27 May 2022

BETWEEN:

VARIOUS CLAIMANTS

- and -

MGN LIMITED

JUDGMENT SUMMARY

Important note for press and public: this summary forms no part of the court's decision. It is provided so as to assist the press and the public to understand what the court decided.

The judgment relates to applications made by Mirror Group Newspapers (MGN) in the Mirror Newspapers phone hacking litigation for summary judgment on their defence of the whole of the claimants' claims for damages, and, alternatively, seeking to strike out a part of each claim. The applications raised questions about how the law of limitation of actions applies to the current claims. The law of limitation of actions prevents claims being issued too long after the cause of action first arose.

MGN applied for summary judgment on its defence in over 30 of the 80+ claims in the current phase of the phone hacking litigation, where the claims are due to be tried from May 2023. With the help of the parties, six sample claims were selected for hearing MGN's applications, so that any issues of principle and the outcome in those six cases could be decided first.

Each of the claimants brought two different types of claim against MGN in 2020 or 2021 for damages for misuse of their private information. First, for harm caused by publishing in the Daily Mirror, the Sunday Mirror or the Sunday People stories about them, without their consent, which contained private information ('the publication claims'). Second, for harm caused by covertly using phone hacking and other unlawful information gathering techniques to obtain private information about them, whether it was then published or not ('the underlying unlawful information gathering claims').

All the allegations of misuse of private information relate to the years 1997 to 2009. That means that the normal 6-year limitation period expired long before any of the claims were issued. However, the normal 6-year period is disapplied if a defendant (here MGN) has concealed important facts relating to the claims and the claimant did not know those facts and could not with reasonable diligence have discovered them in time: s.32(1) Limitation Act 1980.

The issues that I had to decide were:

> (1) whether any of the claimants knew the relevant facts for their publication claim more than 6 years before they issued their claims;

(2) whether any of the claimants knew the relevant facts for their underlying unlawful information gathering claim more than 6 years before they issued their claims;

(3) whether any of the claimants did not know but could with reasonable diligence have discovered the relevant facts for either claim more than 6 years before they issued their claims.

As regards the publication claims, in the case of each claimant I have decided that they actually knew the essential facts at the date of publication of each of the articles [para 101]. There was no concealment of what was published, and how MGN obtained the private information was not an essential fact for those causes of action. Accordingly, I find in favour of MGN that the publication claims of each of the claimants are statute-barred and must be struck out or dismissed. That is therefore the end of those claims.

As regards the underlying unlawful information gathering claims the position is more complicated.

I had to decide first what were the essential facts for these claims that a claimant had to know or reasonably be able to discover. I rejected the claimants' argument that these had to include every specific occasion on which MGN is alleged to have used an unlawful information gathering technique against them [paras 89-94]. I also rejected MGN's argument that the essential facts were only the articles published about each claimant and general allegations about phone hacking. The essential facts, in my judgment, included the fact that MGN was allegedly using the particular unlawful information gathering techniques against the claimants that they have alleged in their claims [paras 113-116].

I then decided that each claimant had a realistic argument that they did not actually know this until relatively shortly before they issued their claims [paras 120-124], so that is an issue that must be resolved at trial.

In relation to the argument that each claimant could with reasonable diligence have discovered this more than 6 years before they issued their claims, even if they did not know it, I decided that this question was not suitable to be decided on a summary judgment application, without hearing the full evidence of live witnesses at trial, because it depends on an analysis of quite complex facts and an evaluation of what a reasonable person in the position of the claimants would have been aware of in 2014 and 2015 [paras 178-182].

For that reason, I have refused to grant MGN summary judgment on their defence on any of the underlying unlawful information gathering claims in these 6 claims. The claims will therefore proceed to a trial.

The outcome of the applications is that MGN succeeded on only part of its applications and failed on the rest. The fact that MGN failed on a summary judgment application does not mean that it cannot succeed on the same issue at trial. That will be decided at trial.

The parties will be expected to consider, in the light of my judgment, whether the same conclusions apply to all the other claims in which MGN has issued an application for summary judgment. If there is any argument that they do not apply in the same way, I will hear that argument at a further hearing in June.