory meanings are within the range of potential meanings. So the views that I express are not what I consider is the meaning of the individual articles or of articles three and one read together but rather whether the meanings pleaded by the plaintiffs fall outside the range of potential meanings. After recording the overall impression which the articles made on me I will then set out in summary form my reasons in no greater detail than is strictly necessary, see Neeson v Belfast Telegraph [1999] NIJB 200 and Charman v Orion Publishing Co. Ltd [2005] EWHC 2187.

[38] As a matter of impression I did not consider that the words in the first and second articles or in the third article as linked to the first article are capable of bearing the meaning set out in paragraph [28] (i) of this judgment that the plaintiffs or any of them supported republican terrorism. The words "Republican linked law firms" even added to by the context of the rest of the three articles, cannot mean that the members of the firm support republican terrorism.

[39] As a matter of impression and subject to identification I consider that the words in all three articles are capable of bearing the meaning set out in paragraph [28] (ii) of this judgment that:

> "The plaintiffs are engaged in a malicious campaign to target ex-British servicemen with unmeritorious allegations and litigation."

The words "a witch hunt" on their own could lead to that meaning and could also do so when read in the context of a bloody outrage, associated with a spurious claim, legal aid rip-off, tank chasing lawyers and greedy lawyers piling in.

[40] As Mr Simpson correctly conceded whether the meaning set out in paragraph [28] (iii) of this judgment "that this campaign has been mounted for the financial gain of the Plaintiffs" was within the permissible range depended on whether the meaning in (ii) was within that range. If the articles could mean that "the campaign" was a malicious campaign involving unmeritorious allegations and litigation then a financial motive for that malicious campaign was within the permissible range of meanings. I consider subject to identification that the meaning in (iii) as a matter of impression is within the permissible range and could also be within the permissible range in the context of references to tank chasing lawyers, legal aid rip-off and greedy lawyers piling in. I consider that the meaning alleged in (iii) is within the permissible range of meanings.

[41] In relation to the meaning set out in paragraph [28] (iv) of this judgment and as a matter of impression and subject to identification I consider that it is within the range of permissible meanings in all three articles that the plaintiffs were greedy that being particularly so in relation to the second article which has the heading "Greedy lawyers pile in."

[42] In relation to the meaning set out in paragraph [28] (vii) of this judgment that "the Plaintiffs have obtained and will seek to obtain legal aid inappropriately" Mr Simpson accepted that if within the permissible range of meanings was the meaning in (ii) that unmeritorious claims were being brought as part of a malicious campaign then necessarily within the permissible range of meanings would be a meaning that the plaintiffs have obtained and will seek to obtain legal aid inappropriately. I consider that this concession was correctly made. As a matter of impression in relation to all three articles and subject to identification I consider that the range of permissible meanings includes that the plaintiffs have obtained and will seek to obtain legal aid inappropriately.

[43] The initial pleaded meaning in paragraphs 9 and 12 of the defence repeats the words "witch hunt" without explaining the meaning of those words. The defendant's replies to Particulars states that those words mean "a concerted campaign discrediting British soldiers." As a matter of impression I did not consider that the words in the articles could mean that the campaign was fair. If the plaintiffs were merely helping their clients to exercise their legal rights bringing forward proper claims which had the effect of discrediting British soldiers then there could be no suggestion of a legal aid rip-off or a bloody outrage or association with a spurious claim or legal aid monies being trousered. As a matter of impression I consider that the defendant's meaning of the words witch hunt leaves out of account any element of maliciousness or unfairness in the pursuit of legal proceedings and also leaves out of account the lack of any sound basis for legal proceedings. I do not consider that the meaning put forward by the defendant falls within the permissible range of meanings.

Conclusion

[44] I consider that the meaning set out in this judgment at paragraph [18] (i) is not within the range of potential meanings. I allow the defendant's application in relation to that meaning striking it out.

[45] I consider that the meanings set out in this judgment at paragraph [18] (ii) – (iv) and (vii) inclusive are all within the range of potential meanings. I dismiss the defendant's application in relation to those meanings.

[46] I consider that the meaning set out in this judgment at paragraph [18] (v) is a rhetorical innuendo. An application has not been made to strike it out under Order 18, rule 19. It is within the range of potential meanings so I dismiss the defendant's application in relation to that meaning.

[47] I consider that the meanings set out in this judgment at paragraph [18] (vi) and (viii) are rhetorical innuendoes and with the consent of the plaintiffs I strike out those meanings.

[48] I consider that the meaning contained in paragraphs 9 and 12 of the defence is not within the range of potential meanings. I allow the plaintiff's application in relation to that meaning striking it out.

[49] I will hear counsel in relation to the costs of these applications.

First schedule
First article

BLOODY OUTRAGE Decision to investigate brave British troops over all killings in Northern Ireland's 30 years of The Troubles branded 'witch hunt'

Potentially more than 1,000 ex-servicemen, many now in their 60s or 70s, will be viewed as manslaughter or murder suspects in legal inquiry
ALL 302 killings by British troops during Northern Ireland's 30 years of The Troubles are being investigated afresh, The Sun can reveal.

Possibly more than 1,000 ex-servicemen, many now in their 60s or 70s, will be viewed as manslaughter or murder suspects in a legal inquiry costing taxpayers tens of millions of pounds.

The decision to investigate again all killings by British troops was branded a "witch hunt" last night.

It came just weeks after PM Theresa May finally acted to limit lawyer-driven claims on Iraq veterans.

And it contrasts starkly with the treatment of Northern Ireland terrorists and suspects.

Some were given pardons following the 1998 Good Friday peace deal, while others were handed "letters of comfort" by Tony Blair promising they would never be prosecuted.

Tory MP Johnny Mercer, a former Army officer who has battled against tank-chasing lawyers, said: "This is a brand new witch hunt, as well as total and complete betrayal by the Government of those who have done its bidding.

"If we could demonstrate in Government just some of the courage our Armed Forces have displayed over the years in Northern Ireland, the entire historical allegations money machine would end."

Ulster unionist MP Ian Paisley Jnr warned: "The dam is about to burst on our heroes."

The DUP MP for North Antrim dubbed the investigations "an abuse of individuals and their service on an industrial scale".

And he added: "It's a very bad day when soldiers are living in fear of the legal system while terrorists are sitting at home with their feet up.

"The Government must immediately stop the legal aid rip-off which fuels so much of this."

Information passed to The Sun reveals 238 "fatal incidents" are being re-investigated by the Police Service of Northern Ireland's newly created Legacy Investigations Branch.

They involve 302 deaths, most of them shootings. Many times several soldiers opened fire at once — meaning at least 500 ex-servicemen will be viewed as suspects, with the figure potentially spiraling into four figures.

Half of the 302 were IRA or loyalist terrorists, while the others were deemed tragic accidents such as civilians caught in crossfire.

Veterans in their 60s and 70s will be quizzed over incidents dating back as far as 1969. Some were previously cleared but will be investigated again.

The Sun has been told that senior Northern Ireland cops are also angry over the inquiry, expected to last years and cost tens of millions of pounds.

They fear dozens of officers will be taken away from crime fighting. One source said the force faces being "overwhelmed".

The Sun understands the huge investigation was quietly nodded through by the PSNI's chief constable under pressure from Sinn Fein politicians.

The decision followed a critical report by watchdog Her Majesty's Inspectorate of Constabulary.

In a judgment that startled police bosses, the HMIC tore up a 40-year-old ruling. As a result it said soldiers should have no additional protection from manslaughter or murder prosecutions just because they were on duty at the time.

On top of the criminal probes, The Sun can also reveal Republican-linked law firms have helped force the reopening of 31 inquests into 57 killings by Army personnel.

They include the Loughgall Ambush in 1987, where the SAS shot dead eight IRA men attacking an RUC station.

A spokesman for Northern Ireland Secretary James Brokenshire said: "Police investigations are always a matter for the PSNI, who act totally independently of Government."

But he added: "While this Government firmly believes in upholding the rule of law, we are concerned that investigations into Northern Ireland's past focus almost entirely on former police officers and soldiers.

"This is wrong, and does not reflect the fact that the overwhelming majority of those who served did so with great bravery and distinction."

EIGHTEEN British soldiers were killed by two IRA bombs in the Warrenpoint Massacre, the worst attack on our forces during the Troubles.

A huge explosive hidden in a lorry was detonated as an Army convoy drove past and a second blast was set off to cause more slaughter as units rushed to the scene in 1979.

Soldiers then returned fire on the terrorists and a civilian was later found dead.

The terrorists

THE deaths of convicted IRA terrorists and killers are believed to be among the hundreds set to be investigated.

SAS heroes and British soldiers were behind the deaths of some of the IRA's most feared members at the height of the Troubles. They include the following men:

PATRICK Kelly, 39, was a commander of the Provisional IRA East Tyrone Brigade.

He led two attacks on RUC bases, including when two officers were killed in 1985.

He was among eight socalled "Loughgall Martyrs" killed by the SAS in May 1987.

JIM Lynagh's fearsome reputation earned him the nickname "The Executioner".

He was suspected, but never convicted, of assassinating Ulster Unionist Party speaker Sir Norman Stronge in 1981.

He was also killed in the Loughgall Ambush in 1987.

DESSIE Grew had served four jail terms for republican activities when he was killed by the SAS in 1990.

He was also wanted for murdering an RAF corporal and her baby.

SEAMUS McElwaine was an IRA commander aged 19.

He was convicted of one murder and linked to ten more. He escaped prison in 1983 but was killed by the SAS three years later.

PETER Cleary is said to have masterminded the 1976 Kingsmill Massacre.

He was arrested later for another killing but was shot dead as he tried to grab an SAS soldier's rifle.

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OUR LIONS, THE RICH AND THE WAR PROBE **Northern Irish law firms who scored £12m in legal aid will make millions more in 'witch hunt' probe into killings by Brit troops during The Troubles**

Around 1,000 ex-servicemen, many in their 60s and 70s, will be viewed as manslaughter or murder suspects

A HANDFUL of law firms are set to make millions in a "witch-hunt" probe into killings by British troops in Northern Ireland.

They include Belfast-based Madden & Finucane and KRW Law solicitors — the two largest recipients of legal aid in Northern Ireland, trousering £12million between them in three years.

The firms have represented many families of IRA men and civilians killed during the Troubles.

KRW Law has already represented around 200 families while Madden & Finucane worked for most of the families in the Bloody Sunday probe.

A third firm, O Muiragh Solicitors, has issued legal proceedings against the British government and MoD.

It is headed by Padraig O Muiragh, reported to be the son of Sean "Spike" Murray. His father is believed to have been a member of the IRA Northern Command.

The Sun revealed this week that Northern Ireland cops are probing afresh all 302 killings by British troops over 30 years.

Around 1,000 ex-servicemen, many in their 60s and 70s, will be viewed as manslaughter or murder suspects in a multi million-pound trawl.

However, 1,441 British military personnel also died — 722 of them in paramilitary attacks.

The probe by the Police Service of Northern Ireland has been slammed.

Nigel Kelsall, of UK Veterans One Voice, said: "I'm aware of people being hounded terribly.

"We know families want to bring civil action against the MoD and individual soldiers. The impact on soldiers and their families is horrendous.

"Just going out on patrol they were putting their lives on the line, and now they are in their 60s and 70s.

"Our Government should stand up for these guys. The soldiers were doing their job."

Thousands of unsolved deaths were first investigated by a police legacy unit in 2004.

One Northern Ireland veteran said: "Some people have realised they can get lots of compensation. We just hope it will not end up like the IHAT situation in Iraq.

"People arrested during the Troubles can claim compensation and make allegations they were mishandled. It's all coming down the pipeline. It's never going to go away.

"Anybody can try to make a spurious claim and get legal aid. We are the easy targets."

KRW Law, run by Kevin Winters, has boasted of working on legacy cases involving "at least 200 deaths".

His firm of 44 solicitors has raked in £7.3million in legal aid in three years.

The firm's lawyer Darragh Mackin is part of the legal team at the Supreme Court trying to stop Brexit.

He is representing Fergal McFerran, one of six people behind the Stop Article 50 legal bid.

Winters, 52, was a consultant on BBC drama The Fall, set in Belfast.

Madden & Finucane, which represented the majority of the Bloody Sunday families, pocketed £5.2million in legal aid in three years.

The firm was founded in 1979 by Peter Madden and Pat Finucane and represented IRA hunger striker Bobby Sands. Three of Finucane's brothers were members of the IRA and he was shot dead in 1989.

David Cameron apologised in 2012 after a probe revealed collusion with the British state led to his death.

Madden & Finucane and O Muirigh Solicitors did not respond to requests for a comment. A spokesman for KRW Law said: "We are outraged at your approach. Our lawyers will be contacting you tomorrow."

Legal aid received: £5.2m in 3yrs

Clients: Hunger striker Bobby Sands and majority of Bloody Sunday families
Number of solicitors: 11
Founded by: Peter Madden and Pat Finucane
Madden family home: £2m gated mansion in South Belfast
Response to Sun queries: No response

Legal aid received: £7.3m in 3yrs

Clients: 200 families
Number of solicitors: 44
Run by: Kevin Winters
Winters family home: £1.1m five-bedroom home in South Belfast
Response to Sun queries: "We are outraged at your approach. Our lawyers will contact you tomorrow."

Solicitors' IRA clients

BELFAST-based solicitors are representing the families of a number of IRA members killed or jailed during the Troubles. Here we profile some of the cases the firms have taken on.

JIM LYNAGH, nicknamed The Executioner, was one of eight Provisional IRA gunmen shot dead in an SAS ambush at Loughgall police station in 1987.
KRW Law defended Continuity IRA gunmen BRENDAN MCCONVILLE and JOHN WOOTTON in a murder trial. They were convicted in 2012 of shooting dead PSNI officer Stephen Carroll in 2009.
IRA Maze jail leader PADRAIC WILSON was represented by Madden & Finucane in 2015. KRW is representing the widow of IRA killer SEAMUS DILLON, shot dead in 1997.
MADDEN & Finucane backs a probe into the deaths of DESSIE GREW and MARTIN MCCAUGHEY, shot by the SAS as they left an arms cache wearing balaclavas and carrying AK-47s in 1990.

IVOR BELL is being defended by KRW in his trial for the murder of Jean McConville. KRW has represented MARIAN PRICE MCGLINCHEY, behind the 1973 Old Bailey bomb.