Claim Number: QB-2020-000201

IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

BETWEEN:

NINA BURLEIGH

Claimant

-v-

TELEGRAPH MEDIA GROUP LIMITED

Defendant

CLAIMANT'S SUBMISSIONS:
MEANING DETERMINATION

INTRODUCTION

1. These are the Claimant's submissions in relation to the trial of preliminary issues, pursuant to CPR 53B paragraph 6.1, by order of Master Davison dated 29 April 2020 [**5/38**] ("the April Order"). By paragraph 2 of that Order, the trial is being determined by a Judge on the papers and without the need for an oral hearing. These submissions are filed in accordance with paragraph 3(c) of the subsequent Order of Master Davison dated 25 June 2020 [**6/41**] ("the June Order"), as varied by consent.

2. The Preliminary Issues are identified and defined in paragraph 1 of the April Order:

(a) On the assumption that there were readers of the [words complained of[1]] who upon reading the [words complained of] knew or recalled the identity of the Claimant as the author of the original article, what natural and ordinary meaning, if any, the [words complained of] bears in respect of the Claimant ("the First Issue"); and

(b) Whether that meaning is defamatory of the Claimant at common law ("the Second Issue").

3. In summary, the Claimant's case in relation to the First Issue is that the words complained of bear the meaning pleaded by the Claimant in her Particulars of Claim ("POC"), or something very close to it. In relation to the Second Issue, her case is that whatever specific meaning is identified by the Court, the words complained of are *obviously* defamatory of her at common law. A finding to the contrary would, it is submitted, be straightforwardly wrong.

FACTUAL SUMMARY

4. The Claimant is an award-winning journalist and author, who has published a number of books and has a substantial professional reputation within both England and Wales and the United States: Particulars of Claim, paragraph 1 at [**2/3**][2]. She has been an Adjunct Professor of Journalism at Columbia University among a number of other positions, and has contributed to a very wide range of high-quality publications and broadcasters around the world. Until the events that led to this action, she was National Politics Correspondent for *Newsweek* magazine.

5. In October 2018 the Claimant's book "*Golden Handcuffs: The Secret History of Trump's Women*" was published by Gallery Books, an imprint of Simon & Schuster publishers ("Golden Handcuffs"). It received widespread acclaim: POC para. 12 [**2/6**].

6. The Defendant is the publisher of the *Daily Telegraph* newspaper and website.

[1] The description in the Order is "the Article"; although elsewhere in the proceedings it has been described as "the Apology", which is used in these written submissions.

[2] Further details are contained in paragraphs 4 to 13: [**2/4-6**].

7. After the publication of *Golden Handcuffs*, the Defendant's Features Editor Laura Powell and Head of Magazine Sasha Slater commissioned the Claimant to write a feature article heavily based on the book to be published in the magazine of the *Daily Telegraph*: POC at paras.14-20 [**2/6-7**]. On 19 January 2019, the Defendant therefore published the article entitled "*The Mystery of Melania*" ("the Melania Article") as the cover story in the *Telegraph Magazine,* in hard copy and online: [**7/45-49**][3].

8. The *Melania Article* expressly identifies the Claimant as the author on its first page and at the conclusion, which states: "*Golden Handcuffs: The Secret History of Trump's Women, by Nina Burleigh (Gallery Books, £18.99). To order a copy for £15.99, call 0844-871 1514 or visit books.telegraph.co.uk*". It is the Claimant's case that, given her renown and these identifiers, it was a matter of very wide knowledge that she was the author of the *Melania Article*.

9. On 26 January 2019, without warning to the Claimant, the Defendant published online and in hard copy in the *Daily Telegraph* the following 'article' entitled "*Melania Trump: An apology*" ("the Apology") [**9/59**][4]:

> "Following last Saturday's (Jan 19) Telegraph magazine cover story "*The mystery of Melania*", we have been asked to make clear that the article contained a number of false statements which we accept should not have been published. Mrs Trump's father was not a fearsome presence and did not control the family. Mrs Trump did not leave her Design and Architecture course at University relating to the completion of an exam, as alleged in the article, but rather because she wanted to pursue a successful career as a professional model. Mrs Trump was not struggling in her modelling career before she met Mr Trump, and she did not advance in her career due to the assistance of Mr Trump.
>
> We accept that Mrs Trump was a successful professional model in her own right before she met her husband and obtained her own modelling work without his assistance. Mrs Trump met Mr Trump in 1998, not in 1996 as stated in the article. The article also wrongly claimed that Mrs Trump's mother, father and sister relocated to New York in 2005 to live in buildings owned by Mr Trump. They did not. The claim that Mrs Trump cried on election night is also false.
>
> We apologise unreservedly to The First Lady and her family for any embarrassment caused by our publication of these allegations. As a mark of our regret we have agreed to pay Mrs Trump substantial damages as well as her legal costs."

[3] And online version at [**8/50-7**]
[4] And online version at [**10/59-60**]

10. The Apology was published widely and (unsurprisingly, given the subject matter) also republished very widely. The Claimant was named as the author of the *Melania Article* in a number of third-party publications, including the *Guardian*, *Washington Post, Buzzfeed* and the *Daily Beast*. It is the Claimant's case that as a result of the publication of the Apology in the US and the UK she has suffered considerable financial loss, in addition to reputational harm: POC paras.43 and 44 [**2/12-14**]; and RFI paras.5-14 [**4/27-32**].

PROCEDURAL SUMMARY

11. A letter before action was sent on 30 January 2019 [**11/61**], seeking a retraction, apology, undertaking and compensation. The Defendants responded on 5 February 2019 [**12/66**] rejecting the Claimant's request. It included the following:

> "If your client were to seek to pursue a complaint for defamation, it would be defended on the basis that the Apology was true (the Article contained statements that were false and which were required to be corrected publicly in the Apology) and, as may be advised, on the basis that its publication was privileged and/or that its publication was, and was reasonably believed to be, in the public interest."

It was not alleged that the Apology was not defamatory of the Claimant.

12. On 20 January 2020 the Claimants issued a Claim Form [**1**] and filed and served Particulars of Claim ("POC") [**2**]. The Claimant pleads a reference innuendo as she is not named in the words complained of: paras.28-9 [**2/9-10**].

13. The meaning that the Claimant attributes to the words complained of is identified in paragraph 27 of the POC [**2/9**]:

> "In their natural and ordinary meaning and in context, the words complained of in the Apology meant and were understood to mean that the Claimant negligently or maliciously wrote a piece so littered with serious and defamatory falsehoods about Mrs Trump that it should not have been published and justified the payment of substantial damages to her, as well as a full and prompt retraction and apology."
>
> ("**the Claimant's Meaning**")

14. On 6 February 2020 the Defendant served a Part 18 Request for Further Information [**3**] which was answered by the Claimant on 9 March 2020 [**4**].

15. On 27 March 2020 [**13**] the Defendant's solicitors sent a letter setting out the Defendant's contention as to the meaning of the words complained of:

> "The natural and ordinary meaning of the Apology is that the Daily Telegraph had published an article containing statements about Mrs Trump which it accepts were false, which it should not have published, and for which is it is appropriate that it publishes a correction and apology to her and to pay her damages."
>
> ("**the Defendant's Meaning**")

16. The parties thereafter agreed to there being a determination of the two issues by way of preliminary trial, and to that determination taking place on the papers without a hearing. The time for service of a Defence has been extended until the determination of these issues.

FIRST ISSUE

(1) Legal Principles

17. The general principles applicable to the Court's role in determining meaning are not in dispute. They were summarised very recently by Warby J in *Feyziyev v The Journalism Development Network Association* [2019] EWHC 957 (QB) in which he said the following:

> "The principles to be applied when deciding the natural and ordinary meaning of allegedly libellous words are well-established and uncontroversial. They were conveniently re-stated in a recent judgment of Nicklin J in *Koutsogiannis v The Random House Group Ltd* [2019] EWHC 48 (QB). Omitting internal citations, they are these:
>
> "11. The Court's task is to determine the single natural and ordinary meaning of the words complained of, which is the meaning that the hypothetical reasonable reader would understand the words bear. It is well recognised that there is an artificiality in this process because individual readers may understand words in different ways: *Slim v. Daily Telegraph*

Ltd [1968] 2 QB 157, 173D– E, per Lord Diplock.

12. The following key principles can be distilled from the authorities:

(i) The governing principle is reasonableness.

(ii) The intention of the publisher is irrelevant.

(iii) The hypothetical reasonable reader is not naïve but he is not unduly suspicious. He can read between the lines. He can read in an implication more readily than a lawyer and may indulge in a certain amount of loose thinking but he must be treated as being a man who is not avid for scandal and someone who does not, and should not, select one bad meaning where other non-defamatory meanings are available. A reader who always adopts a bad meaning where a less serious or non-defamatory meaning is available is not reasonable: s/he is avid for scandal. But always to adopt the less derogatory meaning would also be unreasonable: it would be naïve.

(iv) Over-elaborate analysis should be avoided and the court should certainly not take a too literal approach to the task.

(v) Consequently, a judge providing written reasons for conclusions on meaning should not fall into the trap of conducting too detailed an analysis of the various passages relied on by the respective parties.

(vi) Any meaning that emerges as the produce of some strained, or forced, or utterly unreasonable interpretation should be rejected.

(vii) It follows that it is not enough to say that by some person or another the words might be understood in a defamatory sense.

(viii) The publication must be read as a whole, and any 'bane and antidote' taken together. Sometimes, the context will clothe the words in a more serious defamatory meaning (for example the classic "rogues' gallery" case). In other cases, the context will weaken (even extinguish altogether) the defamatory meaning that the words would bear if they were read in isolation (e.g. bane and antidote cases).

(ix) In order to determine the natural and ordinary meaning of the statement of which the claimant complains, it is necessary to take into account the context in which it appeared and the mode of publication.

(x) No evidence, beyond the publication complained of, is admissible in determining the natural and ordinary meaning.

(xi) The hypothetical reader is taken to be representative of those who would read the publication in question. The court can take judicial notice of facts which are common knowledge, but should beware of reliance on impressionistic assessments of the characteristics of a publication's readership.

(xii) Judges should have regard to the impression the article has made upon them themselves in considering what impact it would have made on the hypothetical reasonable reader.

(xiii) In determining the single meaning, the court is free to choose the correct meaning; it is not bound by the meanings advanced by the parties (save that it cannot find a meaning that is more injurious

than the claimant's pleaded meaning)." ….

18. The importance of context was emphasised both by the Court of Appeal in *Bukovsky v Crown Prosecution Service* [2017] EWCA Civ 1529 and more recently by the Supreme Court in *Stocker v Stocker* [2019] UKSC 17. It is obvious that just as the hypothetical ordinary reasonable reader of Twitter will generally read a Tweet very casually, the hypothetical reasonable reader of a newspaper article in a serious publication is likely to pay it much closer attention.

19. The contrast is expressly drawn in *Monir v Wood* [2018] EWHC 3525 at [90], in a passage cited by the Supreme Court in *Stocker*:

> "It is very important when assessing the meaning of a Tweet not to be over-analytical. … Largely, the meaning that an ordinary reasonable reader will receive from a Tweet is likely to be more impressionistic than, say, from a newspaper article which, simply in terms of the amount of time that it takes to read, allows for at least some element of reflection and consideration. The essential message that is being conveyed by a Tweet is likely to be absorbed quickly by the reader."

20. Care is needed with innuendos of any kind when determining meaning as a preliminary issue (see e.g. *Sheikh v Associated Newspapers Ltd* [2019] EWHC 2947 (QB) at [15]-[18]). In this case, the parties have sensibly agreed that the Court should reach its determination on the two issues on the basis that reasonable readers knew or recalled that it was the Claimant who had written the article in respect of which the apology was made.

21. An allegation that may be understood as being made against a group, or at least more than one person (natural or legal), may be actionable by any of those persons. There is no special rule; "*it is simply a question of whether a reasonable reader could conclude that the claimant as an individual was pointed at*": *Gatley (12th edition, 2013, Sweet & Maxwell)* at ¶7.9. (It is, of course, trite law that an action can be maintained against both the corporate 'publisher' of an article and its author, who are both liable as primary publishers: see e.g. *Gatley* at ¶6.11 "*Thus in the case of the publication of a newspaper the journalist, editor and publisher are all joint tortfeasors".*)

(2) Submissions

22. The Defendant's Meaning simply does not address the Claimant. It literally writes her out of her own story.

23. The formulation of the Defendant's Meaning appears almost perverse when understood that it is pursued by the Defendant even after it is accepted that this determination is being made on the assumption that there were readers of the Apology who knew the Claimant had written the underlying Melania Article. A suggestion that reasonable readers would understand the Apology as not biting on the Claimant's writing but only on the Defendant's editorial decision to publish the Melania Article would be absurd. It would be a wholly untenable reading.

24. While everything depends on wording, it is submitted that such a suggestion would almost inevitably be wrong even if made in the context of a regular news article. It is all the weaker here, given that the Apology is made in respect of a feature "*magazine cover story*".

25. At the very least, the meaning would therefore have to be reformulated to read:

> "~~the Daily Telegraph had published~~ **the Claimant had written** an article containing statements about Mrs Trump ~~which it accepts were false,~~ which ~~it~~ **she** should not have ~~published~~ **written**, and for which is it is appropriate that ~~it~~ **she** publishes a correction and apology to her and to pay her damages."

26. But even this does not, it is submitted, go far enough. The Apology is very damning of the Claimant's work. It states that the Melania Article contained (at least) eight false statements in the Claimant's writing that "*should not have been published*", and lists them out. The Apology does not state that the Melania Article may have conveyed allegations inadvertently, or allegations that only arise from 'reading between the lines'. It is uncompromising in its brusque denigration of the Claimant's writing.

27. More than that, the Apology makes clear that the errors and allegations were so serious as to justify an unreserved apology not just to Melania Trump and her family, as well as the payment of "*substantial damages*" and "*her legal costs*". The inference that the

article constituted an unlawful defamation is overwhelming. There is no mention of any defences that might be applicable; whether a defence of truth, comment, or public interest.

28. Of course, it is accepted that a reasonable reader would not have knowledge of the intricacies of the law of defamation. However, it is submitted that such a reader would readily recognise the reluctance of a newspaper to apologise to anyone, let alone to agree (very quickly) to pay damages and costs to a complainant. A reasonable reader would also know that this would only happen where something unlawful had happened and that the newspaper was 'over a barrel' and had no defence.

29. It is these elements which lead to the Claimant's own pleading meaning:

> "In their natural and ordinary meaning and in context, the words complained of in the Apology meant and were understood to mean that the Claimant negligently or maliciously wrote a piece so littered with serious and defamatory falsehoods about Mrs Trump that it should not have been published and justified the payment of substantial damages to her, as well as a full and prompt retraction and apology."

30. With very minor glosses, this is a straightforward reading of the Apology. The allegation that there were no fewer than eight defamatory false statements in the Claimant's article has been summarised as an allegation that it was "*littered with*" serious and defamatory falsehoods. The fact that the Claimant's article should not have been published, and what its consequences were, are taken directly from the Apology.

31. The Claimant's conduct in writing the feature article is described as "*negligent or malicious*". In some ways this is an unnecessary gloss. But it is intended to convey the serious implications of the Apology as to the Claimant's conduct. She is alleged to have written a very large number of false defamatory statements about a third party (Melania Trump). This has not only traduced that third party's reputation, it has also necessitated her publisher to pay very substantial sums of money. That behaviour is at the very least negligent. It is analogous to an allegation that a solicitor has lost a case for a client through professional negligence, requiring settlement of a complaint by an insurer.

32. Malice is presumed in respect of defamatory statements, but it is accepted that it may

be a step too far to read an imputation of express malice on behalf of the Claimant into the Apology. It is also not necessary, for the reasons outlined above and below.

SECOND ISSUE

(1) Legal Principles

33. The general applicable principles were set out by Warby J in *Allen v Times Newspapers Ltd* [2019] EWHC 1235 (QB) at [19]

> "The second preliminary issue is different in nature from the first. The relevant principles can be summarised in this way:
>
> (1) At common law, a statement is defamatory of the claimant if, but only if, (a) it imputes conduct which would tend to lower the claimant in the estimation of right-thinking people generally, and (b) the imputation crosses the common law threshold of seriousness, which is that it "*[substantially] affects in an adverse manner the attitude of other people towards him or has a tendency so to do*": *Thornton v Telegraph Media Group Ltd* [2010] EWHC 1414 (QB) [2011] 1 WLR 1985 [96] (Tugendhat J).
>
> (2) *Although the word 'affects' in this formulation might suggest otherwise, it is not necessary to establish that the attitude of any individual person towards the claimant has in fact been adversely affected to a substantial extent, or at all. It is only necessary to prove that the meaning conveyed by the words has a tendency to cause such a consequence*": *Lachaux v Independent Print Ltd* [2015] EWHC 2242 (QB) [2016] QB 402 [15(5)]."

34. A number of cases have considered the approach to 'professional defamation'; that is, where an allegation concerns a claimant's professional role: see e.g. *Drummond-Jackson -v- British Medical Association* [1970] 1 WLR 688; *Skuse -v- Granada Television Ltd* [1996] EMLR 278, 288; *Dee -v- Telegraph Media Group Ltd* [2010] EMLR 20 [48]; *Thornton v Telegraph Media Group Ltd* [2010] EWHC 1414 (QB) and *Morgan -v- Times Newspapers Ltd* [2019] EWHC 1525 (QB).

35. The main principle was set out in *Drummond-Jackson* at 698-699:

> "...words may be defamatory of a trader or business man or professional man, although they do not impute any moral fault or defect of personal character.

> They [can] be defamatory of him if they impute lack of qualification, knowledge, skill, capacity, judgment or efficiency in the conduct of his trade or business or professional activity… *South Hetton Coal Company Limited v North-Eastern News Association Limited* [1894] 1 QB 133…"[5]

36. In *Thornton*, Tugendhat observed at [33] that this definition may be further divided:

> "Business or professional defamation also comes in a number of sub-varieties (definition (4) and the examples given in *Derbyshire County Council v Times Newspapers Ltd* [1993] AC 534 discussed below under the heading Business Defamation):
>
> a) Imputations upon a person, firm or other body who provides goods or services that the goods or services are below a required standard in some respect which is likely to cause adverse consequences to the customer, patient or client. In these cases there may be only a limited role for the opinion or attitude of right-thinking members of society, because the required standard will usually be one that is set by the professional body or a regulatory authority;
> b) Imputations upon a person, firm or body which may deter other people from providing any financial support that may be needed, or from accepting employment, or otherwise dealing with them. In these cases there may be more of a role for the opinion or attitude of right-thinking members of society."

37. As observed in *Gatley* at ¶2.1, in the former case "*the tendency of the words is to convey to the reader that the Claimant's fitness or competence falls short of what are generally necessary for the business or profession*". There is no bright line between the varieties, however. An allegation might well both allege that a person's services fall short of a required standard and (consequently) deter others from dealing with them.

38. In *Morgan v Times Newspapers Ltd* [2019] EWHC 1525 (QB) Soole J rightly rejected the heretical suggestion that it was a necessary condition for defamation of a person's professional (or business) reputation that the imputation should be in respect of an habitual or chronic attribute: see [53]-[62]: "*an allegation of one particular instance of incompetent professional services (or reasonable cause to suspect the same) may have as adverse an effect on the professional's reputation as an imputation concerning his/her general professional competence.*"

[5] This is "Definition (4)" in *Thornton*. See also *Skuse*, where the allegation was (at [21]) that the claimant "*failed to show the skill, knowledge, care and thoroughness to be expected of him"* in his role as a Home Office forensic scientist.

39. In *Dee*, a 'professional defamation' claim was brought in respect of an allegation that the claimant was the "world's worst tennis player". Sharp J considered that the *Drummond-Jackson* principle was difficult to apply to the world of sport, since "*In every race, match or other sporting event, someone has to come last: that is the nature of competitive sport. Losing in sport is, as Mr Price submits, an occupational hazard. Shaky hands for a surgeon, or endangering the lives of your dental patients through an unproven anaesthetic cannot be so characterised*." (at [49])

40. In *Thornton*, a similar approach was adopted by Tugendhat J where the allegation was that a professional writer had granted 'copy approval' in interviews. The Judge stated that he had: "*a similar difficulty in translating the principles in Drummond-Jackson to a professional writer. If a professional writer is free to write to different standards for different readerships or markets (whether the writer in fact does so or not), then to impute to a writer that she writes to one standard rather than another cannot of itself be defamatory*." (at [49]).

41. It should be obvious that this does not mean however that a professional writer cannot sue in respect of an allegation in respect of their professional work, however. It is simply a reflection that in order to do so under the principle in *Drummond-Jackson* there must be some alleged violation of recognised applicable standards. As is stated pithily in *Gatley* at ¶2.35:

> "Of course 'the effect upon others' point cannot be the end of the argument in all cases. To say of a historian (or indeed, a journalist) that he is slipshod in checking his sources is plainly defamatory but that is because it imputes that he ignores the standards of his particular branch of the 'writing' profession."

42. Similarly, a general or specific allegation of incompetence against a journalist may be defamatory: see a later passage of *Gatley* at ¶2.49: "*It is defamatory to publish of an editor that he a libellous or incompetent journalist…*" The relevant footnote includes the following text (ftn.493):

> "An apology by a newspaper may be in terms which imputes incompetence to the journalist: *Tracy v Kemsley Newspapers, The Times, April 9, 1954.* Compare *Oversea Chinese Banking Corp v Wright Norman* [1994] 3 SLR 760, where the words merely

meant that the original statement was incorrect."[6]

43. It is accepted that an allegation that a journalist has published an incorrect statement is unlikely to be defamatory of him or her. The latter case (upon which the Defendant's solicitors have relied in correspondence) is simply authority for the obvious and entirely uncontroversial proposition that not every correction of an article will be defamatory of the article's author. It also however makes clear that if such a correction "*attacked his integrity or competence*", or suggested it had been written "*recklessly*", then it *would* be defamatory.

(2) Submissions

44. An allegation that a professional writer has published an article about a third party that contains defamatory falsehoods (and cannot be defended) and that justifies a grovelling apology and payment of substantial damages and costs is defamatory of that professional writer.

45. There is in truth little more that needs to be added to this proposition by way of detail or qualification, but a few further points of substance may be made.

46. First, while *Thornton* considers the applicability of the *Drummond-Jackson* principle to professional writers it did so in the context of standards that are not universally recognised by writers; specifically, whether it is proper or appropriate to give 'copy approval' to others. In contrast, not writing defamatory articles that necessitate substantial payments to third parties and apologies *is* a universal standard for professional writers. It is in fact a public standard for all, but one that is of critical, central importance for professional writers. The difference between the facts of *Thornton* is stark.

47. Second, the imputation is one instance of 'professional defamation' that includes all of the elements considered in *Thornton*. The imputation is that the Claimant has fallen

[6] Such actions are now rare, for two reasons. Firstly, the potential impact of such apologies on third parties is widely recognised so such a 'unilateral' apology is unusual. Second, apologies are now often made by way of a statement in open court, subject to the protections of privilege.

(far) short of that required standard in a way that is likely to cause adverse consequences to the person or persons who have commissioned her as they have to make a very substantial financial payment in consequence. This will also deter others from dealing with the Claimant in future, as there is a risk that she will do it again. There is also the fact that the imputation implies that she has unlawfully and very seriously tarnished the reputation of a third party through her writing.

48. Third, both *Morgan* and *Skuse* demonstrate that a single allegation of incompetent professional services may have as adverse an effect on the professional's reputation as an imputation concerning his/her general professional competence. This is simply a reflection of realities. In *Morgan*, the defamatory meaning was (see [22]) that the Claimant "*was professionally negligent in respect of her alleged decisions as to who should be prosecuted in respect of this incident and as to the charges which should be preferred in the case of Mr Stokes*." There is a parallel in this case, drawing on the analogy referred to in paragraph 31 above.

49. Fourth, the Singaporean case cited by the Defendants in correspondence, *Oversea Chinese Banking Corp*, provides no support for the argument that the Apology is not defamatory of the Claimant. It establishes no point of principle, and per *Gatley* is simply a case on its facts. It is obvious (and is clear from *Morgan*) that there is a difference between negligent misconduct and an "*excusable mistake or error of judgment*" or something on which "*different [professionals] could reasonably come to different conclusions*" (*Morgan* at [22]). But in the Claimant's submission it is impossible reasonably to read the Apology merely as suggesting that the Claimant had made an error of judgment.

50. Ultimately, the Court must decide whether the words complained of impute lack of qualification, knowledge, skill, capacity, judgment or efficiency in the conduct of the Claimant's professional activity; or substantially affects in an adverse manner the attitude of other people towards him or has a tendency so to do. The Claimant submits that those questions admit of only one answer on the facts of this case.

51. The Defendants have not raised in correspondence any issue on the *Thornton* threshold of seriousness. It is submitted that that is sensible. If the Claimant's arguments above

are correct that the words conveyed of do convey a 'defamatory' meaning in respect of her conduct, it is plainly one that crosses the threshold of seriousness.

CONCLUSION

52. For the reasons set out above, the Defendant seeks an Order that, on the assumption that there were readers of the words complained of who upon reading them knew or recalled the identity of the Claimant as the author of the original article:

    (1) The words complained of bear the following natural and ordinary meaning: "*that the Claimant [negligently or maliciously] wrote a piece so littered with serious and defamatory falsehoods about Mrs Trump that it should not have been published and justified the payment of substantial damages to her, as well as a full and prompt retraction and apology*".

    (2) That meaning is defamatory of the Claimant at common law.

IAN HELME

MATRIX
28 JULY 2020