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chambers

Jonathan Price: White Paper Conference 2021

Against a backdrop of recent and live cases, how do you quantify - with accuracy - damages in privacy, defamation and data cases?

Case	Cause of Action	Award
<i>Turley v UNITE the Union & Anor</i>	Libel	£75,000
<i>Triad Group v Makar</i>	Harassment	£65,000, £60,000
<i>Reid v Price</i>	Misuse of Private Information Breach of Confidence	£25,000
<i>JQL v NTP</i>	Misuse of Private Information Breach of Confidence	£15,000
<i>Aven v Orbis Intelligence</i>	Data Protection	£18,000
<i>Ghannouchi v Middle East Online Ltd</i>	Libel	£45,000
<i>Gilham v MGN Ltd</i>	Libel	£49,000
<i>Sicri v Associated Newspapers</i>	Misuse of Private Information	£83,000 (£50,000 general damages)
<i>Summerfield Browne Ltd v Waymouth</i>	Libel	£25,000

TURLEY v UNITE

[2019] EWHC 3547 (QB)

- Grounds to suspect C dishonestly joined the wrong section of Unite
- Truth and public interest failed, as did an attack on C's honesty as part of an abuse argument
- Although *Chase* level 2, nevertheless a serious allegation
- Serious aggravation by Ds' conduct of trial
- £75,000

TRIAD GROUP v MAKAR

[2020] EWHC 306 (QB)

- Former IT director harassed ex-colleagues directly, to third parties and on Twitter for a number of years
- Allegations of dishonesty
- D not appearing
- Overlap between harassment and libel: single award
- C2: £65,000 C3: £60,000

REID v PRICE

[2020] EWHC 594 (QB)

- Breach of confidence, misuse of private info, breach of contract, DPA
- Sex tape, still and info from it disclosed to third parties, causing some publicity
- Defence struck out for non-compliance
- Claim Form limited damages to £25,000
- £25,000 awarded (satisfied that at least that sum is merited)

JQL v NTP

[2020] EWHC 1349 (QB)

- Misuse of private information
- That C had received treatment for her mental health
- Facebook, in a post removed the same day, published to 25-30 people
- Some aggravation
- £15,000

AVEN v ORBIS INTELLIGENCE

[2020] EWHC 1812 (QB)

- Data Protection Act
- Cs1&2 delivered illicit cash to Putin
- Breach of accuracy (4th) principle
- Reputation damages considered appropriate, not rejected
- Limited publication, reasoned judgment
- £18,000

GHANNOUCHI v MIDDLE EAST ONLINE LTD

[2020] EWHC 1992 (QB)

- Defamation
- Allegation that C had permitted his party to be financed by Qatar contrary to Tunisian law, and shutting his eyes to the use of his party for terrorism
- Around 200 hits in the jurisdiction
- Default judgment
- £45,000

GILHAM v MGN LTD

[2020] EWHC 2217 (QB)

- Defamation
- Allegation that C was guilty of professional misconduct
- Context was that he had been found to have acted inappropriately, but cleared of professional misconduct
- Early apology followed by qualified OOA
- *Burstein* factors relied on
- Stage 1: £85,000 reduced by 15% for early apology = £72,000, then *Burstein* discount of 15%, then Stage 2 discount of 20%
- Result: £49,000

SICRI v ASSOCIATED NEWSPAPERS

[2020] EWHC 3541 (QB)

- Misuse of private information
- That C had been arrested in connection with the Manchester Arena bombing
- Claim succeeded
- Can C recover damages for reputational harm? No
- What about *Dingle*? Not applicable
- Award: £50,000 in general damages, £33,000 in special damages

SUMMERFIELD BROWN LTD v WAYMOUTH

[2021] EWHC 85 (QB)

- Defamation
- Trust Pilot website
- “Total waste of time another scam solicitor”
- No appearance by D
- £25,000 (capped by the Claim Form?)

Common to libel and privacy

- Injury to feelings
- Extent of publication
- Substance of the disclosure (gravity of imputation/intimacy of information)
- Regard to personal injury awards

Defamation only

- Vindication
- Damage to reputation

Unique to privacy

- Loss of control of the information
- Loss of/interference with autonomy
- The impact on the values protected by the right
- Damage to health
- Impact on dignity

Harassment

- Top band: very serious cases **£25,200-£42,000** (not a cap: the most exceptional case might exceed this)
- Middle band: moderately serious cases **£8,400-£25,200**
- Lower band: less serious cases up to **£800-£8,400**



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THANK YOU