

High Court grants interim injunction from harassment to two residents of USA.

The claimants, Dr and Mrs Weiss, were Americans living in Colorado. They ran a travel agency called Power Places Tours Inc, which specialised in tours to sacred places. The defendant, whose name was Mr Free Spirit, booked a holiday with Power Places Tours, which he subsequently had to cancel, but too late to obtain a refund.

Being in dispute with Power Places Tours over the issue of a refund, Free Spirit then proceeded to post a series of lengthy and critical attacks on the Weisses and people associated with them in the business on various consumer review websites. The postings were put up from various places, probably in the UK and the European Union. He also made frequent, unwelcome direct contacts with the Weisses by means of emails to their personal address making various threats and demands.

The Weisses issued proceedings against Free Spirit for harassment under the Protection from Harassment Act 1997 and sought interim injunctive relief.

His Honour Judge Moloney QC found that if the Weisses had been English residents the elements of harassment under the 1997 Act would be made out, since the emails showed that there had been conduct of a protracted nature on many separate occasions such that the statutory requirement of a "*course of conduct*" had been clearly made out. Further, the emails were calculated to cause alarm and distress and the conduct did not appear to be reasonable or justifiable or done for one of the protected purposes referred to in the 1997 Act. The basic elements of a good, strong harassment claim were therefore present.

Given, however, that the Weisses were American residents with no special connection to the UK, there was a potential issue as to whether English law was applicable, HHJ Moloney QC said. The USA was the place where the harm had been suffered, meaning that the court might be persuaded to apply the law of Colorado. Alternatively, the question might be whether the choice of law should be based on the jurisdiction from which Free Spirit had committed the alleged tort by sending his email messages. On the facts, it was not yet clear whether that was the UK or somewhere within the EU. Therefore, HHJ Moloney QC said, if the matter were to go to trial, it might be that English law would not be held to be applicable meaning that the relief sought might be refused. Subject only to that reservation, however, HHJ Moloney QC considered it likely that, notwithstanding his Article 10 rights, Free Spirit would be restrained on harassment grounds from making direct communication with the Weisses.

HHJ Moloney QC concluded that, given that Free Spirit appeared to be a UK citizen and had submitted to UK jurisdiction in a previous action with the Weisses, it was more likely than not that the applicable law would be found to be UK law and that it was likely that Free Spirit would be restrained under the 1997 Act. The order sought by the Weisses was plainly justified on the basis of the balance of convenience and justice, HHJ Moloney QC said, and appeared to satisfy the requirements of s 12 of the Human Rights Act 1998. He therefore granted the interim injunctive relief requested.



News Media Association seeks protection for journalistic material in miscarriage of justice investigations.

The News Media Association says that a Bill to give the Criminal Cases Review Commission (CCRC) new powers to order the disclosure of information from journalists, media organisations and their lawyers when investigating miscarriage of justice “*must contain better journalistic safeguards*”.

The NMA explains that the CCRC, which investigates potential miscarriages of justice on behalf of defendants, currently has the power to apply to the Crown Court for an order that requires a public body to disclose information that will help the CCRC with an investigation.

A private members Bill, The Criminal Cases Review Commission (Information) Bill, seeks to extend this power to all private bodies and organisations, and during the third reading of the Bill in the House of Commons, news agencies and their legal departments were specifically identified as falling within the remit of the power, the NMA says.

According to the NMA, William Wragg MP, who introduced the Bill, specifically said that it was intended to bring “news agencies” within the scope of the CCRC, and Christina Rees MP emphasised this point by saying that the Bill would cover “*journalists and legal departments of newspapers*”.

In giving the Government’s support of the Bill, the Parliamentary Under-Secretary for Justice, Dominic Raab did acknowledge the importance of journalists’ sources, the NMA says, though he did not say what formal protection they would receive.

Mr Raab said: “*The involvement of the court is an important safeguard in the process. The individual or the company from which any material is requested will be able to put their case to the court if they think that the information either needs to be maintained for confidentiality or should not be disclosed.*”

“*There are safeguards for documents that are, for example, commercially sensitive or subject to legal privilege. Clinics may want to safeguard personal medical records whose disclosure could be detrimental to the patient or patients concerned, and journalists want to protect their sources. All such things can be catered for in the process*”.

The NMA has written to the Minister that introduced the Bill highlighting the need for formal protections for journalistic material that are at least as strong as the provisions in PACE regarding journalistic material.

The Bill is currently making its way through the Lords, and will have its second reading on 26 February. To read the NMA’s press release in full, click [here](#).

