

IN THE COURT OF APPEAL (CIVIL DIVISION)  
ON APPEAL FROM  
THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
BETWEEN:

Appeal Court Ref: A2/2016/1266

Claim No: HQ13D06031

RONALD TERANCE STOCKER

Claimant/Respondent

- and-

NICOLA STOCKER

Defendant/Appellant

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APPELLANT'S STATEMENT PURSUANT TO PD52C 16(1)

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*References to documents are by tab/page(s) in the bundle*

*The points which are to be raised at the hearing*

1. The Appellant ("D") intends to amplify on the two Grounds of Appeal<sup>1</sup> ("Truth" and "Publication") in any manner which will be of assistance to the Court. Insofar as is necessary, D will emphasise that both grounds raise issues of law and are based on the primary facts found by the Judge. The Publication ground is a pure question of law in the context of the relatively new legal environment of social media publications. On the basis of the authorities cited in [48] – [60] of the skeleton argument<sup>2</sup> D must, at the very least, have a real prospect of success of persuading the Court to uphold a knowledge-based test for the imposition of responsibility for publication. Alternatively, a negligence-based test with the burden of proof on the claimant.

*The reasons why permission should be granted notwithstanding the reasons given for the refusal of permission*

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<sup>1</sup> 2/9-10

<sup>2</sup> 3/25-28

2. With great respect to Hallett LJ, the reasons for refusing permission (“the Reasons”)<sup>3</sup> do not directly address the points raised in [1.1] to [1.4] and [2.1] and [2.2] of the Grounds of Appeal. As to what is stated in the Reasons:
3. In relation to Truth, the Reasons appear to accept that a free-standing imputation of being a “dangerous man” is a comment. A defendant does not have to prove that a comment is true; the corollary of which is that its falsity in the opinion of the tribunal of fact does not render the imputation to be libellous. A comment simply requires some factual basis to support it. The Reasons do not address the detachment of the “dangerous” imputation from the imputation of “arrested on countless occasions” as pleaded in APOC[6(3)]<sup>4</sup>. The consequence is to turn it into a free-standing allegation in relation to which a defence of honest comment would ordinarily be available and/or a wider range of factual material admissible to support it.
4. In relation to Publication, the Reasons simply state that the Judge was entitled to find that the defendant published the comments. They do not address the case in paragraph 2 of the grounds of appeal as expanded in the skeleton argument as to why the Judge was not so entitled.
5. The Reasons observe in parentheses that the debate on “re-publication” may be interesting. For the avoidance of doubt, the proposed appeal does not turn simply on whether the publication to the Friends is to be categorised as a direct publication by D or a republication by Ms Bligh.<sup>5</sup> Further, while interesting is not to be equated with meritorious, it is difficult to see how a debate could be interesting if the correct answer is so obvious. An interesting debate on one ground of appeal may, in practice, make no difference to its overall outcome. In the present case, if D succeeds on either sub-paragraph of the Publication ground the appeal must succeed. There is also a general interest in the law in this area being clarified by the Court of Appeal.

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<sup>3</sup> 6A/60A

<sup>4</sup> 11/88

<sup>5</sup> See [2.1] of the Grounds of Appeal and [47] of the skeleton argument

**David Price QC**  
For the Defendant / Appellant  
30 January 2017