

JERSEY / JUDGMENT

# Pitman -v- Jersey Evening Post

## [2013] JRC 213A (04 November 2013)

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### judgment

the commissioner: 1. On 30th October on the application of Mr and Mrs Pitman I granted an interim injunction until 4 o'clock this afternoon restraining the Jersey Evening Post from publishing an article about a letter or letters that they had come to know of, making threats to individuals should the appeal that they are to mount in about 2 weeks' time be unsuccessful. At the time the Pitmans did not know who the individuals were. 2. The Pitmans were concerned that those letters and the article about them might adversely influence the Court of Appeal. I have to say that then and indeed today, I was not particularly concerned about that. What I was concerned about was the possibility that the article might be defamatory in the sense that it might link the Pitmans to the writing and sending of the letter, either directly or indirectly. Even more important, this was not simply an article to be written by any newspaper, it was an article to be written by a newspaper which was the other party to the proceedings. It is obviously important that the Court retains oversight of the conduct of litigation that is on-going. For those reasons I granted an interim injunction and this is the return date of that. 3. Since then the Jersey Evening Post has brought to Court, and we have seen a copy of, one of the letters written to the advocate for the Jersey Evening Post, reading as follows:- "If they lose their home there will be a bonfire in your ...bullies days are over". It is ungrammatical but the meaning is pretty clear. It needs to be stressed very strongly there is absolutely no evidence whatsoever linking the Pitmans, directly or indirectly, in any way with the writing of that letter. Similarly there is no evidence whatsoever linking the Jersey Evening Post with the writing of the letter. Leaving aside any criminal behaviour that that might amount to, it would be strange tactics by either of the parties to get involved in that sort of correspondence. 4. We now have further information, as I say, in the form of the letter itself and also the Jersey Evening Post draft article, which we have now all seen. It is entirely factual. It is not for me to read the copy for libel, but there is no suggestion in it, nor should there be, that Mr and Mrs Pitman are in way connected to or involved in the sending of this, or indeed the other letters. The article also names the other recipients of the letters who, in indirect ways, have some connection with the litigation. 5. There are two ways in which this injunction might be continued. The first would be if the article appeared to be clearly defamatory of the Pitmans. Although normally a newspaper can be left to take its chances in relation to writing an article that may be defamatory, this would be different because this, if it

were defamatory, would be an article written by one party to litigation against the other party to the litigation, and that would bring a new element to it. There is no question of that applying here. This is a factual article setting out perfectly properly Mr Pitman's comments about the letters. He is completely repudiating them and clearly saying that they are nothing to do with him or indeed, his wife. 6. The other aspect was the question of any effect upon the court proceedings. The three Court of Appeal Judges, who will sit alone without jurors or anybody else, are distinguished lawyers from England and Scotland, having no connection whatsoever with the Pitmans, the Jersey Evening Post or anything of that sort. The idea that they would be influenced in any way against the Pitmans when deciding what is basically a procedural appeal, namely should they have leave to appeal out of time in respect of the initial proceedings, is far-fetched indeed. In our judgment there is no question of this having an adverse impact on the proceedings. Thereafter the timing of publication becomes a matter for the Jersey Evening Post. It is a legitimate news story. When they publish it is, it seems to us, a matter for them. 7. So for that reason the injunction will not be continued. It has now lapsed, it being past 4 o'clock on the 4th of November, and will not be renewed. 8. There will be an order for costs against the plaintiffs. No Authorities Page Last Updated: 17 Aug 2015 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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