

IN THE UNDERCOVER POLICING INQUIRY

IN THE MATTER OF AN APPLICATION FOR A RESTRICTION ORDER

BY:

- (1) 'Lisa' (AKJ)
- (2) 'Rosa' (DIL)
- (3) 'Alison' (RAB)
- (4) 'Ruth' (TEB)
- (5) 'Naomi' (SUR)
- (6) 'Andrea'
- (7) 'Monica'

Core Participants

STATEMENT OF HARRIET WISTRICH:

EXHIBIT HW1

1. Statement of Harriet Wistrich in support of the application on behalf of AKJ, KAW, and SUR in the proposed claim to be granted anonymity under CPR 39.2 in the High Court.
2. Statement of Harriet Wistrich in support of the application on behalf of DIL, TEB, RAB, HES and BEH in the proposed claim to be granted anonymity under CPR 39.2 in the High Court.
3. Sealed Anonymity Order on behalf of AKJ, KAW, and SUR (20 October 2011).
4. Sealed Anonymity Order on behalf of DIL, TEB, RAB, HES and BEH (18 July 2012).

IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
BETWEEN:

(1) "AKJ" (2) "KAW" and
(3) "SUR"

Claimants

-V-

(1) THE COMMISSIONER OF POLICE FOR THE METROPOLIS
AND
(2) THE ASSOCIATION OF CHIEF POLICE OFFICERS

Defendants

STATEMENT OF HARRIET WISTRICH

Name: Harriet Wistrich
Address: Birnberg Peirce & Partners
14 Inverness Street
London NW1 7HJ
Age: Over 21

1. I am a solicitor employed by Birnberg Peirce and Partners and make this statement in support of my application on behalf of the three Claimants in the proposed claim to be granted anonymity under the Provisions of CPR 39.2 (4), in advance of issuing the Claim Form.
2. The Claim Form sets out the brief details of this claim which are that the three claimants were political activists involved in the environmental movement who all had sexual relationships with a man they believed was a fellow activist by the name of Mark Stone, but has since been exposed as an undercover police officer by the name of Mark Kennedy. The case has attracted very widespread media coverage and I attach to this Statement marked **Exhibit "HW1"** copies of a number of press articles concerning the activities of Mark Kennedy, the most recent of which appeared in the Guardian Newspaper a few days ago and indeed there he is mentioned in a

front page news item today. The press interest is ongoing and is likely to continue for some time.

3. At the time of the first wave of publicity in January 2011, the First Claimant had to go into hiding for several weeks because members of the press were attempting to find her to get her comments in relation to the story. A Mail on Sunday article referred to her in a subheading, "Unmasked as spy by beautiful Welsh redhead girlfriend"
4. Attached to this Statement marked **Exhibit "HW2"** is an interim psychological report prepared on the First Claimant by Dr. Georgina Smith, a clinical psychologist, which sets out in detail the impact on her of the media coverage at the time and her ongoing fears about continued coverage. Indeed, the First Claimant has suffered psychiatric injury as a consequence of both the discovery of Mr Kennedy's deceit combined with the fact that this is being played out in a very public domain. Dr. Smith considers that she would suffer further injury if she was exposed in public in relation to Mark Kennedy's activities and that if she were not to be granted anonymity, despite the psychological benefits that this claim could bring to her, she would consider pulling out.
5. The Second Claimant has only very recently instructed us and it has not been possible to obtain in advance of this application medical evidence about the impact of her experience and the media exposure, but she has described to us feelings of great anguish since this came to light. The Third Claimant has also only recently instructed us, she has been attending counselling sessions with Mo Cahill, an accredited counsellor with the British Association of Counselling and Psychotherapy, to deal with the consequences of discovering that Mark Kennedy was an undercover police officer. (A letter confirming this can be supplied but it was not possible to obtain in advance of this application). I consider it is possible that both the Second and Third Claimant would also be at risk of suffering psychological harm if they were

exposed as the sexual partners of Mark Kennedy as a consequence of not being granted anonymity

6. All Three Claimants have been subjected to a grave invasion of their privacy by the police and although none of them know the extent to which the intimate details of their relationships were reported back to special branch, they feel violated as a consequence of the feeling that they were used by the police in order to gain entry and credibility within the political movements that Mark Kennedy was infiltrating. The damage caused by this invasion of their privacy is the subject matter of this claim. If their names and details were exposed to the public, this would compound the suffering they have already been subjected to.
7. Although all three women consented to a sexual relationship, none of them consented to a relationship with a police officer who was spying on them and, in those circumstances, their consent may have been vitiated to the extent that it could be said they have been a victim of a sexual offence. Section 1 of Sexual Offences (Amendment Act 1992) provides that

“Where an allegation has been made that an offence to which this Act applies has been committed against a person, neither the name nor address, and no still or moving picture, of that person shall during that person’s lifetime—

- (a) be published in England and Wales in a written publication available to the public; or
- (b) be included in a relevant programme for reception in England and Wales,

if it is likely to lead members of the public to identify that person as the person against whom the offence is alleged to have been committed.”

8. In all the circumstances, I would therefore respectfully request that as this is a case which is very likely to attract publicity, the three Claimants be granted anonymity for the purpose of these proceedings pursuant to CPR39.2(4) and that the First Claimant be entitled to use the initials “AKJ”, the Second Claimant to use the initials “KAW”, the Third Claimant to use the initials

"SUR" and that the address of their solicitor (my firm) is used on the face of the Claim Form.

9. This application is made in light of the fact that: (i) the claimants' privacy has already been severely compromised; (ii) that they are likely to suffer anxiety at the least and potentially more substantial psychological consequences if they were exposed; (iii) that their claims involve potential sexual offences and they would be entitled to anonymity under the provisions of the Sexual Offences Amendment Act 1992 and (iv) given the public interest in this story, they are at serious risk of being exposed and in all the circumstances, they should be entitled to anonymity to enable them to bring these important proceedings.

I believe the facts stated in this Witness Statement are true.

Signed:

Dated:

**IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
BETWEEN:**

(4) DIL (5) TEB (6) RAB (7) HES (8) BEH

Claimants

-V-

THE COMMISSIONER OF POLICE FOR THE METROPOLIS

Defendants

STATEMENT OF HARRIET WISTRICH

Name: Harriet Wistrich

Address: Birnberg Peirce & Partners
14 Inverness Street
London NW1 7HJ

Age: Over 21

1. I am a solicitor employed by Birnberg Peirce and Partners and make this statement in support of my application on behalf of the five Claimants in the proposed claim to be granted anonymity under the Provisions of CPR 39.2 (4), in advance of issuing the Claim Form.

2. The Claim Form sets out the brief details of this claim which are that all five Claimants had long term intimate and sexual relationships with men they believed to be political activists involved in movements that they were connected to. Each subsequently discovered their partners had been undercover police officers working under the direction and/or control of the Defendant.
3. It is intended, in due course, that this claim will be joined to be heard together with Claim No HQ11X03952 (attached to this statement marked exhibit HW1) which raises very similar issues, although additionally includes claims under the Human Rights Act, not available to these Claimants due to the dates of the relationships. The first claim was issued earlier because of limitation deadlines under the HRA. I have therefore numbered the Claimants on this claim from 4 to 8, so that the numbering is consistent with the pre-action correspondence with the Defendant. The Court will note that the Defendants were granted anonymity in that Claim by Master Eastman.
4. The issue of undercover police officers having sexual relationships with activists has attracted very widespread media coverage in the last eighteen months, after another undercover officer, Mark Kennedy, was exposed. (This was the officer involved in the relationships with Claimants 1 to 3 in the first Claim already issued referred to above). I attach to this statement marked **Exhibit "HW2"** copies of a number of press articles concerning the activities of undercover officers including two of those named in this claim. The press interest is ongoing and is likely to continue for some time.
5. Although all five women consented to a sexual relationship, none of them consented to a relationship with a police officer who was spying on them and, in those circumstances, their consent may have been vitiated to the extent that it could be said they have been a victim of a sexual offence. Section 1 of Sexual Offences (Amendment Act 1992) provides that

"Where an allegation has been made that an offence to which this Act applies has been committed against a person, neither the name nor address, and no still or moving picture, of that person shall during that person's lifetime—

- (a) be published in England and Wales in a written publication available to the public; or
- (b) be included in a relevant programme for reception in England and Wales,

if it is likely to lead members of the public to identify that person as the person against whom the offence is alleged to have been committed."

6. All five Claimants have been subjected to a grave invasion of their privacy by the police and although none of them know the extent to which the intimate details of their relationships were reported back to special branch, they feel violated as a consequence of the feeling that they were used by the police in order to gain entry and credibility within the political movements that these officers were infiltrating. The damage caused by this invasion of their privacy is the subject matter of this claim. If their names and details were exposed to the public, this would compound the suffering they have already been subjected to.
7. All of the Claimants have been assessed by psychologists to determine damage suffered as a consequence of their experiences at the hand of the Defendant and all bar one have been assessed to have sustained serious psychological damage as a direct consequence. (The psychological reports are currently in draft form and therefore not exhibited to this statement but further details can be provided if it would assist.)
8. Claimants 4 and 6 have young children who could also be affected if their mothers' past history and identity were exposed publicly. Two children of Claimant 4 were born of the deceitful relationship and may face further stigmatisation as a result.

9. In all the circumstances, I would therefore respectfully request that as this is a case which is very likely to attract publicity, the five Claimants be granted anonymity for the purpose of these proceedings pursuant to CPR39.2(4) and that the Claimant be entitled to use their initials and that the address of their solicitor (my firm) is used on the face of the Claim Form.
10. This application is made in light of the fact that: (i) the claimants' privacy has already been severely compromised; (ii) that they are likely to suffer anxiety at the least and potentially more substantial psychological consequences if they were exposed; (iii) that their claims involve potential sexual offences and they would be entitled to anonymity under the provisions of the Sexual Offences Amendment Act 1992; that two of the Claimants have children who could suffer harm if their mothers' identity was exposed and (iv) given the public interest in this story, they are at serious risk of being exposed and in all the circumstances, they should be entitled to anonymity to enable them to bring these important proceedings.

I believe the facts stated in this Witness Statement are true.

Signed:

Dated:

IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
BETWEEN:

(1) "AKJ" (2) "KAW" and
(3) "SUR"

Claimants

and

(1) COMMISSIONER OF POLICE FOR THE METROPOLIS

and

(2) THE ASSOCIATION OF CHIEF POLICE OFFICERS



~~Draft~~

ORDER

UPON reading the Application Notice dated 20 October 2011 and upon hearing the application on a "without notice" basis in Practice

 **AND IT APPEARING** to the Court:

action

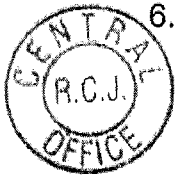
- 1 That the ~~claim~~ is one likely to attract publicity.
- 2 That publicity revealing the identity of the Claimants is likely unfairly to damage the interests of the Claimants.
- 3 That accordingly publication of details revealing the Claimants' identity ought to be prohibited.

AND pursuant to the Civil Procedure Rules 1998, Rules 5.4 and 39.2, and the inherent jurisdiction of the Court

IT IS ORDERED

1. That there be substituted for all purposes in this action in place of references to the Claimants by name, and whether orally or in writing, references to the sequence of characters (1) "AKJ" (2) "KAW" and (3) "SUR".

2. That, to the extent necessary to protect the Claimants' identity, any other references, whether to persons or to places or otherwise, be adjusted appropriately, with leave to the parties to apply in default of agreement as to the manner of such adjustment.
3. That the address of the Claimants' solicitor be used in place of the Claimants' addresses.
4. That so far as the Claim Form, or any Judgment, Order or other document to which anyone might have access pursuant to Rule 5.4 does not comply with '1' and '2' above, the Claimants' solicitor has leave to file with the Court copies of such document adjusted to comply therewith. Such copies are to be treated for all purposes as being in substitution for the relevant originals and the originals are then to be retained by the Court in a sealed envelope, marked 'Not to be opened without the leave of a Master'.
5. That any person not a party to the action seeking a copy of any document pursuant to Part 5.4 of the Civil Procedure Rules apply for leave to do so on notice to all parties.
6. Any person affected by this Order may apply *without restriction of time* for it to be varied or set aside upon notice to the Claimant and, if such person is not the Defendant, upon notice also to the Defendant.



Dated 20 October 2011

IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
BETWEEN:

DEPUTY MASTER EYRE

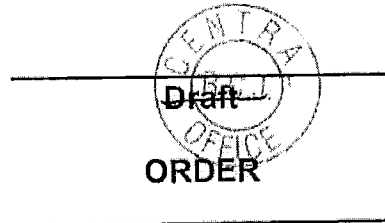
(4) "DIL" (5) "TEB"
(6) "RAB" (7) "HES" and (8) "BEH"

Claimants

and

(1) COMMISSIONER OF POLICE FOR THE METROPOLIS

Defendant



UPON reading the Application Notice dated 18th July 2012 and upon hearing the application on a "without notice" basis in Practice

AND IT APPEARING to the Court:

- 1 That the claim is one likely to attract publicity.
- 2 That publicity revealing the identity of the Claimants is likely unfairly to damage the interests of the Claimants.
- 3 That accordingly publication of details revealing the Claimants' identity ought to be prohibited.

AND pursuant to the Civil Procedure Rules 1998, Rules 5.4 and 39.2, and the inherent jurisdiction of the Court

IT IS ORDERED

1. That there be substituted for all purposes in this action in place of references to the Claimants by name, and whether orally or in writing, references to the sequence of characters (4) "DIL" (5) "TEB" (6) "RAB" (7) "HES" and (8) "BEH"
2. That, to the extent necessary to protect the Claimants' identity, any

other references, whether to persons or to places or otherwise, be adjusted appropriately, with leave to the parties to apply in default of agreement as to the manner of such adjustment.

3. That the address of the Claimants' solicitor be used in place of the Claimants' addresses.
4. That so far as the Claim Form, or any Judgment, Order or other document to which anyone might have access pursuant to Rule 5.4 does not comply with '1' and '2' above, the Claimants' solicitor ~~has~~ ^{WCVB} leave to file with the Court copies of such document adjusted to comply therewith. Such copies are to be treated for all purposes as being in substitution for the relevant originals and the originals are then to be retained by the Court in a sealed envelope, marked 'Not to be opened without the leave of a Master'.
5. That any person not a party to the action seeking a copy of any document pursuant to Part 5.4 of the Civil Procedure Rules apply for leave to do so on notice to all parties. ^{without limit of time}
6. Any person affected by this Order may apply ^{for} it to be varied or set aside upon notice to the Claimant and, if such person is not the Defendant, upon notice also to the Defendant.

Dated 18th July 2012