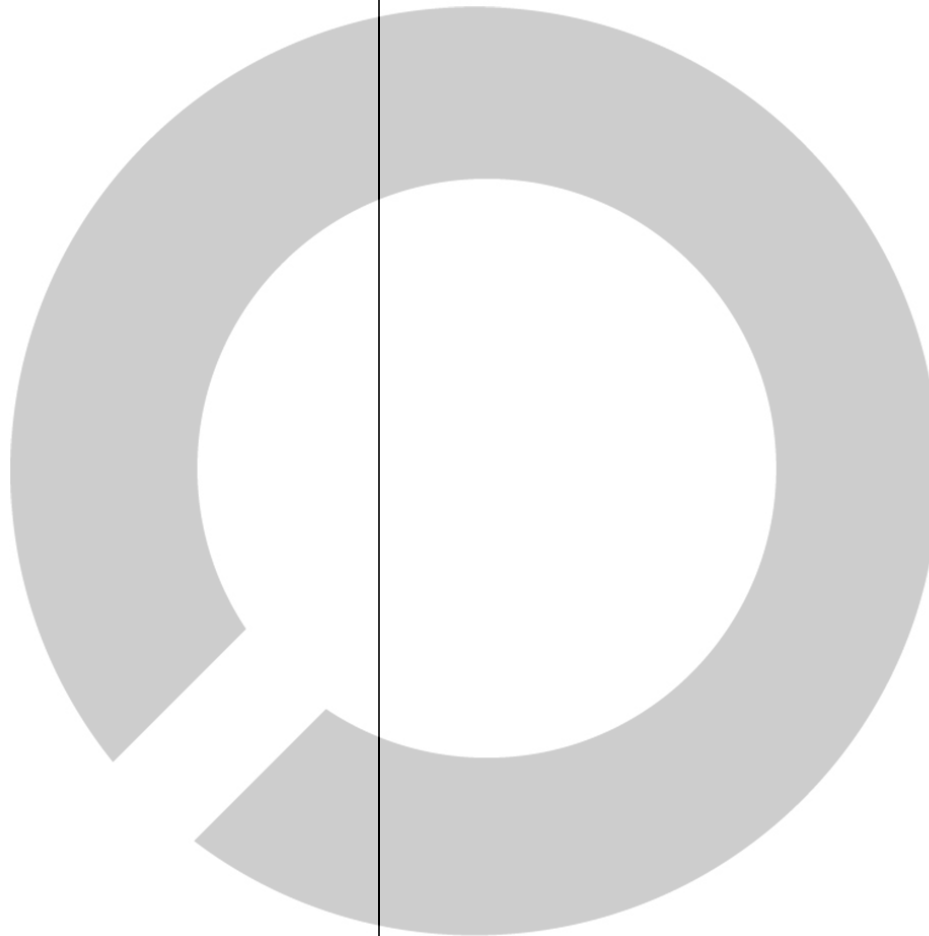


Meghan Markle vs Associated Newspapers Ltd

Table of Pleadings

<p style="text-align: center;">Particulars of Claim</p> <p style="text-align: center;">11 October 2019</p>	<p style="text-align: center;">Part 18 Ds Requests for further information and responses</p> <p style="text-align: center;">Requests answered 11 November 2019</p> <p style="text-align: center;">Requests answered 28 November 2019</p>	<p style="text-align: center;">Amended Defence dated 24 January 2020</p>	<p style="text-align: center;">Reply</p> <p style="text-align: center;">17 April 2020</p>
<p>Preamble - none</p>		<p>Preamble - none</p>	<p>Overview</p> <p>1. The Claimant joins issue with the Defendant on the entirety of its Defence, save for the admissions it contains and the non-admissions set out below.</p> <p>2. Save where otherwise stated, reference to paragraph numbers below relates to paragraphs of the Defence.</p> <p>3. The Claimant responds below to the Defence without prejudice to her contention that it is manifestly absurd as a matter of principle, and demonstrably unsustainable on the true factual position (as set out in this Reply), for the Defendant to suggest, as it appears to do, that:</p> <p style="padding-left: 20px;">3.1 The detailed contents of a</p>

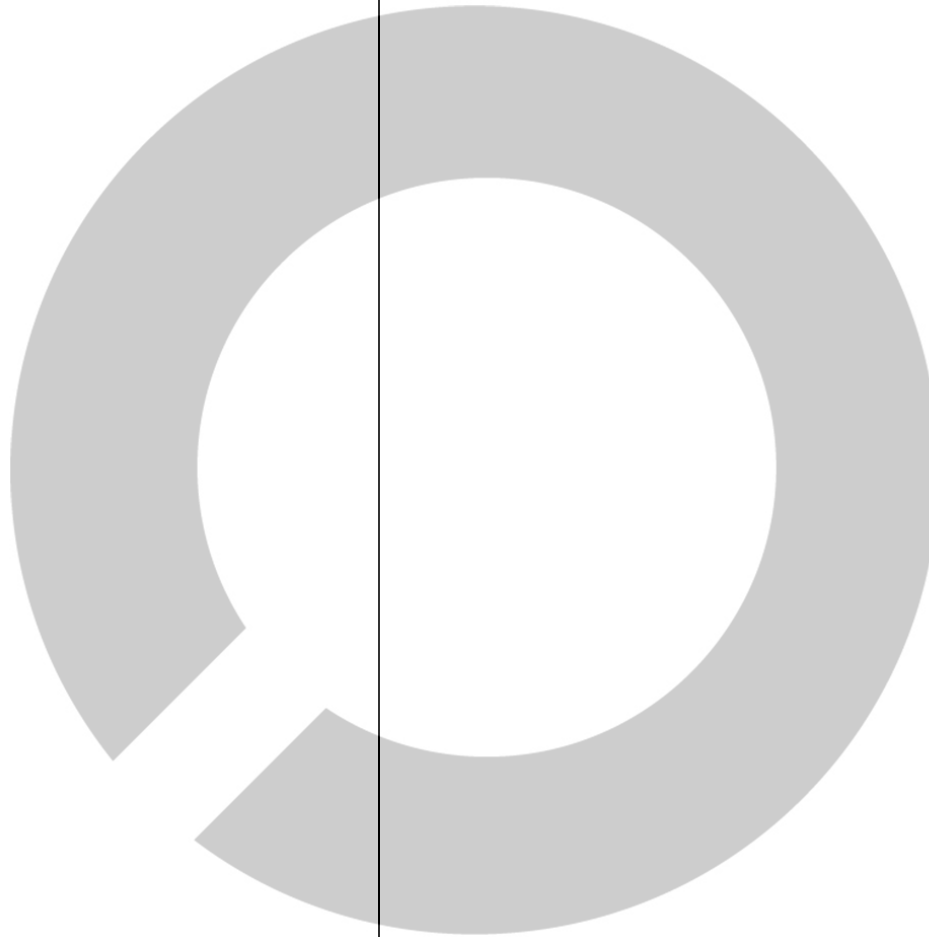


letter written by a daughter, addressed and sent to her father, are *not* private, simply because that daughter is a member of the Royal family.

3.2 The contents of a letter are also *not* to be regarded as private by virtue of the fact that they were recorded in a private communication; instead a letter has to contain the author's deepest or most personal feelings to make it private (even though the Defendant itself described the letter to its readers in an article the next day as "*Meghan pours out her heart in moving letter to estranged father*").

3.3 The author of a letter has no reasonable expectation that it will remain private unless he or she expressly requires the recipient not to publish it to the media or the world at large.

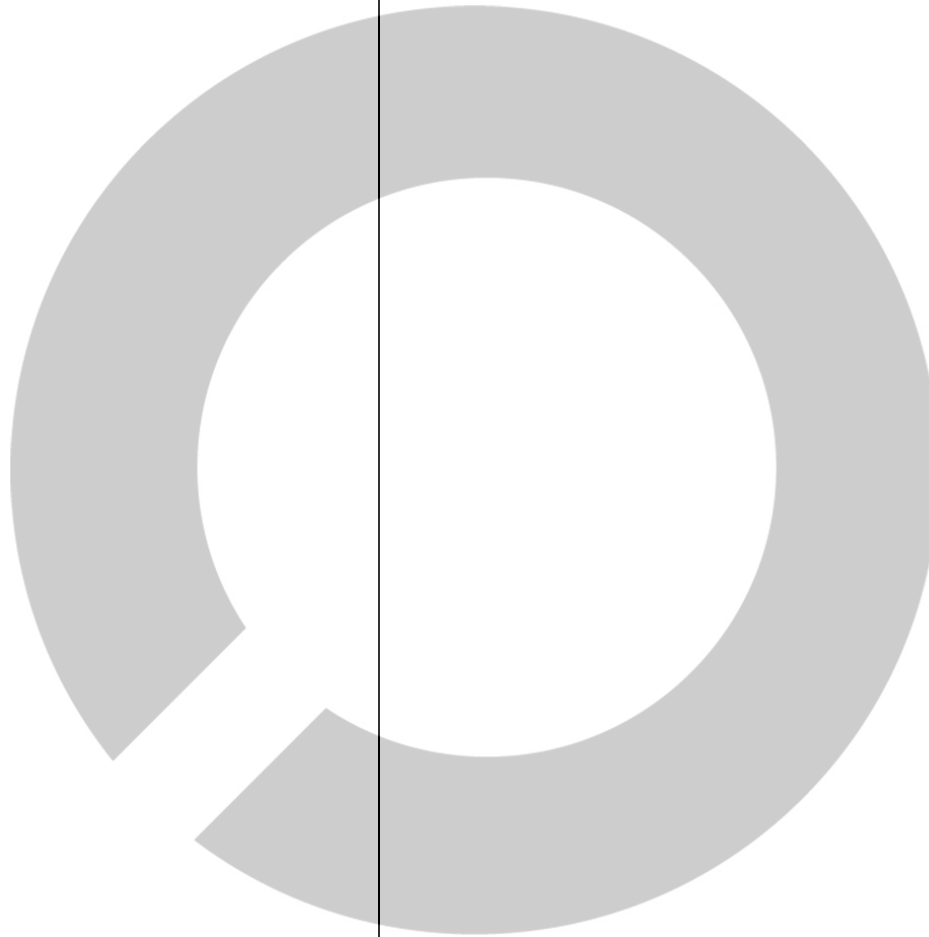
3.4 The author of a letter has no reasonable expectation that it will remain private if it contains no amendments, is presented in neat handwriting (despite the author being well known for her penmanship skills, as the Defendant has itself reported on) or was originally drafted in electronic form and then written



out in longhand.

3.5 There is legitimate interest in a UK newspaper revealing the detailed contents of a highly personal letter because a friend of the author had made a brief and passing reference to it in the course of a lengthy interview to a US magazine, even in circumstances where the truth is that the author did not know that such an interview had been given or, more importantly, that any reference would be made to the letter (or the response to it), nor was the reference an accurate one, as it plainly would have been if it had been authorised or procured by her (which it was emphatically not).

3.6 In revealing the detailed contents of this letter, the UK media publisher was simply seeking to 'set the record straight' on behalf of the author's father as to a "dispute" which had arisen as to the correct version of events surrounding their relationship (as opposed to self-serving commercial interest), when in fact it was the same publisher which had first harassed and humiliated the author's father (despite him trying to avoid the limelight), had then exposed him to the world as



a “Royal scammer” for staging ‘fake’ paparazzo photographs (in order, he claimed, to counteract the humiliation of him in the UK press) and had finally manipulated this vulnerable man into giving interviews, which he later described as “*lies and bullshit*”, thereby causing the very “*dispute*” which they claim justified the publication of this letter, as well substantial damage to his relationship with his daughter.

4. In fact, despite the terms of the Defence, it is unarguable that the Letter was plainly private both in terms of its contents (as it contained the Claimant’s deepest and most personal thoughts about her relationship with her father) and the method in which these thoughts were communicated, regardless of how neatly they were presented or the fact that a copy of the communication was retained by her. Further, the Claimant’s right to privacy is neither proportionate to, nor dictated by, the (perceived) amount of money or privilege she has, nor can it be as a matter of law. The Claimant will refer in support of these propositions, to the decision of the Court in *HRH The Prince of Wales v Associated Newspapers Limited* [2006] EWHC 522, and the



Court of Appeal judgment upholding this decision [2006] EWCA Civ 1776, (*the Prince of Wales case*), in which this Defendant advanced the same arguments (in relation to the heir to the throne who recorded his thoughts on politics in his personal diaries), and these arguments were emphatically dismissed.

5. Moreover, as set out in detail below, the central premise of the Defence, which underpins almost the entirety of the Defendant's denial of her claims for misuse of private information, breach of Data Protection Rights and infringement of copyright, is that she procured or authorised the reference in *People* magazine to the existence and content of the Letter she wrote and the response she received from her father, albeit that the Defendant has no proof of the same. The true position is that the Claimant did not procure or authorise this reference, and that is why there is obviously no proof that she did so anywhere in the lengthy document which has been served by the Defendant, despite the fact that almost its entire Defence is based upon this. The Claimant did not know that her friends were giving an interview to *People* magazine, let alone that one of them would refer to the

			<p>Letter. Had she done so, she would not have agreed to such a reference (any more than she would have consented to the detailed contents of the Letter being published by the Defendant in the Articles, had it bothered to ask for such consent, which the Defendant conspicuously did not, knowing full well that it would not receive consent and for fear of being prevented from publishing). Indeed, when the Claimant discovered that such reference had been made, she was extremely upset. In any event, had the reference to the Letter been procured or authorised by her (which it was not), then the reference would at least have been correct (which it was not).</p>
<p>The Parties</p> <p>1. The Claimant is a well-known American actor, business entrepreneur, and women's rights activist. She was best known for her role on the NBC Universal television drama series, Suits, in which she played a leading role for several years. She has also been heavily involved in philanthropic and advocacy work with The United Nations and World Vision, of which she was global ambassador. The Claimant became Her Royal</p>		<p>The Parties</p> <p>2. As to paragraph 1:</p> <p>2.1 The third and fourth sentences are admitted. Prince Harry is sixth in the line of succession.</p> <p>2.2 Except that it is admitted that the Claimant is American by birth, well-known, and uses her high-profile position by speaking publicly in support of women's rights activism, the first sentence is denied. The Claimant is no longer an actor or (if she ever was) a business entrepreneur, as she</p>	<p>The Parties</p> <p>6. As to paragraph 2, it is admitted that at the time of the Articles, the Claimant was a senior member of the Royal family (as was her husband, the Duke of Sussex), and that she did not undertake paid work. Following their decision to step away from official duties, which had been discussed in advance with both Her Majesty The Queen and the Prince of Wales (contrary to what has been falsely claimed by the Defendant in its</p>

Highness, The Duchess of Sussex, following her marriage to His Royal Highness Prince Harry, The Duke of Sussex in May 2018.

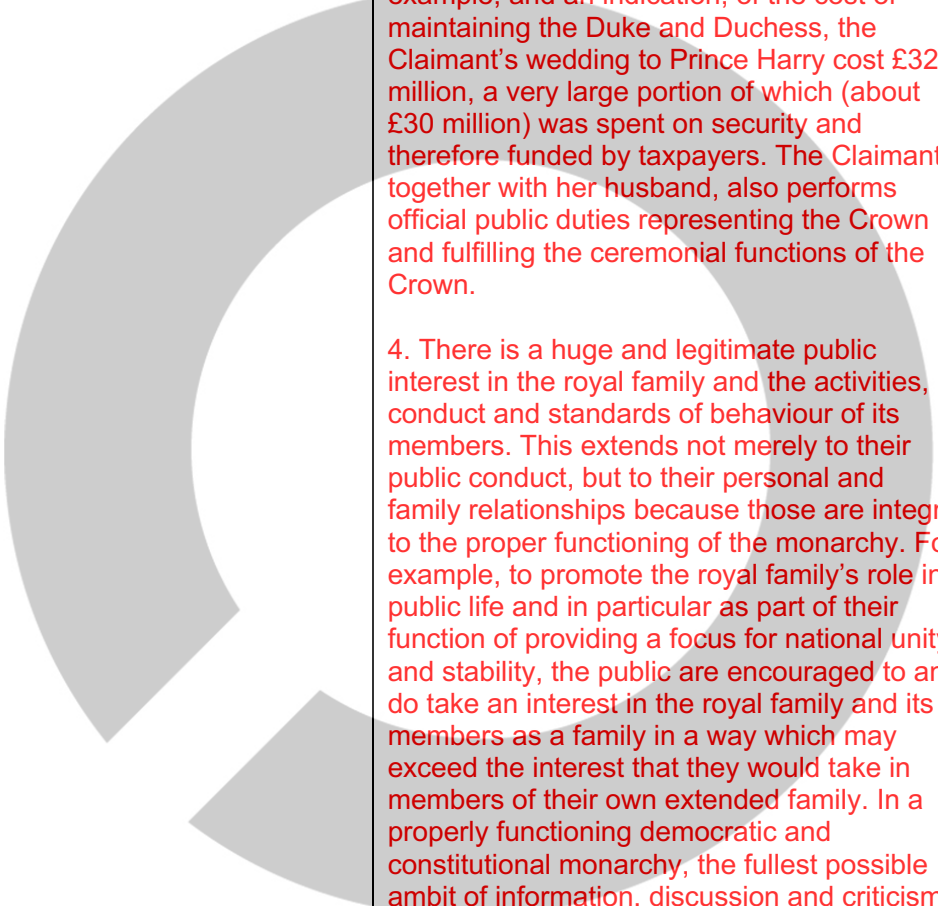
claims in paragraph 1. She is a member of the royal family and does not undertake paid work.

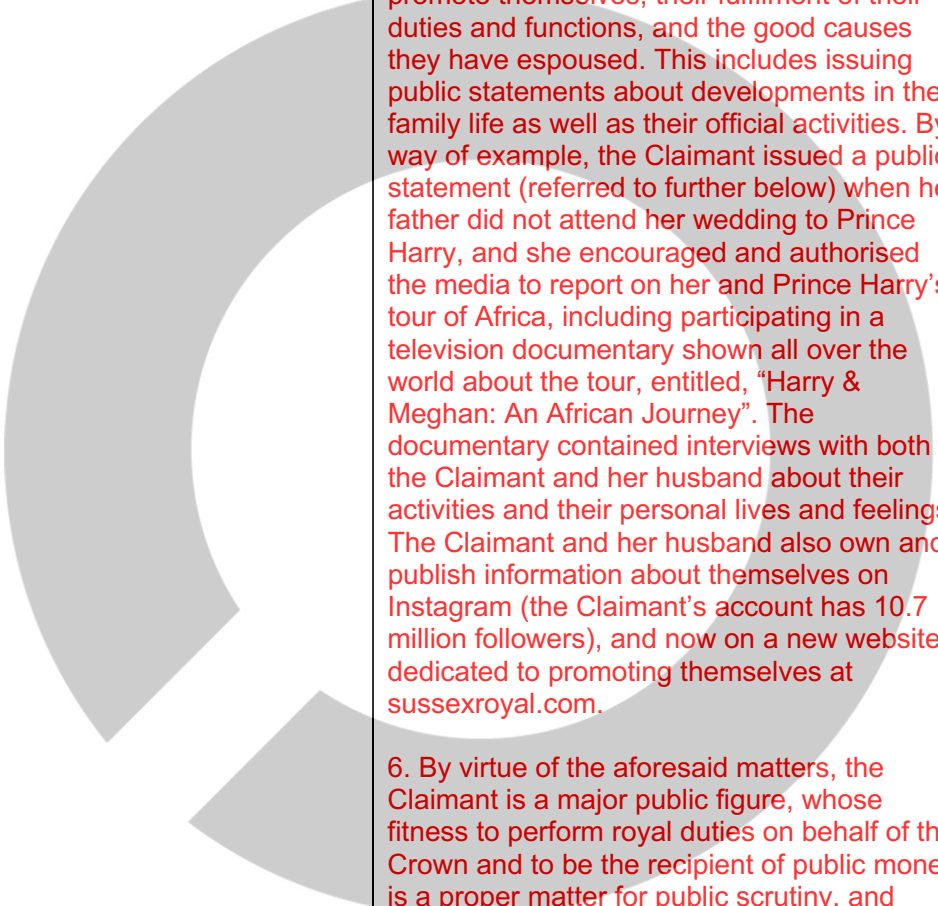
2.3 The second sentence does not fix the allegation at any particular time in the past and is therefore too vague to plead to. If it is alleged that prior to her relationship with HRH Prince Harry the Claimant was best known for her role in Suits, that is admitted. Her prominent public position and fame now, as the Duchess of Sussex and the wife of Prince Harry, far eclipse that which she previously enjoyed as an actor in Suits.

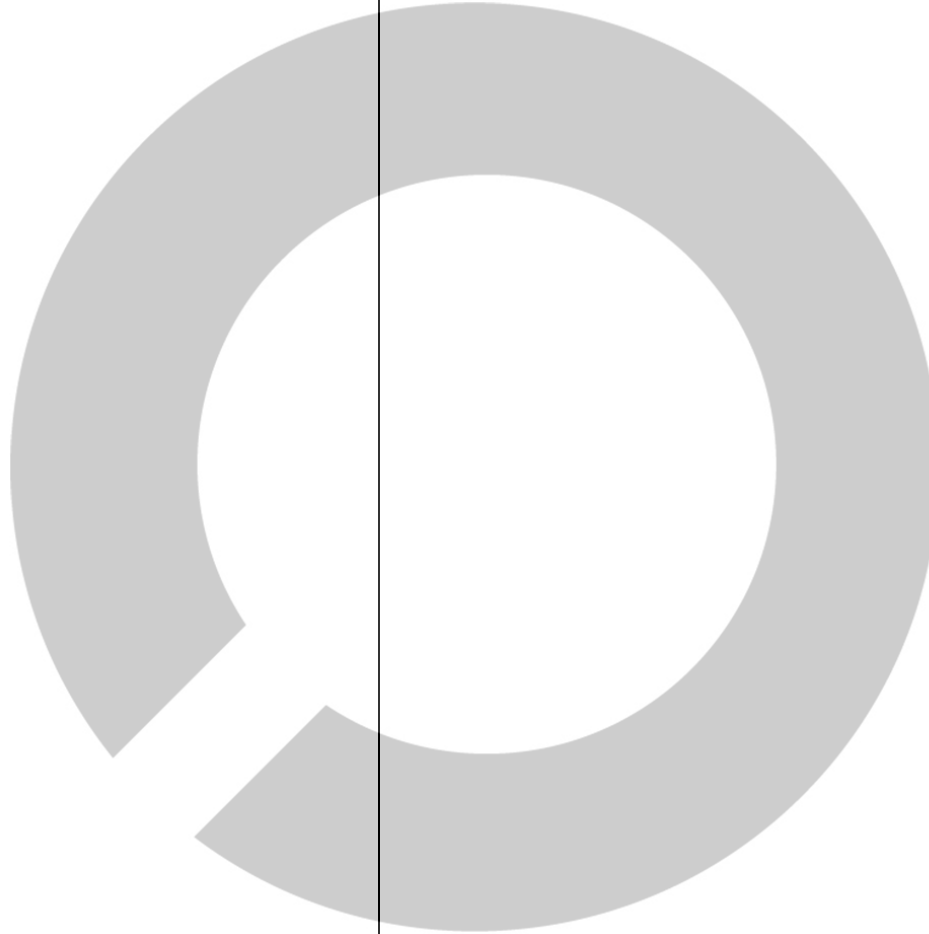
3. In addition to the matters admitted in paragraph 2 above, the Defendant avers as follows. The Claimant is a high-ranking member of the royal family. By reason of her position as the Duchess of Sussex, the Claimant enjoys immense privilege and wealth, including a very high rank in the order of precedence; living in a palace (Kensington Palace) as her official residence, as well as having been provided with a newly renovated historic house in the grounds of Windsor Great Park as a private home; being served by staff; and enjoying many foreign trips each year. By way of example, on one of these trips in 2019, she and Prince Harry flew to Ibiza by private jet, a luxury available to those of extreme wealth or elite connections. The Claimant enjoys these advantages by virtue of her position in the royal family. The royal family is supported largely by public funds. Although some of the expenses of the Duke and Duchess of Sussex are (to the best of the

reporting), the Claimant is no longer considered as a 'working' member of the Royal Family, and will resume her business activities, which the Defendant has gratuitously, as well as wrongly, denied.

7. As to paragraph 3, insofar as it is relevant to any issues in the proceedings, it is again admitted that the Claimant was a senior member of the Royal family at the time of the Articles, and as such, in return for the official and public functions which she and her husband performed, they were given residence in Frogmore Cottage (one of Her Majesty The Queen's historic dwellings in Windsor Great Park). As already stated in the Particulars of Claim, the Defendant has already published articles containing false or misleading information, as it well knew, in relation to their residence in Frogmore Cottage and its funding (articles which the Defendant is itself trying to strike out as being irrelevant, whilst at the same time seeking to introduce the Claimant's residence there now as part of its case). Further, if and insofar as it is relevant, the Claimant will refer to the true position as to the nature and extent to which she and her husband were

		<p>Defendant's knowledge) funded by the Duchy of Cornwall, their household costs the British public a very large, but at present unknown to the Defendant, amount of money. By way of example, and an indication, of the cost of maintaining the Duke and Duchess, the Claimant's wedding to Prince Harry cost £32 million, a very large portion of which (about £30 million) was spent on security and therefore funded by taxpayers. The Claimant, together with her husband, also performs official public duties representing the Crown and fulfilling the ceremonial functions of the Crown.</p> <p>4. There is a huge and legitimate public interest in the royal family and the activities, conduct and standards of behaviour of its members. This extends not merely to their public conduct, but to their personal and family relationships because those are integral to the proper functioning of the monarchy. For example, to promote the royal family's role in public life and in particular as part of their function of providing a focus for national unity and stability, the public are encouraged to and do take an interest in the royal family and its members as a family in a way which may exceed the interest that they would take in members of their own extended family. In a properly functioning democratic and constitutional monarchy, the fullest possible ambit of information, discussion and criticism as to the Crown and those who represent it is not only permissible but necessary.</p>	<p>'publicly funded' as working members of the Royal family, including the pressing need for security and protection which is generated as a result of their position, as opposed to the way in which this has been and continues to be portrayed by the Defendant. However, if the Defendant's contention is that the Claimant's place of residence, method of travel or apparent wealth means that she has forfeited her right to privacy, then that contention is denied. As stated above, the Claimant's right to privacy is neither proportionate to, nor dictated by, the (supposed) amount of money or privilege she has, nor could it possibly or sensibly be so as a matter of law.</p> <p>8. Save that it is admitted that there is a legitimate public interest in the public duties undertaken by the Royal family, as well as the roles and functions they perform, the extravagant submissions of paragraph 4 are denied. In particular, it is denied that legitimate public interest extends to all aspects of their personal and family relationships (as opposed to the public being interested in knowing the same, which is plainly different as a matter of law), or that every detail of such relationships is "integral to the proper functioning of</p>
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an American tabloid website, first that he was having a heart attack and then surgery, and the frenzied reporting of this which followed in the British media (including the Defendant's titles). Further, it was deliberately intended to limit and control the amount of press intrusion or speculation, particularly in relation to her father's health or other private matters. This was, and remains, consistent with the proactive steps taken by the Claimant to protect her privacy, and those of her family (including repeated requests to the media to leave her father alone), insofar as this has been possible and within her control.

10. Save that it is admitted that the Claimant is a public figure whose performance of her public duties is a matter of legitimate public interest, paragraph 6 is denied. The fact that she is a member of the Royal family, or any form of public figure, does not remotely mean that the intimate details of her private relationships with her family or her personal feelings about them is a "proper matter for public scrutiny", nor is that correct as a matter of law. The Claimant will refer in support of this contention, by way of example, to the decision of the Court in the Prince of Wales case,

			as well as the Court of Appeal's unequivocal upholding of that decision.
<p>2. The Defendant is the publisher of The Mail on Sunday, a hugely popular and influential weekly tabloid newspaper which enjoys an enormous circulation and even greater readership within this jurisdiction. It is also the owner and operator of a website on which it reproduces material from the hard copy version of the newspaper which is readily accessible or available via the worldwide internet at the URL, www.thedaily.co.uk ("the Defendant's website"). The Defendant's website is the most popular UK newspaper website with millions of daily users within this jurisdiction</p>		<p>7. Paragraph 2 is admitted, except that:</p> <p>7.1 The averment that the Defendant's website is accessible via the "worldwide" internet is admitted, but irrelevant, because the claim as understood from the Particulars of Claim is in respect of publication in the jurisdiction of the Court. If it is not, that should be made explicitly clear.</p> <p>7.2 The allegation that the website has millions of daily "users" is not admitted, because the word "users" is not understood in this context. The number of daily visitors to the website is not relevant to this claim, because most of these readers will read only a fraction of the content of the website.</p>	
<p>3. In August 2018, the Claimant wrote a private and confidential letter to her father, Thomas Markle, which detailed her intimate thoughts and feelings about her father's health and her relationship with him at that time ("the Letter"). The Claimant sent the Letter to her father on or around 27 August 2018</p>		<p>8. As to paragraph 3, it is admitted that in August 2019 the Claimant wrote a letter to her father Thomas Markle ("the Letter") and sent the Letter to him on or around 27 August 2018. Except as admitted in this paragraph, paragraph 3 is denied. The Claimant does not make any claim for breach of confidence against her father or the Defendant in respect of the publication of the Letter and it is not therefore open to her to allege confidentiality in the Letter.</p>	
<p>4. The Articles complained of on 10 February 2019, the Defendant</p>		<p>The Articles complained of</p>	

published or caused to be published a series of articles in The Mail on Sunday and on MailOnline in which substantial extracts of the Letter were reproduced or set out, as follows ("the Articles"):

(1) an article on pages 4 to 5 of The Mail on Sunday, under the heading: "Revealed: The letter showing true tragedy of Meghan's rift with a father she says has 'broken her heart into a million pieces'";

(2) an article on pages 6 to 7 of The Mail on Sunday, under the heading: "Meghan: Stop painful attacks on Harry; Her dad: I like him.... I'll always love you";

(3) an article on MailOnline, at the URL <https://www.dailymail.co.uk/news/article6686817/Letter-showing-true-tragedy-Meghan-Markles-rift-father.html> , entitled "Revealed: The Handwritten letter showing true tragedy of Meghan's rift with a father she says has 'broken her heart into a million pieces'";

(4) an article on MailOnline, at the URL <https://www.dailymail.co.uk/news/article6686901/Meghan-Markle-urges-father-stop-attacks-patient->

9. Paragraph 4 is admitted. The Defendant adopts below the term "the Articles" to denote the five articles referred to in paragraphs 4(1) to 4(5), and "Article (1)" (or as appropriate) to refer to a particular one of the Articles. In Appendix A to the Response, the Claimant served marked-up copies of the Articles showing the words complained of in respect of each of the three causes of action in this claim (misuse of private information, breach of the GDPR and infringement of copyright). The Claimant's claim is therefore limited to the words that have been notified to the Defendant in this way ("the words complained of").

<p>kindunderstanding-Prince-Harry.html , entitled "Meghan Markle urged her father to stop 'painful' attacks on 'patient, kind and understanding' Prince Harry in five page letter - but anguished dad says 7 like him...and I'll always love you";</p> <p>(5) an article on MailOnline, at the URL https://www.dailymail.co.uk/news/article/6687987/Secrets-Meghans-letter-Thomas-Markle-according-experts.html , entitled "Secrets of Meghan's letter revealed: note to her father saying her heart has been 'broken into a million pieces' reveals she is a narcissistic showman whose self-control is wavering".</p> <p>Copies of the Articles are attached to these Particulars of Claim, marked Appendix A</p>			
<p>5. Pending full disclosure, the precise extent of publication and republication of the Articles is unknown, but it is likely that they were accessed or read by millions of people.</p>		<p>10. As to paragraph 5:</p> <p>10.1 The allegation that the Articles were “accessed”, as distinct to read, is not understood. It does not appear to be relevant in this context.</p> <p>10.2 The relevant readership figures are those within the jurisdiction of the Court.</p>	

		10.3 The Defendant's current information is that the print edition of the newspaper on 10 February 2019 (including digital copies) sold about 900,000 copies in the jurisdiction. The number of unique visitors in the jurisdiction to all three of the online Articles up to and including the date of issuing of this claim i.e. 30 September 2019 was about 1 million.	
6. At no stage prior to publication of the Articles did the Defendant make any attempt to contact the Claimant, or any of her representatives, in relation to their proposed contents. In view of the self-evidently private and sensitive nature of the contents of the Letter, the Claimant will invite the Court to infer that this was a deliberate decision by the Defendant in order to avoid the risk of the Claimant seeking to prevent the publication (had she been so warned) and thereby secure the enormous 'scoop' which the Defendant wished to achieve with such a highly sensational story.		11. It is admitted that the Defendant did not contact the Claimant before publication. The Defendant was not obliged to do so. The rest of paragraph 6 is denied, except that the Defendant does not plead to the allegation as to the Defendant's motive for not contacting the Claimant before publication because to do so would refer to matters covered by legal privilege.	
7. As further particularised below, the publication of the Articles containing the detailed contents of the Letter blatantly constituted a misuse of the Claimant's private information, a breach of the Claimant's rights protected under the General Data Protection Regulation (EU) 20161679 ("GDPR") and an infringement of	<p>Of paragraph 7:</p> <p><i>"the publication of the Articles containing the detailed contents of the Letter blatantly constituted a misuse of the Claimant's private information, a breach of the Claimant's rights protected under the General Data Protection</i></p>	<p>Alleged misuse of private information</p> <p>12. As to paragraph 7:</p> <p>12.1 In the Response the Claimant has made clear that she does not complain of the publication of the Articles as a whole, but only of certain words within them. It is denied that the publication of the words complained of constituted a misuse of the</p>	<p>Misuse of the Claimant's Private Information</p> <p>11. Paragraph 12 is denied. In particular, it is denied that:</p> <p>11.1. The Articles "properly and accurately reported matters of public interest and current events".</p>

<p>the Claimant's copyright in the Letter.</p> <p>Further, the Defendant deliberately sought to mislead the public by selectively editing the contents of the Letter so as to suppress or omit parts of it which would undermine its negative characterization of the Claimant, even misrepresenting those extracts it chose to publish as being the "full content" of the "five-page" Letter (which they were plainly not, as demonstrated in paragraphs 19(4) and (5) below).</p>	<p><i>Regulation (EU) 2016/679 (GDPR) and an infringement of the Claimant's copyright in the Letter"</i></p> <p>11. (sic) Please state clearly and unambiguously, in respect of each cause of action relied on (misuse of private information, breach of GDPR rights, and infringement of copyright), whether the Claimant's claim in respect of the Articles is confined to the words that report the contents of, and contain extracts from, the Letter, or whether the claim is also in respect of other parts of any of the Articles.</p> <p>Response 1</p> <p><u>Misuse of Private information.</u> The Claimant's claim relates to the words in the Articles which report the contents of, or contain extracts from, the Letter.</p> <p><u>Breach of GDPR rights.</u> The same position applies in relation to the Claimant's claim under the GDPR.</p> <p><u>Infringement of copyright.</u> The Claimant's claim relates to the words and images included</p>	<p>Claimant's private information, or a breach of the Claimant's GDPR rights, or an infringement of the Claimant's copyright in the Letter, as alleged or at all.</p> <p>12.2 The second sentence of paragraph 7 is denied. The Defendant did not seek to mislead the public as alleged or at all. The Articles stated, as was the case, that whilst Thomas Markle had disclosed the full content of the Letter to the Defendant, the Defendant was publishing extracts from it. It was also apparent from the Articles themselves that only extracts from the Letter were published by the Defendant. The Articles properly and accurately reported matters of public interest and current events, namely the Claimant's ongoing dispute with and estrangement from her father, and previous misleading or one-sided reporting of that dispute, and of the content of the Letter and of her father's letter in response, in the media. Further details of the Defendant's case on this matter are set out below in paragraphs 17.9 and 18.6</p> <p>12.3 The rest of paragraph 7 is denied.</p>	<p>11.2. The Claimant's "ongoing dispute with and estrangement from her father" constituted a matter of public interest, as opposed to a topic which the public would want to read about and would therefore be commercially beneficial to the Defendant to publish.</p> <p>11.3. It was "apparent from the Articles themselves that only extracts from the Letter were being published by the Defendant". As already pleaded, the Defendant explicitly informed readers that it was publishing the "full content" of the "five-page" Letter, which was completely untrue, as it well knew.</p>
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within the Articles that republished extracts from the Letter.

2. For the avoidance of doubt, identify precisely the words that are complained of in each Article, in respect of each cause of action (either by reproducing the said words complained of in each Article in respect of each of the three causes of action in a document, or by supplying copies of the Articles which clearly identify, in each Article, all the words complained of, by underlining or some other method of identifying the words in question, and specifying the cause(s) of action relied on in respect of those words).

Response 2

Two copies of each of the Articles are attached to this Response, entitled "Appendix A". The first copy of each article has the words complained of marked in blue in respect of the claims for misuse of private information and breach of the GDPR; the second copy has the words complained of marked in red in

	respect of the claim for infringement of copyright.		
<p>Misuse of the Claimant's Private Information</p> <p>8. The contents of the Letter are self-evidently private and confidential and/or fall within the scope of the Claimant's private and family life, home and correspondence under Article 8 of the European Convention on Human Rights; alternatively, the Claimant had a reasonable expectation that the contents of the Letter were private and would remain so. In further support of this contention, the Claimant will rely upon the following facts and matters:</p> <p>(1) The Letter was obviously private correspondence written by the Claimant to her father.</p> <p>(2) Further, it contained the Claimant's deepest and most private thoughts and feelings about her relationship with her father and were detailed by her at a time of great personal anguish and distress.</p> <p>(3) The Claimant intended the detailed contents of the Letter to be private, and certainly did not expect them to be published to</p>	<p>Of paragraph 8(3):</p> <p><i>"The Claimant intended the detailed contents of the Letter to be private"</i></p> <p>3. Please state whether it is alleged that the Claimant intended the existence of the Letter to be private.</p> <p>Response 3</p> <p>This request is unnecessary. The Defendant is reminded of the purpose of CPR Part 18 and its Practice Direction. As already clearly pleaded, the Claimant's case is that she intended the contents of her letter to be private. The fact that the Claimant also intended the existence of the Letter to be private is, however, irrelevant to the cause of action, and her case has not been pleaded in this way.</p> <p>4. Please state whether it is alleged that the Claimant intended the general (as opposed to detailed) contents of the Letter to be private.</p>	<p>13. Paragraph 8 is denied. The contents of the Letter were not private or confidential, self-evidently or at all. The third sentence of paragraph 8 above is repeated. The Claimant did not have a reasonable expectation of privacy that the contents of the Letter were private and would remain so. In support of these denials, the Defendant relies on the following facts and matters:</p> <p>13.1 The Claimant has failed to set out the particular information in the Letter in respect of which she alleges she has a reasonable expectation of privacy. In paragraph 9(6) she refers to "the Information" as if this were a defined term, but it is not defined in the Particulars of Claim. It is inferred that she has not set out the particular information alleged to be private because to do so would show that the information in the Letter was not private and/or not of the kind that, in all the circumstances, merits the protection of the Court. Much of the information in the Letter does not belong to or relate to the Claimant but is information about her father and his dealings with the media.</p> <p>13.2 As a general principle, a recipient of a letter is not obliged to keep its existence or contents private, unless there are special circumstances, such as a mutual understanding between sender and recipient that the contents of a letter should be kept private. The recipient of a letter is</p>	<p>12. Paragraph 13 is denied. In particular:</p> <p>12.1. The Defendant's denial that "the contents of the Letter are not private or confidential", and "did not contain any deeply personal or private matters about the Claimant herself" is as disingenuous as it is false, and is expressly contradicted by the Defendant's own publication. For example, in an article published in the Daily Mail, on the following day (11 February 2019), the Defendant described the Letter as "Meghan pours out her heart in moving letter to estranged father", and further as "a deeply personal handwritten note."</p> <p>12.2. It is denied that unless there are "special circumstances", such as an express understanding that correspondence be kept private, a recipient of a letter is entitled to disclose its full contents to the entire world. This is wholly unsustainable both as a matter of law (on established authority) and as an issue of fact. It is trite that Article 8 of the European Convention on Human Rights</p>

<p>the world at large by a national newspaper, and without any warning.</p>	<p>Response 4</p> <p>This request is also unnecessary. The Defendant is again reminded of the true purpose of CPR Part 18 and its Practice Direction. As already clearly pleaded, the Claimant's case is that she intended the detailed contents of her letter to be private. The fact that the Claimant also intended the general contents (insofar as the Claimant understands what is meant by the word 'general' in this context), to be private is, however, irrelevant to the cause of action and her case has not been pleaded in this way.</p> <p>5. If the Response to request 4 is no, what general information about the contents of the Letter does the Claimant regard as non-private?</p> <p>Response 5</p> <p>Not applicable for the reasons set out above.</p> <p>6. Is it alleged that the Claimant intended her father to keep the detailed contents of the Letter private, and, if so, is</p>	<p>entitled to tell his or her own story about matters which may be referred to in the letter, including disclosing the state of his or her family relationships and interactions.</p> <p>13.3 No such special circumstances existed in this case. The Letter did not contain any deeply personal or private matters about the Claimant herself, such as her private medical or financial information or information about the Claimant's intimate relationship with her husband. It focussed exclusively on the Claimant's relationship with her father, a matter about which he was entitled to speak openly.</p> <p>13.4 There was no mutual understanding between the Claimant and her father that their correspondence should be kept private and secret. The Claimant did not ask her father to keep the Letter or its contents private. In fact, on the contrary, her own 7 conduct signalled that those matters were not private or confidential, as set out in more detail below.</p> <p>13.5 The Claimant knew that her father had spoken to the media previously about their relationship and was continuing to do so (indeed this was a matter the Claimant complained of in the Letter). She also knew that she and her father were estranged in that they had not had any communication since before the Claimant's wedding up to the sending of the Letter (as set out in more detail in paragraph 15.6 below). She therefore knew that it was possible or even</p>	<p>protects "the right to respect for an individual's private and family life, home and correspondence" (emphasis added), which right would be rendered almost meaningless if the Defendant's novel contention here was correct (which it is obviously not).</p> <p>12.3. It is further denied that the Letter needed to contain deeply private matters about the Claimant, such as her private medical information, in order to benefit from a reasonable expectation of privacy. In any event, as the Defendant itself recognised, the Letter encapsulated the Claimant's deeply personal thoughts to her father (as well as medical information about him). That information is inherently private. However, the recording of it in a private method of communication is in any event sufficient, as the Court held in the Prince of Wales case, dismissing the Defendant's argument to the contrary, and as upheld by the Court of Appeal.</p> <p>12.4. It is denied that the Claimant knew or believed that her father would seek to publicise the contents of her letter or disclose it to the media for financial reward. The Claimant</p>
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it alleged that his disclosure of the Letter was wrongful?

Response 6

The Claimant intended her father to keep the detailed contents of the Letter private. The Claimant's claim is against the Defendant for its unlawful disclosure of the Letter and infringement of copyright, and not against her father.

likely that he would disclose the contents of the Letter to third parties or the media.

13.6 That possibility was made more likely because the publication of the existence and contents of the Letter was at all relevant times lawful under US law, and therefore it was perfectly lawful for her father to disclose the contents of the Letter to the media and also lawful for the media to publish its contents in the US.

13.7 Further, it is to be inferred that the Letter was written and sent by the Claimant with a view to it being read by third parties and/or disclosed to the public, alternatively knowing that the same was very likely. In support of this inference the Defendant relies on the following:

13.7.1 It is apparent from the Letter that the Claimant took great care over its presentation. The Letter appears to have been immaculately copied out by the Claimant in her own elaborate handwriting from a previous draft. There are no crossings-out or amendments as there usually are with a spontaneous draft. It is to be inferred also from the care the Claimant took over the presentation of the letter that she anticipated it being disclosed to and read by third parties.

13.7.2 The tone and contents of the Letter. The Letter is written to put the Claimant and her previous conduct in the

did not suspect (let alone expect) that he would do so, not least because of its contents and how they reflected upon him. The Claimant did have a fear that the letter might be intercepted or stolen by a third party (which was the reason why she had it sent by recorded delivery). However, that is not the same 10 as, nor could it possibly amount to, a reasonable expectation that the contents of the Letter would be published in a newspaper.

12.5. The Claimant denies that her handwriting or the lack of amendments demonstrate that she expected the contents of the Letter to be disclosed to the world at large. This was the Claimant's usual style of handwriting, as she had trained in calligraphy since she was at school and practiced it professionally to support her early acting career, as had been widely reported including by the Defendant in an article published in the Mail Online on 26 November 2018.

12.6. It is also denied that the tone and contents of the Letter in any way suggest that the Claimant expected it to be published. The Letter is a true and accurate reflection of the

		<p>best possible light. It makes multiple accusations against Mr Markle and multiple self-congratulatory remarks about the Claimant. It rehearses the Claimant's version of the history of her relationship with her father and her family in a way that strongly suggests 8 the Claimant wanted or expected third parties to read it, and in this respect, the Defendant relies on the fact that the Claimant complains, in this action, that the Defendant did not publish the whole of the Letter and specifically parts that she says cast her in a good light.</p> <p>13.7.3 In the light of the tone and contents of the Letter, the Claimant could not have reasonably expected the Letter to lead to a reconciliation between herself and her father, from which it is to be inferred that it was written at least partly for the sake of the record.</p> <p>13.7.4 The Claimant kept a copy of the Letter. It is to be inferred she did so in order that she could use it herself, including by disclosing its contents. This inference is further supported by paragraph 13.8 below.</p> <p>13.8 Further still, the Claimant herself had knowingly caused or permitted information about her personal relationship with her father, including the existence of the Letter and a description of its contents to enter the public domain, as follows:</p>	<p>Claimant's personal thoughts towards her father, and the implicit suggestion to the contrary is as misconceived as it is offensive. As already stated, the Defendant correctly recognised that the Claimant "pours her heart out in a moving letter" in its article of 11 February 2019. Further, and in any event, the Claimant's expectations as to the consequences for her relationship with her father are deeply personal and are matters as to which she plainly had a reasonable expectation of privacy.</p> <p>12.7. It is further denied that the fact that the Claimant retained a draft of the Letter in electronic form (since it was originally drafted in electronic form and then written out in longhand) demonstrates that she intended to publicise it herself.</p> <p>12.8. Specifically, as to paragraphs 13.8.1 to 13.8.11:</p> <p>(a) It is admitted that People magazine, a US title, published articles based on interviews given by five unnamed friends of the Claimant in its 18 February 2019 hard copy and online edition and that these</p>
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13.8.1 In early February 2019, People magazine published articles that were said to be based on interviews with five unnamed close friends of the Claimant (“the People interview”). People magazine is one of the top-selling celebrity magazines in the world, with a readership of about 40 million people in the US alone each week. The People interview was published in the edition of the magazine dated on the front cover 18 February 2019, but which was published in hard copy on 6 February 2019. The People Interview was also reported in a series of three online articles on the People’s website, first published at 8am, 9am and 10am respectively the same day. The three online articles, and the hard copy article, are reproduced in the Appendix to this Defence and are all relied on.

13.8.2 The hard copy article was trailed on the front cover of People magazine where a flattering full page picture of the Claimant appeared accompanied by the words “Exclusive! HER BEST FRIENDS BREAK THEIR SILENCE The Truth About Meghan Upset by the heart breaking lies and bullying 9 aimed at Meghan, her real friends open up about the woman they know and love”. The hard copy article was headed, “The Truth About Meghan: HER BEST FRIENDS BREAK THEIR SILENCE”. The sub-heading was: “After staying quiet for nearly 2 years, those who know Meghan

interviews contained the text quoted therein.

(b) It is further admitted that in the course of these lengthy articles, a brief and passing reference was made to the Letter (as well as the response from the Claimant’s father). This reference was neither the main focus nor any substantial part of the articles. Further, it did not contain the detailed contents of the Letter and insofar as it purported to summarise the Letter and the Claimant’s purpose in sending it was completely wrong.

(c) In fact, the Claimant did not know that a number of her friends agreed to give an interview about her to People magazine.

(d) As she later discovered, following visits to see her in London at the beginning of 2019, some of her close circle of friends became extremely concerned at the aggressive attacks upon her in the media and the palpable and profound impact which this was having upon her, especially as she was vulnerable as well as heavily pregnant at the time. As a

best are setting the records straight. 'We want to stand up against the global bullying we are seeing and speak the truth about our friend'. The friends were described as an "intensely loyal circle of close friends", "five women from Meghan's inner circle", and "a special sisterhood". The interview included details of the Claimant's personal life, way of living and relationships, including details of the interior of her home, domestic arrangements and pets. These details could only have been provided by people who know the Claimant intimately.

13.8.3 The article also included details about the Claimant's relationship with her father, and information about the Letter and its contents. A "long-time friend" was quoted as saying: "The Saturday before the wedding, she and Harry were told that a story was going to come out the next day saying that Tom was staging pictures with the paparazzi. Their team told them that if the story was fake, they could file a complaint. So Meg calls Tom and asks him, and he's swearing up and down that it's not true. The next day the pictures came out. Even with all that, Meg and Harry were still so focused on getting him to London. At no point was there talk of "Now that we know he lied, he's in trouble." Tom wouldn't take her calls, and wouldn't take Harry's calls. The next morning when the car got there [to take him to the airport], he wouldn't get

result, one of her closest friends decided that they should help by arranging to give anonymous interviews to this American magazine whose Editor was a very good friend of hers in which they might explain what the Claimant was truly like (as opposed to the tabloid portrayal of her).

(e) In particular, the Claimant had no knowledge that her friends would make any reference to the Letter or its contents, the intention of sending it, or the response that her father sent, nor would she ever have agreed to this being done had she been made so aware.

(f) Further, and in any event, had any such reference to the Letter been procured or known about by the Claimant, then of course the reference to its contents and the objective in sending it in the People interview would have been correct and accurate which it clearly was not.

(g) The Claimant did not state in her Letter that she felt her father had "victimised" her, nor did she state that she had "only one

in. [Later] Meg heard he had a heart attack and she's calling and texting, even up to the night before the wedding. It was like, "Please pick up. I love you, and I'm scared." It was endless. After the wedding, she wrote him a letter. She's like, "Dad, I'm so heartbroken. I love you. I have one father. Please stop victimizing me through the media so we can repair our relationship." Because every time her team has to come to her and fact-check something [he has said], it's an arrow 10 to the heart. He writes her a really long letter in return and he closes it by requesting a photo op with her. And she feels like, "That's the opposite of what I'm saying. I'm telling you I don't want to communicate through the media, and you're asking me to communicate through the media. Did you hear anything I said?" It's almost like they're ships passing. He knows how to get in touch with her. Her telephone number hasn't changed. He's never called; he's never texted. It's super-painful, because Meg was always so dutiful. I think she will always feel genuinely devastated by what he's done. And at the same time, because she's his daughter, she has a lot of sympathy for him."

13.8.4 On the third page of the hard copy article, highlighted in an orange box, a friend is quoted as saying: "Thomas has said she shut him out - claims her friends say are patently false".

father" as is reported in the interview. Instead, she raised concern that he had consistently allowed himself to be manipulated by the tabloid media (especially the Defendant), despite her trying to persuade him to not to speak to them for his own good, and rightly so.

(h) For example, in his letter of response to his daughter, which he provided to the Defendant and to which the Articles make explicit reference (as well set out various passages), Mr Markle refers to the behaviour of the Defendant's journalists, and in particular, Peter Sheridan who manipulated him into speaking to the Mail Online, a conversation which was then presented in an article on 28 July 2018 as an interview of "almost nine hours" and as a full-scale attack upon the Claimant. As Mr Markle states in this letter (thereby contradicting a number of false assertions in the Defence, as the Defendant is well aware):

"The next day [Peter Sheridan] announced and bragged that he got a 9 hour interview. He said a few things I said in

13.8.5 The online article published at 10am was headed, “The Truth About Meghan Markle’s Dad – and the Letter She Wrote Him After the Wedding” (“the 10am People article”), with the sub-heading, “‘He knows how to get in touch with her,’ a long-time friend tell PEOPLE in this week’s issue”. The article begins: “Meghan Markle has never spoken publicly about her relationship with her father since entering royal life – but her father has frequently done the opposite. In various interviews, Thomas Markle has claimed that he has no way to reach his daughter. In this week’s PEOPLE cover story, Meghan’s best friends offer a very different perspective ...” The article includes much of the same information set out in the previous paragraph, but also states that “Meghan’s mom, Doria Ragland, and her dad, Thomas, split when she was 2 years old”. The 10am People article focusses solely and exclusively on the Claimant’s relationship with her father and their exchange of correspondence, and purports to be an account of “the truth” about Mr Markle and the Letter.

13.8.6 The plain meaning and effect of the hard copy article and the 10am People article was to suggest that Mr Markle has made false claims about his dealings with his daughter and that he was entirely at fault in not attending the royal wedding and for the estrangement between himself and the Claimant.

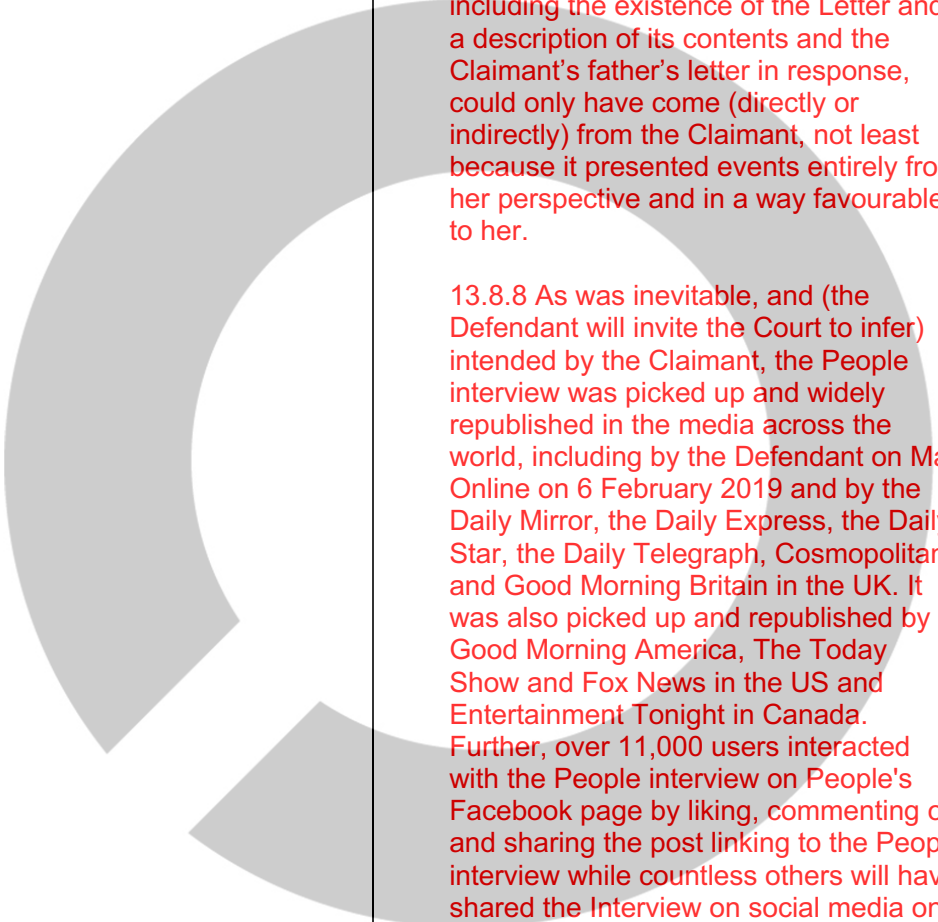
confidence, but 85% were lies and bullshit! I called him and told him he was a thief, a liar and a coward and I would GET EVEN!

“I didn’t want or intend to give him an interview and I certainly would not do 9 hours for free!....

“When I was asked if I tried to borrow money from you, three days before the wedding? I said, “no I did not, but I know she would have helped me if I would have asked.” I made a comment about Tom Jr not paying me back, “not one red cent”, and they changed it to Meghan’s dad complaining that his kids won’t pay him back one red cent!! That comment came from Peter Sheridan’s 9 hour interview....

“I never said anything about your grandma, never!! I know you took care of her, I don’t know where that comes from? I appreciate that you have always been concerned for my health and you were trying to get me help”.

(parts of this passage of the letter, relating to the

		<p>13.8.7 The above information in the People interview about the Claimant's relationship and dealings with her father, including the existence of the Letter and a description of its contents and the Claimant's father's letter in response, could only have come (directly or indirectly) from the Claimant, not least because it presented events entirely from her perspective and in a way favourable to her.</p> <p>13.8.8 As was inevitable, and (the Defendant will invite the Court to infer) intended by the Claimant, the People interview was picked up and widely republished in the media across the world, including by the Defendant on Mail Online on 6 February 2019 and by the Daily Mirror, the Daily Express, the Daily Star, the Daily Telegraph, Cosmopolitan and Good Morning Britain in the UK. It was also picked up and republished by Good Morning America, The Today Show and Fox News in the US and Entertainment Tonight in Canada. Further, over 11,000 users interacted with the People interview on People's Facebook page by liking, commenting on and sharing the post linking to the People interview while countless others will have shared the Interview on social media on their own channels.</p> <p>13.8.9 Kensington Palace has refused to comment on whether the sources for the</p>	<p><i>Defendant's journalists, have been deliberately omitted to protect Mr Markle's reputation)</i></p> <p>(i) Whilst she appreciated that her close friends were concerned and distressed at the media coverage about her and were trying to help, the Claimant was distressed when she discovered that someone had made reference to the Letter (and her father's response), albeit in passing and incorrectly.</p> <p>12.9. Save that the Claimant admits the factual assertions set out in paragraphs 13.8.12.1 to 13.8.12.4, paragraph 13.8.12 is denied.</p> <p>In particular, the Claimant denies the inference which the Defendant seeks to draw from them. The Claimant's friend was seeking to protect the Claimant from what she believed were untrue and defamatory statements that the newspaper was intending publish. However, this paragraph is entirely irrelevant to the Claimant's claim. Further, and in any event, the Defendant's contention here is utterly misconceived because the Claimant did not seek or intend</p>
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		<p>People interview had given the interview or co-operated at the request of the Claimant, or with her consent, express or tacit.</p> <p>13.8.10 The Claimant herself has not at any time denied this fact. Indeed, in a pre-action letter to the Claimant's solicitors dated 22 February 2019 the Defendant asserted that the Claimant must have authorised or acquiesced to the disclosure of the fact and nature of the Letter to People magazine. The Claimant did not deny this assertion in response, choosing instead to stay silent on the issue.</p> <p>13.8.11 To the best of the Defendant's knowledge, the Claimant has not complained to People magazine or any other media publisher about the publication of any of the information in the People interview, either on the grounds that it contains private information published without her consent or that it is inaccurate or on any other grounds.</p> <p>13.8.12 The Defendant is aware that the Claimant has on at least one other occasion caused or permitted a close friend to seek to influence what is published about her in the media. In April 2018 the Claimant caused or permitted a close friend of hers, Jessica Mulroney, to intervene in relation to an interview given to the Mail on Sunday by another friend</p>	<p>the existence or contents of her Letter to be published in People magazine (or anywhere else), as explained above. Far from it. Once she discovered that mention had been made to her Letter, she was distressed. As already stated, it is denied that the Claimant caused or permitted the existence or contents of the Letter to be published in People magazine, nor did she "acquiesce or was she content for it to happen" (the lowering of the Defendant's case being notable, but still untrue). Similarly, the Defendant's assertion that the publication of the People interview waived any privacy or confidence in the contents of the Letter is denied. In the premises, paragraph 13.8.13 is also denied.</p> <p>12.10. Save that it is denied (a) that Mr Markle was entitled to give the Letter to whomever he chose; (b) that any false or damaging information had been put into the public domain about him through the People interview or that he needed to correct the same and (c) that the Defendant was in any way genuinely seeking to assist Mr Markle in achieving that aim (as opposed to its self-serving commercial purpose of satisfying the curiosity</p>
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		<p>and former commercial advisor of hers, Gina Nelthorpe-Cowne, with a view to influencing what Ms Nelthorpe-Cowne said about the Claimant and what would be published about the Claimant, as follows.</p> <p>13.8.12.1 In or before early April 2018, Ms Nelthorpe-Cowne gave an interview to Kate Mansey of the Mail on Sunday about the Claimant.</p> <p>13.8.12.2 On 7 April 2018, Ms Mansey wrote to Jason Knauf, Communications Secretary to the household of Prince Harry, notifying Kensington Palace of the contents of the interview with Ms Nelthorpe-Cowne.</p> <p>13.8.12.3 It is to be inferred that on the same date the Claimant passed this message to Jessica Mulroneu with a request that she (Ms Mulroneu) intervene to try to ensure that a more favourable article was published, because on 7 April 2018 Ms Mulroneu wrote to Ms Nelthorpe-Cowne putting pressure on her to withdraw or change statements she (Ms Nelthorpe-Cowne) had made to the Mail on Sunday.</p> <p>13.8.12.4 Nicholas Pyke, Features Editor of the Mail on Sunday, thereafter wrote to Mr Knauf on 9 April 2018 complaining about Ms Mulroneu's 13 intervention. Mr Knauf responded by stating that he understood Mr Pyke's</p>	<p>of its readership in discovering details of the Claimant's private and family life), no admissions are made as to paragraph 13.8. The Defendant is put to strict proof as to the nature and details of its approach to and communications with Mr Markle. For the avoidance of any doubt, as already stated above, the Claimant will refer to the fact that the Defendant deliberately manipulated and exploited a vulnerable and fragile individual (as it was well aware), having previously published highly damaging and distressing stories about Mr Markle, exposing him to the world at large as a 'Royal Wedding scammer' for having agreed to pose for 'fake' photographs and then suggesting in its reporting that his 'heart attack' was also fake (apparently contrary to the Defendant's position in this litigation), thereby creating the "dispute" which it (falsely) claims gave rise to the legitimate reason to publish the detailed contents of the Letter. It is noted that nowhere in the Defence does the Defendant admit that it was responsible for exposing the Claimant's father in this way, with the enormous impact that this had (particularly on Mr Markle and his relationship</p>
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		<p>position and that he would endeavour to ensure that “this does not happen again”.</p> <p>13.8.12.5 The Defendant will seek disclosure from the Claimant of communications relating to Ms Mulroney’s intervention, and any other occasions in which the Claimant has caused or permitted her friends to provide information about her to the media or to seek to influence what is published about her.</p> <p>13.8.13 In the premises, it is to be inferred that the Claimant sought and intended to have the existence and a description of the contents of the Letter and Mr Markle’s response to the Letter published and, pursuant to this intention, caused or permitted the information in the People interview to be published, or acquiesced in the same, and was content to have People magazine disclose information about the Claimant’s relationship with her father and the existence and (the Claimant’s version of) the contents of the Letter. Whatever the position may have been earlier, following the publication of the People interview and reports of the People interview, neither the existence nor the contents of the Letter were confidential.</p> <p>13.8.14 In so far as the Claimant alleges in Responses 3 and 4 of the Response that she intended the fact and the</p>	<p>with his daughter), preferring instead to refer to it disingenuously in the Defence as simply a story which “came out in the press”. The Claimant also repeats and relies upon the reference to Mr Markle’s letter in paragraph 11.8(g) above.</p> <p>12.11. Paragraph 13.8.16 is denied. Given that the entire premise for its Defence is false or misconceived, and in particular that the Claimant did not know of the People interview, let alone procure or consent to any reference to the Letter, the Claimant plainly had a reasonable expectation that its detailed contents would not be (further) published in the media.</p> <p>13. As to paragraph 14.2, the Defendant’s contention that the letter does not contain the Claimant’s deepest and most private thoughts is utterly unsustainable. As referred to above, the Defendant itself chose to describe it in this way in an article the very next day (11 February 2018), reporting that the Claimant “pours her heart out in a moving letter” to her estranged father. The fact that the pleading chooses to state the contrary now only serves to highlight further both</p>
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		<p>contents of the Letter to be private, that is specifically denied, both as at the date it was written and sent and moreover, as of early February 2019, when the People interview was published.</p> <p>13.8.15 The Defendant was given a copy of the Letter by the Claimant's father together with his own account of his estrangement from the Claimant and his views on the content and tone of the Letter and what he considered the misleading impression of it that had been put in the public domain by reason of the People interview. The Letter was Mr Markle's property, and he was entitled to give it to whomever he chose. Mr Markle was also entitled publicly to correct the false and damaging (to him) information that had been given about his conduct in the People interview, and to have as much of the Letter and its contents published as was necessary for that purpose.</p> <p>13.8.16 In all the premises above, the Claimant had no reasonable expectation that the existence, or the contents, of the Letter would not be further published in the media.</p> <p>14. As to the matters set out in paragraph 8(1) to 3(3) in support of the Claimant's case on reasonable expectation of privacy:</p> <p>14.1 Paragraph 8(1) is denied.</p>	<p>the artificial and the disingenuous nature of the Defendant's case. Given the repeated attempts by the Claimant to contact her father (as detailed below) which sadly went unanswered, a private letter was the only form of communication that the Claimant believed might work.</p> <p>14. As to paragraph 15, it is denied that any claimed right to freedom of expression by the Defendant in relation to publication of the detailed contents of the Letter (whether in its own right or somehow assumed on behalf of Mr Markle) outweighs the Claimant's reasonable expectation of privacy in the same, whether as alleged therein or at all. The Claimant repeats and relies on paragraphs 10 to 12 above. As to the particulars under paragraph 15, the Claimant responds (where necessary) below:</p> <p>14.1. As to paragraphs 15.3 to 15.5, it is denied that the characterisation of the People interview is correct, any more than this characterisation justified the Defendant publishing the contents of the Letter in the way that it did, especially without any attempt made to contact the Claimant beforehand.</p>
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		<p>14.2 Paragraph 8(2) is denied, because the Letter does not appear to contain the Claimant's deepest and most private thoughts but to be an admonishment by the Claimant of her father for failing to behave as she would have wished. No admissions are made as to the Claimant's feelings at the time she wrote the Letter.</p> <p>14.3 Paragraph 8(3) is denied.</p> <p>15. Further or in the alternative, if and in so far as the Claimant had and/or has a reasonable expectation of privacy in the words complained of (or any of those words), which is denied, any interference with the Claimant's Article 8 right caused by the publication of those words was justified to protect the rights and freedoms of others, namely the right to freedom of expression pursuant to Article 10 of the European Convention on Human Rights (and the right of freedom of expression and information under Article 11 of the Charter of Fundamental rights of the EU) of the Defendant, its readers, and Mr Thomas Markle. The Defendant relies on the following facts and matters.</p> <p>15.1 The Defendant repeats and relies on paragraphs 2 to 6 above.</p> <p>15.2 If and in so far as the Claimant had a reasonable expectation of privacy in the words complained of (or any of those words), any privacy interest she had was slight. The Defendant repeats and relies on paragraphs 12 to 13.8.13 above.</p>	<p>14.2. As to paragraphs 15.6.1-15.6.7:</p> <p>(a) It is admitted that Mr Markle planned and intended to attend the Claimant's wedding, and that he and the Claimant exchanged messages about the arrangements for the wedding. The Claimant took great steps to ensure his attendance, as she did to protect him from the media intrusion he was suffering.</p> <p>(b) It is further admitted that Mr Markle was admitted to hospital with acute chest pain on 3 May 2018.</p> <p>(c) As to communications between the Claimant and Mr Markle in the lead-up to the wedding, the full position is not correctly set out in these subparagraphs of the Defence. For that reason, rather than respond to the Defendant's tendentious and highly partial summary of them, the full exchanges between the Claimant and her father during this period are set out in the Appendix to this Reply.</p>
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15.3 Further, the account given by the Claimant's friends to People magazine concerning the Claimant's dealings with her father and the contents of the Letter and her father's letter in response was a one-sided and/or a misleading picture of those matters, for the following reasons.

15.4 The People interview depicted Mr Markle as having acted unreasonably and unlovingly, having cold-shouldered his daughter, and being solely to blame for the estrangement between father and daughter. This was a one-sided and/or misleading and false narrative.

15.5 The People interview suggested amongst other things that, from the week before the wedding up to the date of the interview, Mr Markle had refused to take the Claimant's many calls and, despite the Claimant's efforts to reach out to him and the fact that he could easily call her because her number remained the same, had never called or texted her, and his only contact was the letter he wrote in response to the Letter in which he made an insensitive and inappropriate suggestion of a photo opportunity.

15.6 Mr Markle's believes and has informed the Defendant that this was wholly false, as follows:

15.6.1 Mr Markle planned and intended to attend his daughter's wedding. The

(d) For example, the Claimant will refer to the fact that the Defendant omits several messages between the Claimant and her father during this period. This includes one from 5 May 2018 where the Claimant writes "I've called and texted but haven't heard back from you so hoping you're okay". The Claimant then messages her father on 6 May 2018 after learning of photographs being taken which had been staged for a paparazzo photographer. The Claimant explains that she had attempted to arrange logistics and supplies for her father discretely and with privacy, with care taken not to feed the press; that she is trying to protect her father from heightened press intrusion and scrutiny and that he should keep a low profile until the wedding.

(e) Further examples of the Defendant's selective account of these messages include:

(i) It is correct that on 14 May 2018, Mr Markle did send the Claimant a text message to apologise and confirm that he would not be attending the

arrangement was for him to travel on Wednesday 16 May 2018, arriving in London on Thursday 17 May. He and the Claimant exchanged messages about the arrangements, which included the Claimant buying him a new suit and shoes for the occasion.

15.6.2 On 3 May 2018, Mr Markle was admitted to the emergency department of Playas de Rosarito General Hospital in Mexico with acute chest pain. Against medical advice, he discharged himself the following day, being unsatisfied with the management of his care.

15.6.3 Mr Markle called and texted his daughter numerous times in the weeks preceding the wedding, and they were on good terms. On Thursday 10 May 2018, just over a week before the wedding, he texted the Claimant to let her know he had just dropped off some flowers at her mother's house for Mother's Day, and stated: "I look forward to trying on my shoes and see how we look thank you for getting it ready for me its probably past your bedtime so have a good night I love you Dad". In this respect, the Claimant's case (set out in the Confidential Schedule of Deliberate Omissions to the Response and the Confidential Schedule to the Second Response) that Mr Markle did not answer the Claimant's calls is misleading in that it omits to refer to the texts and other communications from Mr

wedding, and approximately 30 minutes later (after several calls to him went unanswered) the Claimant's husband sent a message to Mr Markle from the Claimant's telephone. However, the Defendant's summary of these messages contains significant omissions. Rather than merely saying that Mr Markle did not need to apologise and that he should call, the Claimant's husband in fact stated as follows:

"Tom, it's Harry and I'm going to call you right now. Please pick up, thank you" / "Tom, Harry again! Really need to speak to u. U do not need to apologize, we understand the circumstances but "going public" will only make the situation worse. If u love Meg and want to make it right please call me as there are two other options which don't involve u having to speak to the media, who incidentally created this whole situation. So please call me so I can explain. Meg and I are not angry, we just need to speak to u. Thanks" / "Oh any speaking to the press WILL backfire, trust me Tom. Only

		<p>Markle in the two weeks before the wedding.</p> <p>15.6.4 On Friday 11 or Saturday 12 May 2018, Mr Markle, the Claimant and Prince Harry had a telephone conversation about the story that was about to come out in the press concerning the fact that he (Mr Markle) had agreed to stage some “paparazzi” photographs with a photographer called Jeff Rayner. The story broke on Sunday 13 May 2018. Mr Markle was immediately besieged by journalists.</p> <p>15.6.5 On Monday 14 May, he wrote to the Claimant stating that he was sorry; that he loved her and that he would not be attending the wedding; and that he was going to make a public apology to the Claimant and Prince Harry. He wanted to spare the Claimant any further embarrassment. He received a text response from Prince Harry saying that he (Mr Markle) did not need to apologise and that he should call.</p> <p>15.6.6 On the same day, Mr Markle began to feel very ill with shortness of breath and chest pains, he believes from the stress of the situation. Very late on Monday 14 May he went to the Chula Vista Hospital in California where he was held in critical care for an hour, and later diagnosed with suspected congestive heart failure.</p>	<p><i>we can help u, as we have been trying from day 1”.</i></p> <p>(ii) Rather than call or pick up the phone to either the Claimant or her husband, Mr Markle then issued a public statement through TMZ that he had gone to hospital because he had suffered a heart attack, which is how the Claimant first learned about this.</p> <p>(iii) On 15 May 2018, in reply to one from her father, the Claimant sent a text message, but it did not merely ask him to call her, as described by the Defendant. In fact, the Claimant’s response read as follows: “I’ve been reaching out to you all weekend but you’re not taking any of our calls or replying to any texts... Very concerned about your health and safety and have taken every measure to protect you but not sure what more we can do if you don’t respond...Do you need help? Can we send the security team down again? I’m very sorry to hear you’re in the hospital but need you to please get in touch with us... What hospital are you at?”.</p>
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15.6.7 On Tuesday 15 May 2018 he texted the Claimant to say he was “back in the hospital”. The Claimant responded asking him to call her.

15.6.8 On Wednesday 16 May 2018, Mr Markle underwent an emergency heart procedure. On the same day, he texted the Claimant to let her know that he had undergone surgery and would not be able to attend the wedding because his doctors would not allow him to fly, and said he was sorry for not being there. He told the Claimant he loved her and wished her the best. He sent a follow-up message asking who would “be giving [her] away?” and saying that if she really needed him he would come, and that he was sorry “about all this”.

15.6.9 In response, he received a text response signed “Love M and H”, but which read as if it was from Prince Harry, (amongst other things) admonishing Mr Markle for talking to the press and telling him to stop and accusing Mr Markle of causing hurt to his daughter. The text did not ask how the surgical procedure had gone or how Mr Markle was or send him good wishes. Mr Markle was deeply hurt and responded with a curt message: “I’ve done nothing to hurt you Meghan or anyone else I know nothing about 20 phone calls I’m sorry my heart attack is there any inconvenience for you”, and a couple more short messages.

(iv) Approximately 10 minutes later, the Claimant again messaged, this time saying: “Harry and I made a decision earlier today and are dispatching the same security guys you turned away this weekend to be a presence on the ground to make sure you’re safe... they will be there at your disposal as soon as you need them. Please please call as soon as you can... all of this is incredibly concerning but your health is most important”. Mr Markle responded to this simply saying he would be in hospital for a few days and was okay but refused the offer of security.

(v) The Claimant’s husband then sent a further message from the Claimant’s phone in order to provide Mr Markle with the details of the security team, and asked Mr Markle to speak to him about letting the security guard who they had sent to help Mr Markle return to his house. The Claimant’s husband pleaded with Mr Markle to let them help him. While Mr Markle responded later that evening to say that

		<p>15.6.10 After her father's message telling her that he was too ill to attend the wedding the Claimant did not speak to her father again or at any time before the wedding.</p> <p>15.6.11 Following the Claimant's wedding on 19 May 2018, Mr Markle tried to contact the Claimant by phone and text, but received no response until the receipt of the Letter in late August 2018. When he tried to call, his calls were either blocked by the Claimant or she had changed her number. Following the Letter and his letter in response, Mr Markle continued to text the Claimant asking her to contact him. For example, on 25 November 2018 he texted her to say, "I want to reach out to you or try to reach out to you one more time. You apparently have just written me off and now it's telling me I guess for the rest of my life?". The Claimant did not respond.</p> <p>15.6.12 Except for the receipt of the Letter, Mr Markle has not heard from his daughter since he wrote to tell her he was too ill to attend her wedding, nor has ever been introduced to or met Prince Harry or their son, his grandson.</p> <p>15.7 In the premises, the suggestion in the People interview that Mr Markle had "never called ... never texted" and that he had falsely claimed that he could not reach his daughter, was, according to the Claimant's father, untrue.</p>	<p>he appreciated the offer but did not feel in danger and would instead recover at a motel, the Claimant responded 10 minutes later to make a further request for the hospital details so that she would know where he was. The Claimant will refer to the fact that the Defendant's description of this exchange intentionally omits any reference to the Claimant or her husband attempting to protect Mr Markle and ensure that he was safe.</p> <p>14.3. Paragraph 15.6.8 is admitted.</p> <p>14.4. As to paragraph 15.6.9, the Defendant's summary of the Claimant's text is misleading; the full message is enclosed in the exchanges set out in the Appendix. However, it is not admitted that the response she received was in fact from Mr Markle, as opposed to someone pretending to be him. As a result of this, and the unpleasant nature of the message she received on 16 May, the Claimant called Mr Markle a further four times within 5 minutes of the message being sent, but he declined to pick up. Her husband even texted Mr Markle from the Claimant's phone</p>
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15.8 The People interview also stated that Mr Markle had refused to get in the car that had arrived to take him to the airport for the wedding, suggesting that he had refused to attend his own daughter's wedding. This was also false. As set out in more detail above in paragraph 15.6, Mr Markle had not been able to fly to London as planned because he was very unwell. He had been advised by his doctors not to fly, after having been treated in hospital for a cardiac event. The Claimant knew that this was the case, because her father had texted her on 16 May 2018 to tell her he had undergone surgery and his doctors would not allow him to fly.

15.9 The People interview also stated that after the wedding, the Claimant had written a letter to her father, and summarised the contents as "Dad, I'm so heartbroken, I love you, I have one father. Please stop victimising me through the media so we can repair our relationship", thereby suggesting that, shortly after the wedding, she had written a loving letter aimed at repairing their relationship. This information was false. The Claimant did not write the Letter until months after the wedding despite Mr Markle's attempts to make contact with her. When she did write, her Letter was an attack on Mr Markle. Amongst other things, she accused him of breaking her heart, manufacturing pain, being paranoid, being ridiculed, fabricating stories, of attacking Prince Harry, and continually lying. Although

to say "Tom, it's Harry, please answer your phone. I need to know this is actually you because it doesn't sound like you at all". No response was received.

14.5. As to paragraph 15.6.10, it is admitted and averred that following this unpleasant message (which she was unsure came from her father), her repeated telephone calls to him, his failure to pick up the phone to her many calls or even respond to the message to him from the Claimant's husband pleading with him to do so, the Claimant did not speak to her father before her wedding, which took place shortly after on 19 May.

14.6. Paragraph 15.6.11 is denied. The Claimant's phone received a missed call at 4.57am on 19 May 2018 (the morning of her wedding) but did not receive any text messages or further missed calls from Mr Markle at any point afterwards. The Claimant did not receive the text message claimed to have been sent on 25 November 2018.

14.7. As to paragraph 15.6.12, it is admitted that the Claimant and her father have not been in

the Claimant stated in the Letter that she had loved her father and cared for him in the past, the Claimant did not tell her father that she loved him now or ask how he was. By contrast, she set out at some length the many ways in which, by her own account, she had been a loving and caring daughter. She did not suggest that they try to repair their relationship. On the contrary, the final words of the Letter, "I ask for nothing other than peace, and I wish the same for you" suggested that their relationship was at an end and Mr Markle understood those words to signal the end the relationship.

15.10 The People interview stated that Mr Markle had responded to the Letter with a letter of his own in which he had asked for a "photo op" with the Claimant, with the implicit suggestion that he was seeking to make money from a photograph of him with the Claimant. This was false. Mr Markle had in fact written: "I wish we could get together and take a photo for the whole world to see. If you and Harry don't like me? Fake it for one photo and maybe some of the press will finally shut up!". He had thus stated his intention for wishing for a photograph with his daughter: that such a photograph might give the impression of a harmonious relationship and take some of the media attention away from him.

15.11 The People interview had not explained that, as was the fact, in his letter in response Mr Markle had rejected the accusations levelled against him by the

contact with each other since the events referred to above.

14.8. As to paragraphs 15.7 to 15.12:

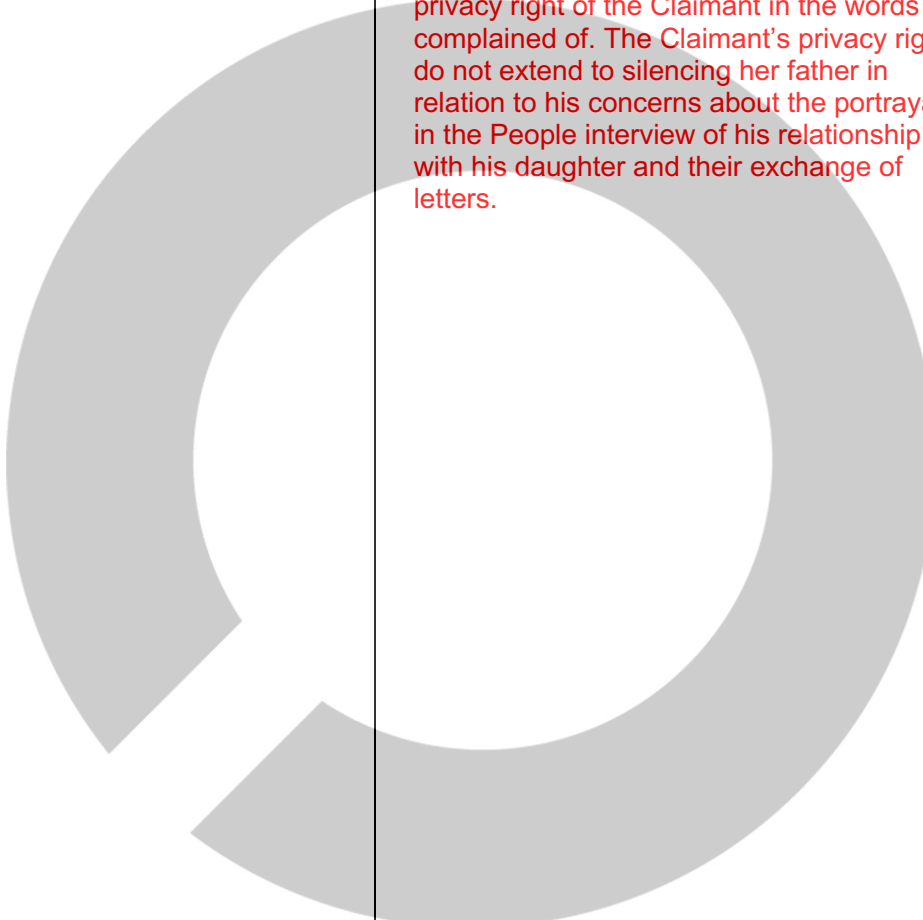
(a) The Defendant's whole premise for the assertions contained in these paragraphs is entirely false: the Claimant did not provide the statements referred to, or indeed any statement, to People magazine, nor did she procure or authorise such statements, as already explained. She did not know that unnamed friends of hers were giving an interview to the US magazine.

(b) Nevertheless, the statement referred to in paragraph 15.7 accords with the Claimant's understanding, since the reference in People magazine to 'never called...never texted' related to the period after the wedding.

(c) As to paragraph 15.8, it is correct that due to the aggressive press intrusion, the Claimant did organise a car to take Mr Markle to an alternative location for some time before the scheduled

		<p>Claimant in the Letter and had set out his own version of events which was very different to hers. None of Mr Markle's account of events or feelings about those events was mentioned in the People interview, except for the false suggestion (referred to above) that he had tried in his response to make money from the rift between himself and his daughter.</p> <p>15.12 The People interview had suggested that Mr Markle had publicly made false claims as to his dealings with his daughter (see paragraph 13.8.5 above). This was one-sided and misleading and/or untrue. Mr Markle has a very different recollection and view of the events leading up to the estrangement between himself and his daughter, as set out above.</p> <p>15.13 The publication of the words complained of was in direct response to the publication of the People interview (and the People interview was expressly referenced in the Articles). In the light of the publication across the world's media of the one-sided, and/or misleading, account of the Claimant's personal relationship with her father and the contents of the Letter set out in the People interview, it was necessary, proper and in the public interest to publish the full story concerning the Letter and the response to it, including Mr Markle's account of events. This was necessary for the sake of truth, fairness, and Mr Markle's reputation, and so that the public should not be misled. The Defendant did not publish the whole Letter</p>	<p>flight to London, and prior to Mr Markle's cardiac problems, but he would not get into the car.</p> <p>(d) As explained above, the statement referred to in paragraph 15.9 was not provided or authorised by the Claimant and does not accurately reflect either the true contents or purpose of her Letter. Of course, had the Claimant in fact provided such a statement, or authorised it, then it would obviously have been correct (which this was not, as explained above).</p> <p>(e) Again, as explained above, the statement referred to in paragraph 15.10 was also not provided or authorised by the Claimant. Whilst it is correct that her father's response to her heartfelt letter and the distress it contained was, amongst other things, to suggest that they should pose together for a photograph, the remainder of the paragraph is simply the Defendant's characterisation of something which she neither wrote nor had anything to do with, and she does not need to plead to the same.</p>
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		<p>but limited its reporting of the contents to the extent necessary to tell the complete story and/or set the record straight, for example, omitting the references to the private information of third parties.</p> <p>15.14 The identification of the words complained of by the Claimant in Appendix A to the Response confirms that the Claimant does not allege that it was unlawful for the Defendant to publish an article referring to the fact that the Claimant sent the Letter to her father, that her father was upset (“devastated”) by the contents of the Letter, and that he had written a letter to the Claimant in response from which quotes are set out. The parts of the Articles setting out these matters are not complained of. It was a matter of editorial discretion and judgment to illustrate such an admittedly lawful article with extracts from the Letter to give the article conviction and to engage the attention of readers.</p> <p>15.15 In the premises, the words complained of constituted matters of legitimate public interest. The Defendant’s and the public’s rights to freedom of expression and information in relation to these words were weighty and outweighed any privacy rights of the Claimant.</p> <p>15.16 Further in the premises, Thomas Markle had a weighty right to tell his version of what had happened between himself and his daughter including the contents of the Letter and his letter in response in order to</p>	<p>(f) As to paragraphs 15.11 and 15.12, since the Claimant did not procure or authorise the Letter being referred to in the People interview, the Defendant’s contentions are entirely false or misconceived.</p> <p>14.9. Save that it is admitted and averred that despite plainly suggesting the contrary to its readership, the Defendant did not publish the whole Letter, deliberately distorting its true contents (as referred to in the Confidential Schedule of Deliberate Omissions), paragraph 15.13 is denied. A brief passing reference to the Claimant’s Letter and her father’s response to it made by unnamed friends of hers (especially without her authorisation or knowledge) in the course of a lengthy interview about the Claimant given to a US magazine simply did not justify the Defendant’s flagrant invasion of her right to respect for her private life and correspondence in publishing the detailed contents of an obviously private Letter, nor did it destroy her reasonable expectation of privacy in relation to the same. In any event, whilst the Claimant’s intentions in writing the Letter to</p>
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correct the one-sided and/or misleading account given in the People interview and to respond to the attack on him in that interview, and this right outweighs any privacy right of the Claimant in the words complained of. The Claimant's privacy rights do not extend to silencing her father in relation to his concerns about the portrayal in the People interview of his relationship with his daughter and their exchange of letters.

her father were mischaracterised in the magazine, the stated facts were substantially true. In particular:

(a) Mr Markle did not answer truthfully when asked about the photographs taken and staged by a paparazzo photographer (even though the Claimant and her husband had explained that on the basis of his assurance that the photographs were not staged, they had taken steps to protect her father which would seriously jeopardise their ability to protect their children's privacy in the future).

(b) Despite discovering that he had not told her the truth, with all the distress this caused her, the Claimant was still focused on finding a way for him to travel to London safely, and the Claimant tried to reassure her father that there was no ill feeling between them.

(c) Mr Markle refused to answer any of the Claimant's many calls during the relevant time, or even requests from both her and her husband for him to call them instead.



(d) The Claimant made several calls to Mr Markle after learning of his cardiac issues that were neither answered nor returned.

(e) Contrary to what the Defendant states in paragraph 15.8, Mr Markle had in fact already stated that he would not attend the wedding prior to his admission to hospital on 16 May, namely in a text to the Claimant sent on 14 May (two days earlier than the text sent by him on 16 May which is the one mentioned in the Defence). His refusal to attend the wedding on 14 May was the result of him being so publicly shamed by the Defendant for having staged paparazzo photographs, a fact which the Defendant deliberately seeks to ignore in the Defence.

(f) The letter from Mr Markle did in fact end by asking for them to pose for a “photo for the whole world to see”.

(g) The Claimant received no communication by telephone or text from Mr Markle after the unsuccessful attempts both she and her husband made to reach him on 16 May 2018, as described above (save for the



single missed call in the early hours of the morning of the wedding).

(h) The Claimant has not spoken publicly about her father since 2014, well before the start of her relationship with her husband. In the premises, and in any event, the Claimant denies that the Defendant published (as it has now been forced to accept) the “limited” extracts of the Letter necessary in order to “tell the complete story and/or set the record straight”. As referred to in the Particulars of Claim and the Confidential Schedule of Deliberate Omissions, the parts of the Letter (as well as of the text message communications between her and her father as set out above) that have been deliberately omitted by the Defendant demonstrate the falsity of the account given in the Articles, as well as in the Defence, about the Claimant’s contact with her father and her concern for his welfare.

13.10 (sic) In the premises, paragraphs 15.15 and 15.16 are denied. Nothing pleaded in those paragraphs (or anywhere in the Defence) justifies the Defendant’s

			gross invasion of the Claimant's right to privacy which the Articles represent.
<p>9. The publication of the contents of the Letter was wrongful and constituted an unjustified infringement of the Claimant's right to privacy and a misuse of her private information. The Claimant will rely on the following matters in support of this contention:</p> <p>(1) The facts and matters set out in paragraphs 8(1) to 8(3) above</p> <p>(2) The Defendant's actions were a very serious interference with the Claimant's right to respect for her private and family life. The publication of her private correspondence is manifestly a gross intrusion and invasion of privacy.</p> <p>(3) Although the Claimant is well-known to the public, the details of her feelings about her relationship with her father are not a matter of legitimate public interest, nor do they relate to her public profile or work.</p> <p>(4) The Letter was published by the Defendant as a "world exclusive", in the most sensational and inflammatory terms possible, and given huge</p>	<p>Of paragraph 9(8):</p> <p><i>"The Defendant chose to deliberately omit or suppress parts of the Letter in a highly misleading and dishonest manner, including even cutting out words in the middle of a sentence or whole sentences out of a paragraph".</i></p> <p>7. Please identify in relation to each of the Articles each part of the Letter, which it is alleged the Defendant deliberately omitted or suppressed in a highly misleading and dishonest manner.</p> <p>Response 7</p> <p>The Claimant is not prepared to allow this request to be used by the Defendant as a vehicle for intruding further into her privacy. The Claimant has attached to this Response a confidential schedule setting out the parts of the Letter which were deliberately omitted or suppressed by the Defendant ("the Confidential</p>	<p>16. Paragraph 9 is denied for the reasons set out above. The publication of the words complained of was not wrongful or an unjustified infringement of the Claimant's right to privacy or a misuse of her private information as alleged or at all. As to the matters alleged in paragraphs 9(1) to 9(12) (in so far as those matters have not already been responded to above):</p> <p>16.1 Paragraph 9(2) is denied. Even if the Defendant was responsible for any interference with the Claimant's right to respect for her private and family life, which is denied for reasons set out in this Defence, any such interference would not be "very serious". As set out in paragraph 13.4 above, the Letter was not a deeply personal letter nor did it contain sensitive personal information about the Claimant.</p> <p>16.2 Paragraph 9(3) is denied for reasons set out above. The Claimant issued a public statement on 17 May 2018, which was widely reported, commenting on the fact that her father would not be attending her wedding to Prince Harry, her sadness at this development, and how she had always cared for her father. This official public statement was made on the Claimant's behalf by Kensington Palace, recognising (correctly) that her relationship with her father and developments in that relationship are a matter of public interest and relevant</p>	<p>14. (sic) As to paragraph 16, insofar as it is necessary to plead to it (since most of it is either repetitive argument or admissions), the Claimant responds as follows:</p> <p>14.1 It is denied that the Letter was not "deeply personal", or that it did not contain sensitive personal information about the Claimant, as is the suggestion in paragraph 16.1. As already stated above, this suggestion is as false as it is disingenuous, since it is expressly contradicted by the Defendant's own article published in the Daily Mail on the following day (11 February 2019), when the Defendant described the very same Letter as "Meghan pours out her heart in moving letter to estranged father", and further as "a deeply personal handwritten note."</p> <p>14.2 It is admitted and averred that a public statement was issued on the Claimant's behalf by Kensington Palace shortly before the wedding, as referred to in paragraph 16.2. Again, as explained above, this brief statement was issued as a response to the frenzied reporting</p>

<p>prominence, including on the front page of the Mail on Sunday and the home page of MailOnline. The Articles included numerous photographs or mock-ups of the Letter itself.</p> <p>(5) The Claimant had not courted publicity in relation to the detail of her relationship with her father.</p> <p>(6) In publishing the information, the Defendant was disclosing private and highly sensitive information about the private life of the Claimant. By contrast, the publication of this material was neither presented as, nor capable of, contributing to a debate in a democratic society relating to matters of legitimate public interest.</p> <p>(7) Rather, it was disclosed with the sole and entirely gratuitous purpose of satisfying the curiosity of the newspaper's readership regarding the private life of the Claimant, a curiosity deliberately generated by the Defendant.</p> <p>(8) In further support of the contention that there was simply no public interest or legitimate reason to publish the Letter, the Claimant will refer to the fact that the Defendant chose to</p>	<p>Schedule of Deliberate Omissions”).</p> <p>8. Please state on what basis it is alleged that such omission or suppression was dishonest. (Re. 9(8) of the Particulars of Claim).</p> <p>Response 8</p> <p>The omitted or suppressed parts of the Letter amount to almost half of the actual contents of the Letter, despite the Defendant claiming to its readers that it was publishing the Letter in full. The omitted parts demonstrate the Claimant's care for her father and others, as well as her concern about the UK tabloid media exploiting her father, and the fact that she addresses untruths previously published by the Defendant. Those elements did not fit the Defendant's narrative within the Articles. In such circumstances, the pronouncement by the Defendant that it was revealing the "full content" of the "five-page Letter" was intentionally misleading and dishonest.</p>	<p>to her public role and position. The official statement did not inform the public that Mr Markle was too ill to attend the wedding.</p> <p>16.3 Paragraph 9(4) is denied, except that it is admitted that:</p> <p>16.3.1 The Articles published on 10 February 2019 were trailed on the front cover of the Mail on Sunday as a "World Exclusive". However, the Articles in the newspaper were not the main item of news on that day. The front page was mainly devoted to a political story about Jeremy Corbyn MP.</p> <p>16.3.2 The Articles on Mail Online were trailed on the home page of the site for a short period of time on 10 and 11 February 2019. Article (3) was published on the home page in the jurisdiction between the hours of midnight and 8pm on 10 February; Article (4) from midnight to 10:30pm; and Article (5) from midday on 10 February to 7am on 11 February 2019.</p> <p>16.3.3 The Articles included an image of a part of the Letter. They did not include "numerous" photographs of the Letter as alleged.</p> <p>16.4 Paragraph 9(5) is denied, for reasons set out above. The Claimant had caused, permitted or authorised publicity in relation to her relationship with her father, including in the public statement referred to in</p>	<p>in the British media following her father announcing through the TMZ website first that he had had a heart attack and then secondly that he was having heart surgery. The statement was deliberately intended to limit and control the amount of press intrusion or speculation. Whilst it is wrong to allege (as the Defendant does once again here in this Defence by deliberately omitting the relevant parts of documents) that the statement did not inform the public that Mr Markle would not be attending the wedding for health reasons (for example, "sadly, my father will not be attending our wedding. I have always cared for my father and hope he can be given the space he needs to focus on his health"), the statement did not provide details of her father's medical condition. This was deliberate, in order to avoid further intrusion and to protect his privacy. This is consistent with the proactive steps which the Claimant had taken (and has continued to take) in order to protect the privacy of her family, as well as of herself, so as far as is possible and within her control.</p> <p>14.3 Paragraph 16.4 is denied. For the reasons set out above, it</p>
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<p>deliberately omit or suppress parts of the Letter in a highly misleading and dishonest manner, including even cutting out words in the middle of a sentence or whole sentences out of a paragraph.</p> <p>(9) Pending full disclosure of the Defendant's process of obtaining and preparing the Letter for publication, the Claimant will contend that it deliberately manipulated the contents in this way not because these parts which it chose to omit or suppress were more private or sensitive (as they plainly were not) but because these parts of the Letter would have undermined the Defendant's intended negative characterisation of the Claimant, demonstrated the falsity of the account given in the Articles about her contact with her father and her concern for his welfare and/or been generally unfavourable to the Defendant as one of the 'tabloid' newspapers which had been deliberately seeking to dig or stir up issues between her and her father.</p> <p>(10) Despite these deliberate omissions, the Defendant sought to deceive the public by stating</p>	<p>9. Please state whether it is the Claimant's case that, if the Letter was to be published, the Defendant ought to have published the omitted parts of the Letter.</p> <p>Response 9</p> <p>As already clearly pleaded, the Defendant should not have published the Letter at all, whether in full or in part, without the Claimant's consent. The fact that it chose to publish parts of the Letter, whilst dishonestly claiming that it was publishing its "full contents", and deliberately omitted or suppressed other parts in order to portray a false picture, is relevant not only as a factor relating to the content, form and manner in which the information was published, but also a seriously aggravating feature of the Defendant's unlawful conduct in publishing any of its contents.</p> <p>10. If the Response to request 9 is no, please state the nature of the Claimant's complaint as to the omission or suppression of parts of the Letter.</p> <p>Response 10</p>	<p>paragraph 16.2 above and in the People interview.</p> <p>16.5 As stated above, the Claimant has not defined the phrase "the Information" in paragraph 9(6). If and in so far as this means the words complained of, paragraph 9(6) is denied.</p> <p>16.6 Paragraph 9(7) is denied. The Defendant relies on the matters set out under paragraph 3 to 5 and 13 above. There are no grounds for the allegation that the Defendant had "deliberately generated" curiosity about the private life of the Claimant, which is denied. It is also denied that satisfying the public's interest in the conduct of members of the royal family is "entirely gratuitous". As stated above, the public have always had a legitimate and natural interest in the lives of members of the royal family and particularly about new members of the family. The public was naturally and legitimately interested by the fact that the Claimant's father did not attend her wedding (as the official statement made on her behalf by Kensington Palace referred to at paragraph 16.2 above about his non-attendance recognised), and the reasons for the apparent rift between them. It is a legitimate and proper function of the media to report on such matters to the extent permitted by law. Further, the Claimant herself stoked and generated further interest in her relationship with her father and her private life by causing or permitting detailed information about those matters to be</p>	<p>is simply false to suggest that the Claimant caused, permitted or authorised publicity in relation to her relationship with her father, either in the public statement referred to therein or in the People interview.</p> <p>15. As to paragraph 17, insofar as it is necessary to plead to it (since most of it is repetitive argument), the Claimant responds as follows:</p> <p>15.1 It is denied that the facts and matters set out in paragraphs 9(8) to 9(10) of the Particulars of Claim are irrelevant. They plainly relate to the Defendant's assertion (albeit unsustainable) that the Claimant did not have a reasonable expectation in relation to the contents of the Letter and/or that there was a legitimate public interest in publishing the same since the Articles were (allegedly) 'setting the record straight', as is clear from the way in which the Defendant has deliberately chosen to plead its Defence.</p> <p>15.2 It is further denied that the Articles contained "an accurate and impartial account of a dispute to which the Claimant was a party". The Defendant selectively extracted passages from a</p>
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<p>that they were disclosing the "full content" of the "five-page letter", in both the sub-heading and the body of the Articles defined at paragraphs 4(1) and 4(3) above. As explained in sub-paragraphs (8) and (9) above, and in paragraphs 19(4) and 19(5) below, this was completely untrue, and highly misleading, as the Defendant knew full well, since large sections of the Letter were deliberately omitted or suppressed by the Defendant, and the meaning thereby intentionally distorted or manipulated.</p> <p>(11) Further, the Defendant published the contents of the Letter for commercial profit, without seeking the Claimant's consent and/or in the belief that the Claimant would not have agreed to it being published, if permission had been properly sought in advance which it was not. The Court will be invited to infer that the Defendant took this deliberate decision not to warn the Claimant in advance because it knew that she would object to the publication of the Letter and/or attempt to prevent the same.</p>	<p>See response 9 above. Of paragraph 9(9):</p> <p><i>"[the Defendant] deliberately manipulated the contents [of the Letter] in this way not because the parts it chose to omit or suppress were more private or sensitive (as they plainly were not) but because these parts of the Letter would have undermined the Defendant's intended negative characterisation of the Claimant, demonstrated the falsity of the account given in the Articles about her contact with her father and her concern for his welfare and/or been generally unfavourable to the Defendant as one of the 'tabloid' newspapers which had been deliberately seeking to dig or stir up issues between her and her father".</i></p> <p>Please state in relation to each of the Articles precisely how it is alleged the Defendant manipulated the contents of the Letter, identifying the specific words from the Letter, which are said to have been manipulated, and how such words were manipulated.</p>	<p>published in a major US magazine, as set out above.</p> <p>16.7 In paragraphs 9(8) to 9(10) the Claimant makes a case on alleged deliberate omission, suppression and manipulation of parts of the Letter and falsity in respect of the words complained of. That case has been substantially expanded by the Response and the Defendant pleads to it at paragraph 17 below.</p> <p>16.8 As to paragraph 9(11):</p> <p>16.8.1 It is admitted that the words complained of were published for commercial profit. All material published in the Defendant's titles is published for profit, because the Defendant is a commercial publisher. The fact does not undermine, and is not capable of undermining, the Defendant's case in relation to the public interest and/or the rights to freedom of expression and to impart and receive information and opinion. If it did, the commercial media could never perform the function of reporting on public interest matters.</p> <p>16.8.2 The first two sentences of paragraph 11 above are repeated.</p> <p>16.8.3 Any allegation of impropriety in paragraph 9(11) is denied.</p> <p>16.9 As to paragraph 9(12):</p>	<p>private letter sent by the Claimant to her father (amounting to roughly half, as opposed to the "full content" of the Letter, as it explicitly claimed to its readers) and gave its own highly partial analysis of those extracts. Further, as set out in paragraph 12.10 above, it was the Defendant that created this "dispute" between the Claimant and her father.</p> <p>15.3 The Claimant has already set out the true position as regards what are said to be "the alleged imputations" referred to in paragraph 17.7. The Defendant's contentions therein are denied.</p>
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<p>(12) The Defendant also published an article (as referred to in paragraph 4(5) above) which sought through so-called 'expert handwriting' analyses to further detail the Claimant's private thoughts and feelings about her father. The "analysis" was used to make derogatory allegations about the Claimant's character in order to lend support to the Defendant's pre-conceived narrative for the Articles and the attack upon the Claimant. For example, the Defendant labelled the Claimant as a "showman and a narcissist" based solely on her handwriting style. Such actions evidence the Defendant's clear malicious intent in publishing the letter.</p>	<p>Response 11</p> <p>The Claimant refers to the Confidential Schedule of Deliberate Omissions, attached to this Response, in which she has set out the ways in which the Defendant deliberately manipulated the contents of the Letter.</p> <p>12. Identify the precise words in each Article alleged to contain "the account given in the Articles about her contact with her father and her concern for his welfare" which are said to be false.</p> <p>Response 12</p> <p>As set out in the Confidential Schedule of Deliberate Omissions, the parts of the Articles in which it is alleged that</p> <ul style="list-style-type: none"> (a) the Claimant did not ask about her father's welfare; (b) failed to provide any or any real financial support for him; (c) he telephoned her to explain that he was not coming to her wedding; 	<p>16.9.1 The Defendant cannot plead to the first sentence of 9(12), because the Claimant has failed to set out what "further detail" about "the Claimant's private thoughts and feelings about her father" it is alleged that article referred to in paragraph 4(5) contains.</p> <p>16.9.2 The handwriting analysis reported by the Defendant contained positive as well as negative opinions about the Claimant's character based entirely on her handwriting. The Defendant was entitled to report those opinions. The Claimant rightly makes no claim that the publication of those opinions, negative or positive, was unlawful and is not entitled to damages or any remedy for such publication.</p> <p>16.9.3 The second to fourth sentences (which complain of "derogatory allegations about the Claimant's character" and allege that these show the Defendant published the letter with "malicious intent") are denied. In Response 17, the Claimant sets out the words said to contain 4 allegedly derogatory allegations of which she complains but has refused at Response 18 to specify the meanings she attributes to those words (although she does allege that the words were false). The allegations have to be read in their proper context for their true meaning and effect. They are not presented as the opinions of the Defendant. Further, the</p>	
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	<p>(d) he received no support from her team in Los Angeles;</p> <p>(e) she failed to reach out to him prior to the wedding and</p> <p>(f) she continued to ignore him are false.</p> <p>13. In relation to the words in each Article identified in response to Request 12 above, please</p> <p>(i) specify the meaning(s) the Claimant attributes to the particular words, and which she says is false, and</p> <p>(ii) give particulars of why the words identified are false and what is alleged to be the true position.</p> <p>Response 13</p> <p>This request is unnecessary. The Defendant is again reminded of the true purpose of CPR Part 18 and its Practice Direction. Attributing a meaning to such words would be irrelevant to the causes of actions pleaded. The statements identified are</p>	<p>opinion reported in Response 17(d), that the Claimant “suffers from anxiety” is not, as the Claimant alleges, a derogatory opinion. There is no proper basis for alleging malice against the Defendant and that allegation is liable to be struck out.</p> <p><u>Alleged deliberate omission, suppression and manipulation of parts of the Letter and falsity in the Articles</u></p> <p>17. The Claimant’s case on alleged deliberate omission, suppression and manipulation of parts of the Letter and falsity in paragraphs 9(8) to 9(10) is confused and incoherent, for the following reasons:</p> <p>17.1 The case on alleged falsity in paragraphs 9(8) to 9(10) is not relevant to the alleged wrongfulness of the publication of the words complained of, because neither falsity nor dishonesty is an element of misuse of private information. Further, in correspondence (a letter from the Claimant’s solicitors to RPC dated 9 December 2019) the Claimant has asserted that she does not seek damages for vindication to reputation or compensation for damage for reputation. The case on alleged falsity is therefore not relevant to the Claimant’s case on liability for misuse of private information.</p> <p>17.2 None of the allegations that are said to be false in Response 12 are found in the words complained of. For this reason also,</p>	
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	<p>categorically false because the true position is that</p> <p>(a) the Claimant has a long history of looking after her father's welfare and trying to find solutions to any health problems;</p> <p>(b) she did provide extensive financial support for him, as well as act as primary caregiver for her grandmother; (c) her father did not telephone her to explain that he was not coming to her wedding;</p> <p>(d) her team in Los Angeles did provide him with continued support for which he had expressed gratitude;</p> <p>(e) she had reached out to him prior to the wedding and sought to protect him, as well as to ensure that he would be able to come to the wedding, and</p> <p>(f) she did not ignore him afterwards.</p> <p>14. Please state all facts and matters relied on in support of the allegation that the Defendant's intention was to characterise the Claimant negatively.</p> <p>Response 14</p>	<p>the case on falsity in respect of the Articles lacks coherence and is not relevant to the Claimant's case on liability for misuse of private information.</p> <p>17.3 The Defendant pleads to the case on alleged falsity without prejudice to the points set out above.</p> <p>17.4 All the allegations against the Defendant of dishonesty, deception, malice and impropriety in paragraphs 9(8) to 9(10) are denied. There is no basis for them. In particular, the allegations that the Defendant acted dishonestly and had been deliberately seeking to dig or stir up issues between the Claimant and her father have no or no proper basis and are liable to be struck out.</p> <p>17.5 As to paragraph 9(8) and the Confidential Schedule of Deliberate Omissions served with the Response, the Defendant's case is as follows:</p> <p>17.5.1 The words set out at numbers 1 to 14 of the Schedule would not, if published, have added anything of significance to that which was published, but would only have caused more of the Letter to be disclosed. The meaning and effect of these words were adequately conveyed by such extracts from and reports of the Letter as were published.</p> <p>17.5.2 The words set out at numbers 5 and 6 of the Schedule referred to the private information of third parties, namely</p>	
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	<p>The Defendant intentionally omitted or suppressed substantial parts of the Letter, parts which would show the Claimant in an accurate as well as positive light. Such omissions were clearly intended to result in a more negative characterisation of her, as already pleaded in the Particulars of Claim. The Claimant repeats Responses 7 to 9, 11 and 13 above. Further, the Claimant will rely upon the negative commentary placed upon on her Letter in the Articles suggesting that she had ‘accuse[d] him of being ungrateful for the money she ha[d] given him’ and that she had ‘blast[ed] him for not telling her he would not walk her down the aisle’, both of which are factually untrue, and not even mentioned or suggested in the letter.</p> <p>15. State what is meant by ‘tabloid’ newspapers, identifying each newspaper referred to in this paragraph.</p> <p>Response 15</p> <p>It is not necessary for the Claimant to define what the word ‘tabloid’ newspaper</p>	<p>the Claimant’s grandmother and Mr Markle, which it was not necessary to disclose in the public interest.</p> <p>17.5.3 Further or in the alternative, the Defendant was informed by Mr Markle that the words set out at number 5 of the Schedule, concerning the Claimant’s grandmother, were false, because the Claimant was not her grandmother’s primary caregiver. When caring for his mother became too much for him, Mr Markle found his mother a good residential home. He paid all the bills. He visited her two or three times a week and each weekend. The Defendant did not publish this part of the Letter because it was not true, it referred to the private information of a third party (now deceased) and because it was not necessary to correct the misleading account in the People interview.</p> <p>17.6 As to paragraph 9(9) and Responses 11 to 14, the Claimant has not identified the words which are said to be false in the account given in the Articles about the Claimant’s contact with her father and her concern for his welfare. Instead Response 12 refers to unidentified “parts of the Articles” and complains of six imputations which are said to be false. None of these imputations is based on the words complained of. If and in so far as other parts of the Articles which are not complained of contain the imputations said to be false in Response 12 (or any of those imputations),</p>	
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means. The only relevant 'tabloid' newspapers for the purposes of this claim are the Associated titles.

16. Give all facts and matters relied on in support of the allegation that the Defendant, and each other newspaper referred to, had been deliberately seeking to dig or stir up issues between the Claimant and her father.

Response 16

The Claimant will rely upon the Defendant's attempts and methods used to track down and interview her father, and to publish stories based on the same. Pending the provision of full disclosure by the Defendant, the Claimant relies on the previous coverage of this by the Defendant which has appeared in its newspapers. The Claimant contends that it is disproportionate at this stage to have to identify each such article, given that this is entirely within the possession of the Defendant and it is unnecessary to do so for the Defendant to know the general nature of the case it will be

those imputations were all clearly reported as being Mr Markle's response to that which the Claimant had written in the Letter. They were recognisable as his version of events and/or his opinions in respect of that which the Claimant had written. The Articles contained an accurate and impartial account of a dispute to which the Claimant was a party. The ordinary, reasonable reader would not understand the Articles as adopting Mr Markle's opinions and versions of events.

17.7 Further or alternatively, as to the specific alleged imputations said to be false in Response 12:

17.7.1 The alleged imputation that the Claimant did not ask about her father's welfare (in the Letter):

- (i) This imputation is not made in the words complained of.
- (ii) In parts of Article (2) which are not complained of Mr Markle is reported as saying: "There was no loving message in there, nothing asking after my health, nothing from her saying, 'Let's get together and heal our differences'"; and also, "For her friends – and by default Meg - to portray this as a loving letter is ridiculous. Love isn't mentioned once in the whole thing. Meg wrote me tons of letters and cards over the years. She always signed off with "Love" or

	<p>expected to meet at trial (which is the purpose of CPR Part 18). If the Defendant contends that it is necessary to do so, then it should provide copies of all articles published referring to its reports about the Claimant's father, as well as the disclosure of all relevant documents evidencing its attempts and methods used to track down and interview her father, and the Claimant will then respond further.</p> <p>Of paragraph 9(12): "The 'analysis' [of the Claimant's handwriting] was used to make derogatory allegations about the Claimant's character in order to lend support to the Defendant's pre-conceived narrative for the Articles and the attack upon the Claimant. For example, the Defendant labelled the Claimant as "a showman and a narcissist" based solely on her handwriting style".</p> <p>17. Please identify the precise words alleged to contain each and every "derogatory allegation" that is complained about.</p>	<p>"Love you". This letter is cold ... It doesn't even start out with "Dear".</p> <p>(iii) Those words are an accurate report of that Mr Markle had said, and of his opinion of the Letter.</p> <p>(iv) In so far as it is necessary for the Defendant to contend that any imputation about the Claimant conveyed by the words complained of was true, the Defendant asserts that they were true. There were no loving messages in the Letter; it did not seek a reconciliation; the Claimant did not sign off with "Love" or begin the Letter with "Dear". The Letter referred to the Claimant loving and caring for her father in the past tense only, not as feelings that were still true at the time of writing. The Claimant's implicit claim in the Particulars of Claim that she did ask about her father's welfare in the Letter is false.</p> <p><u>17.7.2 The alleged imputation that the Claimant failed to provide any or any real financial support for her father:</u></p> <p>(i) This imputation is not made in the words complained of.</p> <p>(ii) It is denied that the Articles or any of them bore that meaning. The phrase "any real" financial support is not understood because it is so vague.</p>	
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	<p>Response 17</p> <p>The Claimant will refer to the following words published in the article entitled “Secrets of Meghan’s Letter revealed: Note to her father saying her heart has been ‘broken into a million pieces’ reveals she is ‘narcissistic showman whose self-control is wavering’, says handwriting experts” dated 10 February 2019:</p> <p>(a) “narcissistic showman whose self-control is wavering”;</p> <p>(b) “she is... well aware that the world has their eyes on her and that is just how she likes it”;</p> <p>(c) “this is not a spontaneous or intellectually creative woman”;</p> <p>(d) “she suffers from anxiety”.</p> <p>18. In relation to the words identified in response to Request 17 above, please (i) specify the meaning(s) the Claimant attributes to the particular words, (ii) state whether the Claimant says the words are false, and if so (ii) give particulars of why the words identified are false and</p>	<p>(iii) In fact, in parts of the Articles which are not complained of Mr Markle is reported as saying that he had received financial help from the Claimant. In Article (1) he is reported as stating that he had asked for help in moving house and had received modest financial gifts that were greatly appreciated. Article (2) reports Mr Markle saying that the Claimant never supported him financially but would send cash gifts occasionally. Both these points are made by Mr Markle in his own defence, not by way of accusation against the Claimant. These were accurate reports of the information the Defendant had been given.</p> <p>(iv) If and in so far as the words complained of meant that the Claimant had failed to provide such financial support for her father as might have been expected of a person of her position and means, that is a statement of opinion which is justified. The Defendant understands the facts to be as follows. Mr Markle had supported the Claimant throughout her childhood and youth. He had paid her private school fees. He had paid all her college tuition, and after she left Northwestern University, he continued to pay off her student loans, even after she had landed a well-paid role in Suits. After graduating, the Claimant went back to Los Angeles</p>	
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	<p>what is alleged to be the true position.</p> <p>Response 18</p> <p>This request is unnecessary. The Defendant is again reminded of the true purpose of CPR Part 18 and its Practice Direction. Attributing a meaning to such words would be irrelevant to the causes of actions pleaded, as is the fact that they are false.</p> <p>19. Explain the legal or other basis of the complaint about any derogatory allegation not said to be false.</p> <p>Response 19</p> <p>This request is unnecessary and irrelevant. See response 18 above. The fact that the Defendant chose to include these derogatory allegations is a factor relating to the content, form and manner in which the information complained of was published, as well as a serious aggravation of the distress and harm caused by the intrusion into her privacy.</p> <p>20. Set out all facts and matters relied on in support of</p>	<p>and her father found her an apartment and supported her financially while she looked for acting jobs. When the Claimant married for the first time in 2011, Mr Markle wanted to contribute to the cost of the wedding and so he sold his Facebook shares and contributed \$20,000. As set out above, after the Claimant started working in Suits, she did send him financial gifts occasionally, although he was still repaying her student loans, as stated above. However, since May 2018 she has not supported him in any way, despite the fact that, as she knows, he has been ill and therefore has medical expenses, not all of which are covered by his insurance. In the light of the Claimant's very considerable means and resources, reasonable people may well take the view that her failure to support him in any way, financially or emotionally, since May 2018, is deserving of criticism. That view is not an allegation that is verifiably false.</p> <p><u>17.7.3 The alleged imputation that Mr Markle telephoned the Claimant to explain that he was not coming to her wedding:</u></p> <p>(i) This imputation is not made in the words complained of.</p> <p>(ii) It is denied that the Articles or any of them bore that meaning.</p>	
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the allegations that the Defendant had a pre-conceived "narrative" for the Articles.

Response 20

The Claimant repeats and relies upon the answers in responses 7 to 9 and 11 to 14 above. The so-called 'analysis' of her handwriting was also intended to portray the Claimant in a negative light, in the same way as the deliberate omissions or suppressions from her Letter, as referred to in the responses identified herein.

21. Without prejudice to Request 18 above, please state whether it is alleged that the account given in the Articles as to Mr Thomas Markle's experiences and feelings was in any respect false, and if so, why.

Response 21

See responses 12 and 13 above. The Claimant has already set out the respects in which the Defendant's report of her father's statements were false.

(iii) In parts of Articles (1) and (2) which are not complained of Mr Markle is reported as saying that he sent the Claimant and Prince Harry a text to tell them he was not coming to the wedding. Article (2) quotes the text.

(iv) In so far as the words complained of report that allegation as fact, and not simply as Mr Markle's account, the Defendant believed and believes those words to be true. As stated above, Mr Markle did text the Claimant on 16 May 2018 to inform her he had undergone surgery and his doctors would not allow him to fly so he could not attend the wedding.

17.7.4 The alleged imputation that Mr Markle received no support from the Claimant's team in Los Angeles:

(i) This imputation is not made in the words complained of.

(ii) It is denied that the Articles or any of them bore that meaning.

(iii) In parts of Article (2) not complained of Mr Markle is reported as saying that he was "hung out to dry both before and after the wedding. Not one person came to see me." He complains that, by contrast, his ex-wife Doria received an engagement announcement via two people from the British embassy who came to her house.

(iv) In so far as the words complained of would be understood to be allegations of fact adopted by the Defendant and not simply a report of Mr Markle's experience, the reported words were true, and/or the Defendant believes them to be true. Mr Markle was not visited at his home or in hospital by the Claimant or anyone acting on her behalf before the wedding. He received no formal engagement announcement or wedding invitation, nor any cards or well wishes whilst in hospital or afterwards.

17.7.5 The alleged imputation that the Claimant failed to reach out to her father prior to the wedding:

(i) This imputation is not made in the words complained of.

(ii) It is denied that the Articles or any of them bore that meaning.

(iii) On the contrary, the words complained of report the parts of the Letter in which the Claimant stated she had called and texted her father when he was in hospital.

(iv) In parts of the Articles not complained of, Mr Markle is reported as saying, "I don't know anything about 20 phone calls. There were no missed messages."

(v) No reasonable reader could reach the conclusion from these contradictory accounts that either the Claimant or Mr Markle was right. (vi) The Defendant accurately and honestly set out what Mr Markle said, and what his experience was. Mr Markle was not aware of the 20 calls that the Claimant allegedly made to him in hospital.

17.7.6 The alleged imputation that the Claimant “continued to ignore” her father after the wedding:

(i) This imputation is not made in the words complained of.

(ii) It is denied that the Articles or any of them bore that meaning.

(iii) In parts of the Articles not complained of Mr Markle is reported as saying, “They just stopped talking to me. I never heard from them after the wedding in May so by June I reached out”.

(iv) This was an accurate report of what Mr Markle had said. If and in so far as it is necessary to prove that it is true, the Defendant believed and believes it to be true. Up to the receipt of the Letter, the last time Mr Markle was contacted by the Claimant was the text on 17 May 2018 two days before the wedding, referred to above in paragraph 15.6.9 (which he believes came from Prince Harry). Further as stated above, to the

Defendant's best knowledge the Claimant has not contacted her father subsequent to sending the Letter either, nor has she introduced him to Prince Harry or to their son, Mr Markle's grandson. Accordingly, to the Defendant's best knowledge the Letter is the only and isolated occasion in which the Claimant has contacted her father in the period of more than a year and a half since 17 May 2018.

17.8 As to the two allegations of falsity in "the negative commentary placed upon [the] Letter in the Articles" set out in Response 14:

17.8.1 The words in Article (1) stating that the Claimant had "accuse[d] [her father] of being ungrateful for money" she had given him were Mr Markle's interpretation of the words in the Letter (reproduced in the Article), namely, "You've said I never helped you financially and you've never asked me for help which is also untrue". Mr Markle's response to that accusation is also set out in the Articles, namely that 'modest' financial gifts were 'greatly appreciated'. It was therefore clear that Mr Markle understood, reasonably, that in the Letter the Claimant had accused him of being ungrateful, and that he denied that charge.

17.8.2 The words in Article (2) that the Claimant "had blasted [her father] for not

telling her he would not walk her down the aisle” would be clearly understood to be an interpretation of the words of the Letter quoted immediately after, “You’ve told the press that you called me to say that you weren’t coming to the wedding – that didn’t happen because you never called”. Contrary to that stated in Response 14, it was true that the Claimant had accused her father in the Letter of not calling to tell her he would not come to her wedding, as is apparent from these words. The Claimant’s accusation was false and/or misleading because, as set out above, Mr Markle had texted his daughter to tell her he could not make it to the wedding because he was ill, and that text had been responded to by a text signed “Love M and H”.

17.9 As to paragraph 9(10):

17.9.1 The Claimant does not complain of the words “full content” of “five-page letter”, and therefore this paragraph is not relevant to her claim.

17.9.2 Further or alternatively, it is denied that the Defendant deceived the public as set out in paragraph 9(10) or at all. The Articles referred explicitly to the fact that, whilst Thomas Markle had revealed the full contents of the Letter to the Defendant, the Defendant was publishing “extracts” from the Letter, and any reader could see that only extracts

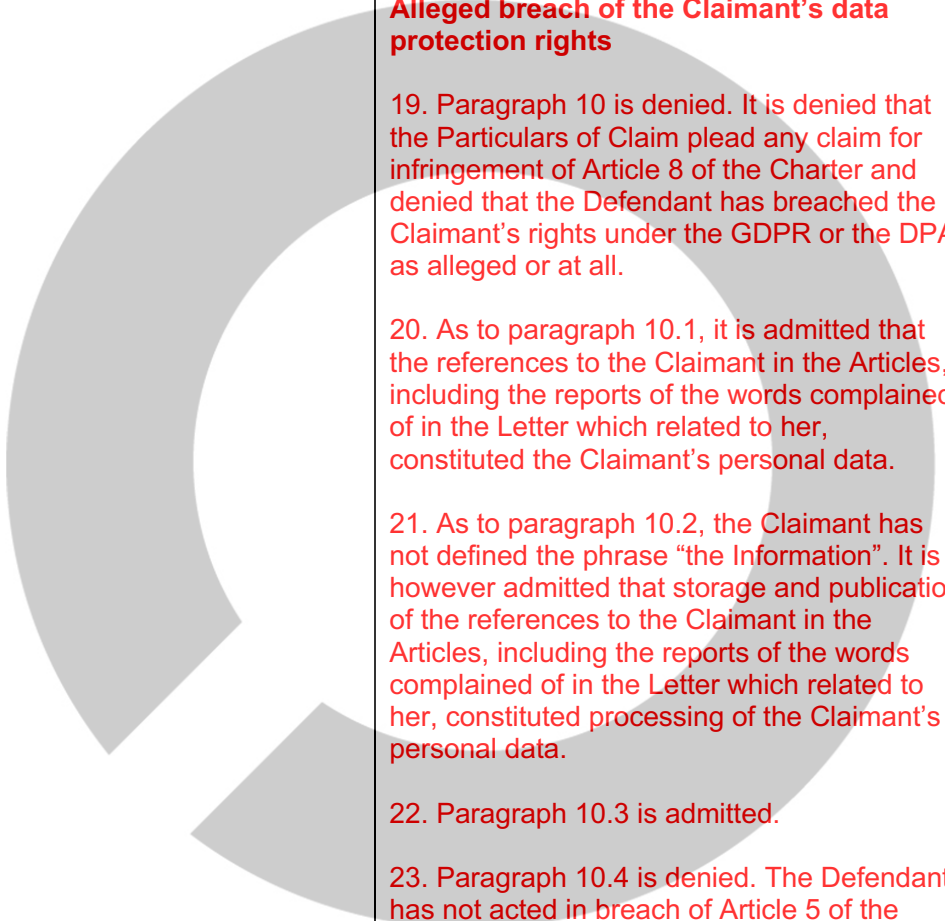
were reported or reproduced. The ordinary reasonable reader would, therefore, not have been misled by the reference to “full content”.

17.9.3 It is admitted that the Defendant did not publish the Letter in full, but it is denied that the meaning or effect of the Letter was distorted or manipulated, intentionally or at all. Paragraph 17.5 above is repeated. The extracts from the Letter that were reported in the Articles accurately conveyed its tone, content and meaning, whilst properly limiting the report of the contents of the Letter to the minimum necessary in order to convey those matters properly and to set the record straight in respect of matters that had been previously published in the People interview.

17.9.4 The allegation that the Defendant deceived readers by referring to a “five page letter” is without any basis. The letter did run to 5 pages which are numbered 1 to 5 by the Claimant in her own hand.

17.9.5 The rest of paragraph 9(10) is denied.

18. For all the reasons set out above, the Claimant’s case on deliberate omission, suppression and manipulation of parts of the Letter and falsity is denied and, if the case on falsity is permitted to proceed to trial, the Claimant will be put to proof of falsity of each

		<p>and every imputation in the words complained of that she alleges in the Particulars of Claim and the Response to be false.</p>	
<p>Breach of the Claimant's Data Protection Rights</p> <p>10. Further or alternatively, the Defendant has breached the Claimant's right to data protection as set out in Article 8 of the EU Charter of Fundamental Rights ("the Charter"); the General Data Protection Regulation (EU) 2016/679 ("the GDPR") and the Data Protection Act 2018 ("the DPA").</p> <p>10.1. The Letter was written by the Claimant and described in the Articles as being written by her. Accordingly, the Letter and the Articles publishing its detailed contents constituted the Claimant's personal data pursuant to Article 4(1) of the GDPR since they were, or they contained, information relating to the Claimant.</p> <p>10.2. Storage and publication of the information constituted processing of the Claimant's personal data within the meaning of Article (aX2) of the GDPR.</p>	 <p>Alleged breach of the Claimant's data protection rights</p> <p>19. Paragraph 10 is denied. It is denied that the Particulars of Claim plead any claim for infringement of Article 8 of the Charter and denied that the Defendant has breached the Claimant's rights under the GDPR or the DPA as alleged or at all.</p> <p>20. As to paragraph 10.1, it is admitted that the references to the Claimant in the Articles, including the reports of the words complained of in the Letter which related to her, constituted the Claimant's personal data.</p> <p>21. As to paragraph 10.2, the Claimant has not defined the phrase "the Information". It is however admitted that storage and publication of the references to the Claimant in the Articles, including the reports of the words complained of in the Letter which related to her, constituted processing of the Claimant's personal data.</p> <p>22. Paragraph 10.3 is admitted.</p> <p>23. Paragraph 10.4 is denied. The Defendant has not acted in breach of Article 5 of the GDPR and the Defendant's processing was not unlawful or unfair as alleged or at all. Without prejudice to the generality of that denial:</p>	<p>Breach of the Claimant's Data Protection Rights</p> <p>16. As to the Defendant's denial of her claim for breach of her Data Protection Rights, it is not necessary for the Claimant to plead either to the bare and unsupported denials (since they are deemed to be denied by this Reply in any event) or such admissions which the Defence contains (and as are plainly unavoidable for the Defendant).</p> <p>17. Subject to this, the Claimant responds as follows:</p> <p>17.1 It is denied that the Letter did not contain the Claimant's sensitive personal data; as already explained above, the Letter contained details of her most personal thoughts and distress about her relationship with her father (as the Defendant itself described in an article published the next day). The suggestion therefore in paragraph 23.2.1 that the Letter did not convey "any personal or sensitive information about the Claimant" is manifestly absurd.</p>	

10.3. The Defendant was the data controller within the meaning of Article 4(7) of the GDPR in respect of each of these processing operations.

10.4. By processing the Claimant's personal data as aforesaid, the Defendant acted in breach of its statutory duty pursuant to Article 5 of the GDPR to process the Claimant's personal data in accordance with the data protection principles set out in the GDPR. In particular, in breach of Article 5(1)(a) of the GDPR, the Defendant's processing was unlawful and unfair:

(1) The Claimant did not consent to any of the processing of her personal data. Had her consent been sought, she would have clearly refused to provide it.

(2) There was no other lawful basis for processing of the Claimant's personal data pursuant to Article 6 of the GDPR. In particular, the processing did not serve a legitimate interest of the Defendant or any third party. Further, even if (which is denied) such a legitimate

23.1 The processing of the Claimant's personal data was not unlawful. The Defendant relies on the facts and matters stated in this Defence in denial of liability for misuse of private information and breach of copyright.

23.2 The processing of the Claimant's personal data was not unfair.

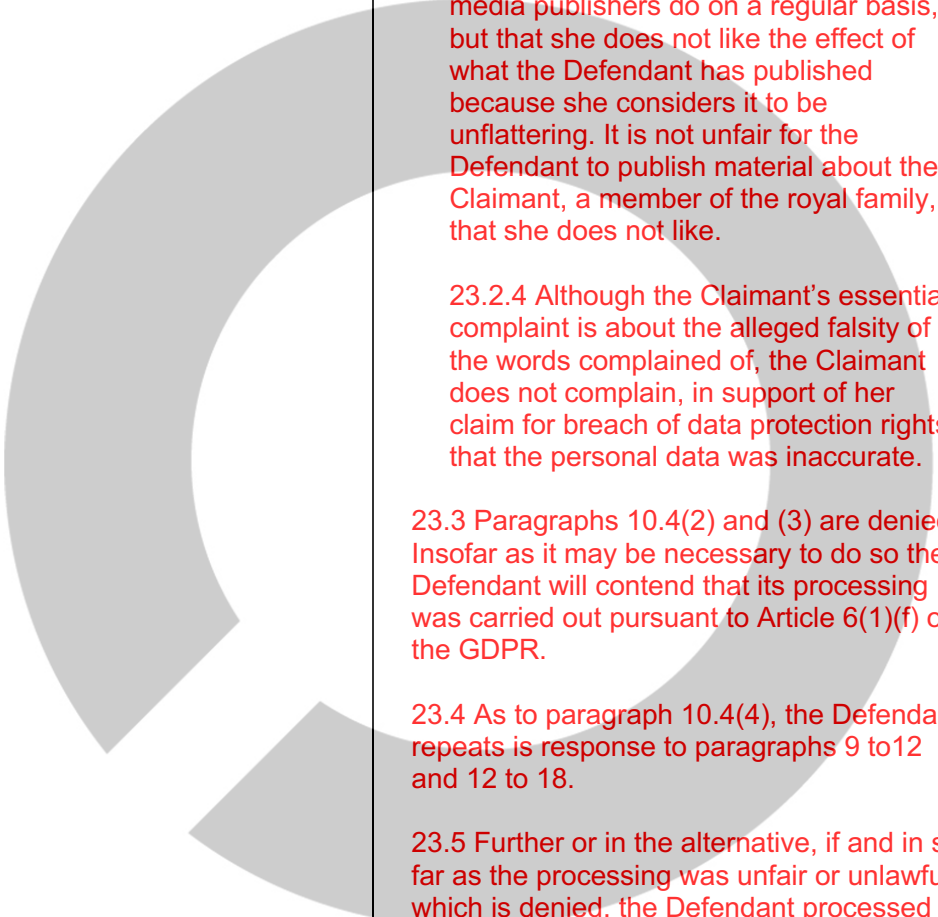
23.2.1 The personal data was not sensitive. It did not convey any personal or sensitive information about the Claimant.

23.2.2 On the contrary, it concerned topics that the Claimant herself had permitted to be put into the public domain. It was therefore reasonable to assume that the Claimant would not object to matters concerning her relationship with her father being published.

23.2.3 It is admitted, as alleged in paragraph 10.4(1), that the Claimant did not expressly consent to the processing of this personal data. However, she has implicitly consented to and substantially relies upon the processing of her personal data by the media: see paragraphs 3 to 6 above. Accordingly, the Claimant's personal data is processed by UK and foreign media organisations on a very regular, perhaps daily, basis. The Claimant is aware that

17.2 It is also denied for the reasons amply set out above that the Claimant's personal data concerned topics that she herself had permitted to be put into the public domain. Further, and in any event, it is denied that it was reasonable to assume, as the Defendant suggests in paragraph 23.2.2, that she would not object to matters concerning her relationship with her father being published. She plainly would have done so, and the Defendant knew that she would, as is clear from its conduct (as referred to below) in deliberately choosing not to notify her in advance of the Articles or seek her consent to the processing.

17.3 It is further denied that the Claimant implicitly consented to the processing of her personal data by the media, as alleged in paragraph 23.2.3, since the Defendant is forced to admit that it cannot allege that she actually consented to the processing. The Claimant will refer to the fact that the Defendant cannot do so because it deliberately chose not to seek comment from her or seek her consent (or even notify her at all), prior to publishing the

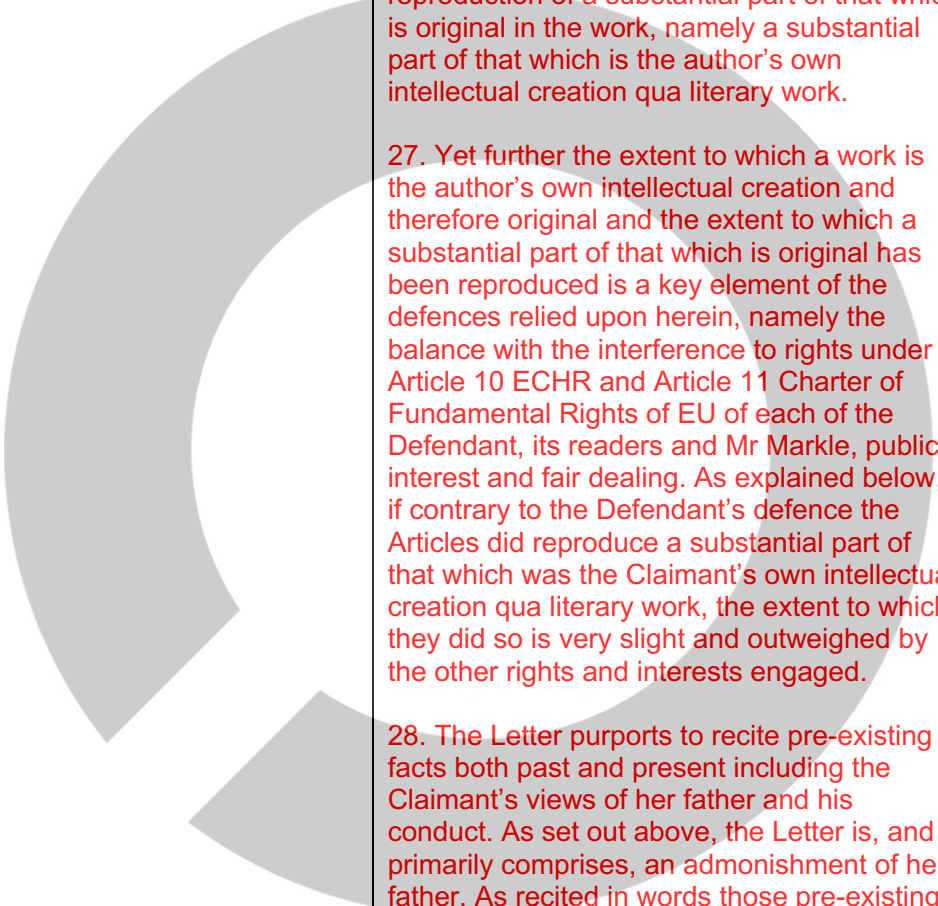
<p>interest existed, it was overridden by the interests and fundamental rights of the Claimant. Paragraph 9 above is repeated.</p> <p>(3) The processing was manifestly unfair and was not transparent. At no stage prior to or during the processing was the Claimant informed as to what would be taking place in respect of her personal data. It will be inferred that this was a deliberate decision taken by the Defendant in order to prevent the Claimant from having the opportunity to object.</p> <p>(4) In so far as it is necessary to aver that the processing was unlawful the Claimant repeats paragraphs 9 and 12 to 18 of these Particulars of Claim.</p>		<p>this is the case. The Claimant's real claim in this action is transparently not that the Defendant has processed her personal data without consent, which all media publishers do on a regular basis, but that she does not like the effect of what the Defendant has published because she considers it to be unflattering. It is not unfair for the Defendant to publish material about the Claimant, a member of the royal family, that she does not like.</p> <p>23.2.4 Although the Claimant's essential complaint is about the alleged falsity of the words complained of, the Claimant does not complain, in support of her claim for breach of data protection rights, that the personal data was inaccurate.</p> <p>23.3 Paragraphs 10.4(2) and (3) are denied. Insofar as it may be necessary to do so the Defendant will contend that its processing was carried out pursuant to Article 6(1)(f) of the GDPR.</p> <p>23.4 As to paragraph 10.4(4), the Defendant repeats its response to paragraphs 9 to 12 and 12 to 18.</p> <p>23.5 Further or in the alternative, if and in so far as the processing was unfair or unlawful, which is denied, the Defendant processed the data for the special purpose of journalism and relies on the exemption contained in Article 85 of the GDPR and</p>	<p>Letter. The reason it did not do so is that</p> <p>(a) it knew perfectly well that it would not have been granted consent (a fact which it has consistently refused to deal with, even in the Defence) and</p> <p>(b) it rightly feared that the Claimant would take action to prevent this obvious misuse of private information, breach of her Data Protection Rights and infringement of copyright.</p> <p>17.4 Further, the Defendant's assertion that</p> <p>(a) it reasonably believed that the publication was in the public interest;</p> <p>(b) it would have been incompatible with the purposes of journalism to have to obtain the Claimant's consent to the processing of her personal data in publishing the Articles and</p> <p>(c) her demand to stop processing her personal data could not sensibly be complied with, is as bare an assertion as it is unsustainable.</p>
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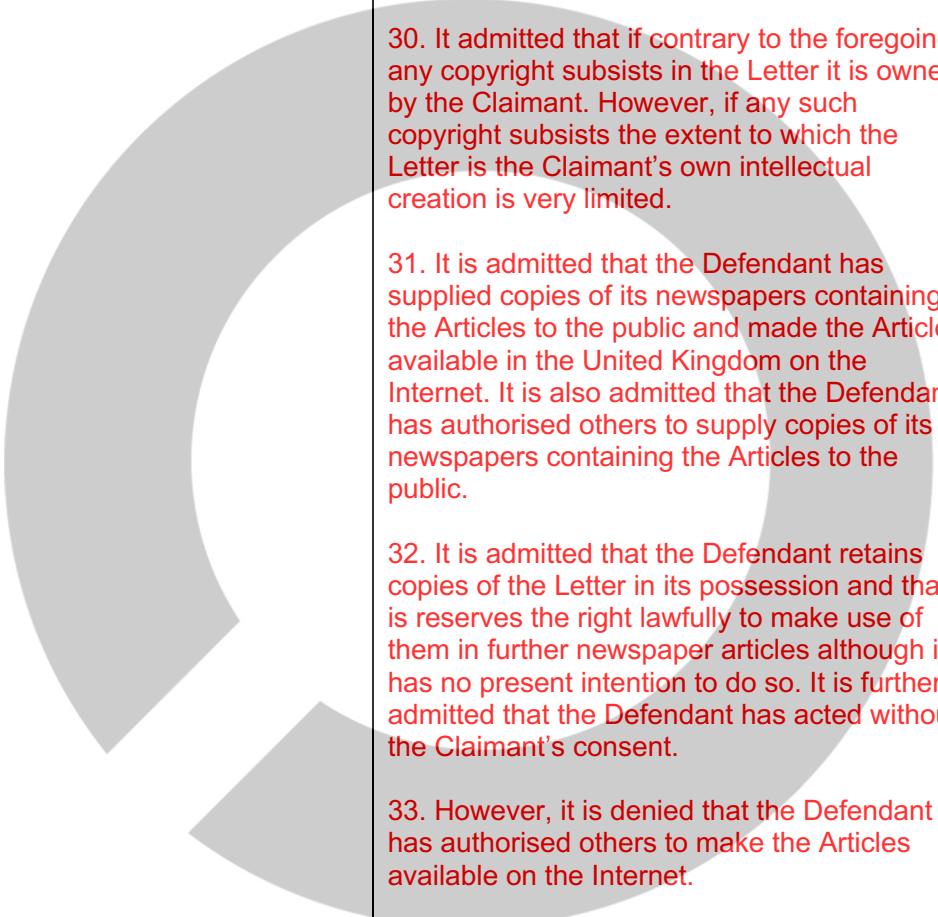
paragraph 26 of Part 5 of Schedule 2 of the Data Protection Act 2018.

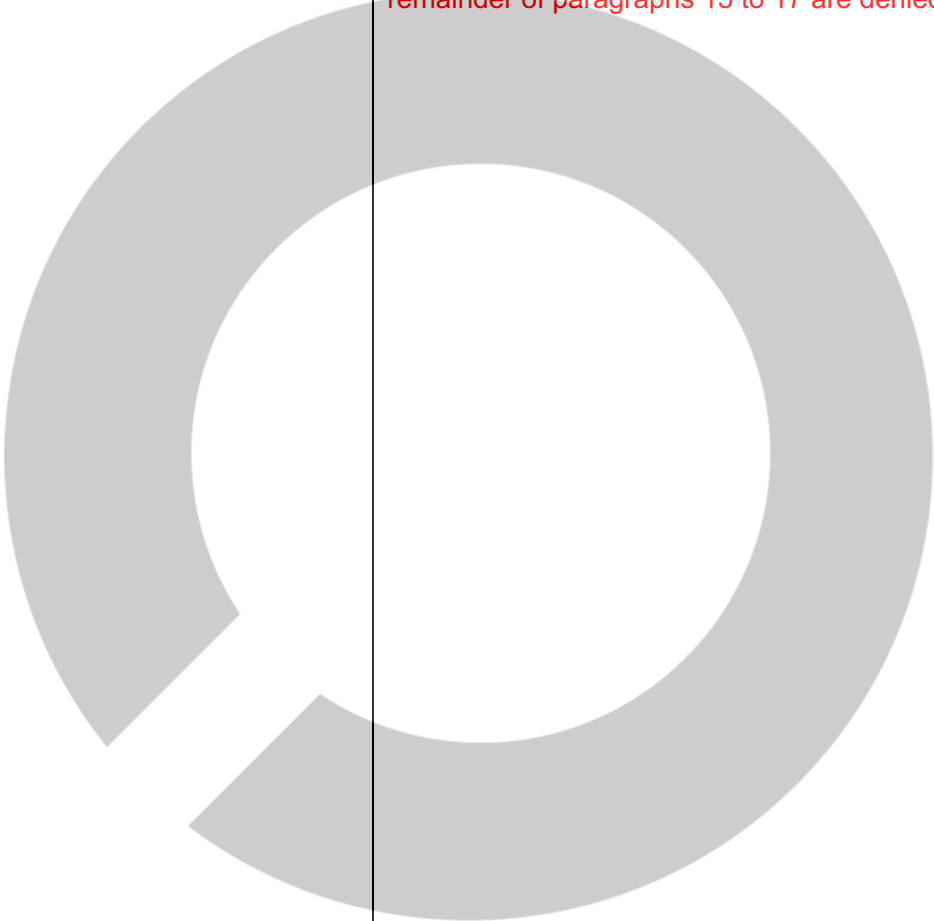
23.6 The Defendant reasonably believed, and believes, that the publication of material constituting the Claimant's personal data was and is in the public interest and relies on paragraph 15 above.

23.7 If and in so far as the processing of the Claimant's personal data was prima facie unfair or unlawful or otherwise contrary to the requirements of the GDPR, the Defendant reasonably believes that the application of those requirements in the circumstances of the present case would have been incompatible with the special purpose of journalism. It would have been incompatible with the purposes of journalism to require the Defendant to obtain the Claimant's consent to the processing of her personal data involved in publishing an article or articles responding to the publication of the People interview and the one-sided, and/or misleading, account of the Claimant's personal relationship with her father and the contents of the Letter and her father's letter in response set out in the People interview. Further, it is incompatible with the purposes of journalism to require all reporting to comply with the vague standard of "fairness", in so far as that means, as the Claimant alleges, that fairness requires the subjects of news stories to consent to the processing of their personal data and/or prohibits the publication of news stories

		containing material that is critical (whilst lawful) of any individual.	
<p>11. Further or alternatively, the processing has infringed the Claimant's rights as a data subject as set out in the GDPR. In particular, on 14 February 2019, the Claimant's solicitors wrote a letter to the Defendant which contained a notice of objection pursuant to Article 21 of the GDPR and a request that the Defendant cease processing the Claimant's personal data ("the Notice"). Contrary to the Notice, the Defendant has continued to process the Claimant's personal data. By failing to cease processing the Defendant has infringed the Claimant's rights pursuant to Articles 21 of the GDPR, in contravention of the statutory duty under GDPR Articles 5(2) and 12(2) of the GDPR.</p>		<p>24. It is admitted that by letter dated 14 February 2019 the Claimant's (former) solicitors demanded that the Defendant cease processing the Claimant's personal data pursuant to Article 21 of the GDPR. This demand was not limited to the Claimant's personal data contained in the words now complained of in this claim but was expressed as a demand for the cessation of processing of the Claimant's personal data generally. Such a demand was plainly not a demand that any UK media organisation could sensibly comply with. It is also admitted that the Defendant has continued to process that data. For reasons set out above, the Defendant is entitled to do so. Except to the extent admitted above, paragraph 11 is denied.</p>	
<p>Infringement of the Claimant's Copyright</p> <p>12. The Claimant is and has at all material times been resident in the United Kingdom and a citizen of the United States of America.</p>		<p>Alleged infringement of the Claimant's copyright</p> <p>25. It is admitted that at all material times the Claimant has been a citizen of the United States of America. Save as aforesaid paragraph 12 is not admitted.</p> <p>26. Copyright protects original literary works insofar as they are original. Originality as regards a literary work requires the literary</p>	<p>Infringement for the Claimant's copyright</p> <p>18. As to the Defendant's denial of her claim for infringement of copyright, it is again unnecessary for the Claimant to plead to either the argument (most of which is entirely novel and contradicted by legal authority) or the admissions it</p>

		<p>work to be the author's own intellectual creation qua literary work. Moreover, the protection conferred by such copyright protects the author against unauthorised reproduction of a substantial part of that which is original in the work, namely a substantial part of that which is the author's own intellectual creation qua literary work.</p> <p>27. Yet further the extent to which a work is the author's own intellectual creation and therefore original and the extent to which a substantial part of that which is original has been reproduced is a key element of the defences relied upon herein, namely the balance with the interference to rights under Article 10 ECHR and Article 11 Charter of Fundamental Rights of EU of each of the Defendant, its readers and Mr Markle, public interest and fair dealing. As explained below, if contrary to the Defendant's defence the Articles did reproduce a substantial part of that which was the Claimant's own intellectual creation qua literary work, the extent to which they did so is very slight and outweighed by the other rights and interests engaged.</p> <p>28. The Letter purports to recite pre-existing facts both past and present including the Claimant's views of her father and his conduct. As set out above, the Letter is, and primarily comprises, an admonishment of her father. As recited in words those pre-existing facts and admonishment are neither the Claimant's own intellectual creation nor original.</p>	<p>contains, which the Defendant is unable to avoid making.</p> <p>19. Subject to this, the Claimant responds as follows:</p> <p>19.1 It is denied that the reproduction of a substantial part of the Claimant's work is "very slight" or that such reproduction without the Claimant's consent was outweighed by other rights and interests of the Defendant, as is suggested in paragraph 27.</p> <p>19.2 It is further denied (if it be seriously alleged) that the Letter is not the Claimant's own intellectual creation or original literary work, or that the extent to which the Letter is the Claimant's own intellectual creation is limited in any way.</p> <p>19.3 Further, and in any event, the detailed content of the Letter, and/or whether that content is correctly characterised as an admonishment of Mr Markle (as the Defendant contends) or not, has no bearing on the fact that it remains the Claimant's own literary work. The Letter contained the Claimant's personal (and private) views of Mr Markle's conduct, articulated in a way that had not been</p>
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		<p>29. Accordingly, it is denied that the Letter comprises the Claimant's own intellectual creation and therefore it is denied that the Letter is an original literary work.</p> <p>30. It admitted that if contrary to the foregoing any copyright subsists in the Letter it is owned by the Claimant. However, if any such copyright subsists the extent to which the Letter is the Claimant's own intellectual creation is very limited.</p> <p>31. It is admitted that the Defendant has supplied copies of its newspapers containing the Articles to the public and made the Articles available in the United Kingdom on the Internet. It is also admitted that the Defendant has authorised others to supply copies of its newspapers containing the Articles to the public.</p> <p>32. It is admitted that the Defendant retains copies of the Letter in its possession and that it reserves the right lawfully to make use of them in further newspaper articles although it has no present intention to do so. It is further admitted that the Defendant has acted without the Claimant's consent.</p> <p>33. However, it is denied that the Defendant has authorised others to make the Articles available on the Internet.</p> <p>34. It is denied that the Articles comprise a copy of a substantial part of the Letter in the sense with which copyright law is concerned, namely the reproduction of a substantial part</p>	<p>expressed in writing to him or anyone else before</p> <p>19.4 Further, if and insofar as it is being alleged that the state of the Claimant's relationship with her father was a pre-existing topic and that this therefore removed any copyright protection in the Letter, then this contention (which is both novel and entirely unfounded on legal principle) is also denied.</p> <p>19.5 It is further denied that the enforcement of the copyright in the Letter would seriously interfere with the Defendant's rights under Article 10 ECHR and Article 11 of the Charter of Fundamental Rights of the EU, or those of the Defendant's readers or Mr Markle, whether as alleged in paragraph 36 and the particulars thereunder or at all, as to which the Claimant responds as follows:</p> <p>(a) Paragraph 36.1 is denied. In particular, the Claimant did not by her own actions deliberately cause or permit the existence of the Letter or a description of its contents or a version of her conduct towards her father to be reported and placed in the public domain, as already</p>
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		<p>of that which is the author's own intellectual creation.</p> <p>35. In the premises and save as aforesaid the remainder of paragraphs 15 to 17 are denied.</p>	<p>explained above. In any event, by the time of the People interview, her Letter had been sent five months before and had she wanted to publicise its contents (which she emphatically did not) there is no sensible explanation for why she would have waited so long to do so. It is further denied that the Defendant had any particular right to report upon and scrutinise the Claimant's conduct on that basis, or indeed in relation to any intimate details of her private life, unrelated to her public office or duties.</p> <p>(b) As to paragraph 36.2, it denied that on the true facts Mr Markle had any right (or if he had been aware of the true facts he would have sought in the way alleged) to "explain his relationship with his daughter". In any event, it is denied that those rights outweigh the Claimant's rights to privacy, or that the Defendant needed to disclose the detailed contents of the Letter in order to enable Mr Markle to provide that explanation.</p> <p>(c) Paragraph 36.3 is denied, as is the suggestion that the rights of the Defendant, its readers</p>
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			and/or Mr Markle are particularly “weighty” in this regard, whether for the reasons referred to therein or at all.
13. Paragraph 3 above is repeated.			
14. The Letter is an original literary work in which copyright subsists and is owned by the Claimant.			
<p>15.Paragraph 4 above is repeated. In the premises, the Defendant has without the licence of the Claimant:</p> <p>15.1. copied a substantial part of the Letter, by reproducing a substantial part of it in the Articles;</p> <p>15.2. issued copies of a substantial part of the Letter to the public, by supplying copies of its newspapers containing the Articles to the public</p> <p>15.3. communicated copies of a substantial part of the Letter to the public, by making the Articles available on the internet; and/or</p> <p>15.4. authorised the aforesaid acts.</p>			
16. Further it is to be inferred from the facts and matters set out in paragraph 15 above, that the Defendant has made and retains			

<p>copies of the whole or a substantial part of the Letter in its possession, custody or control for the purpose of its business and that it threatens and intends to make use of them in further newspaper articles.</p>			
<p>17.By reason of the matters aforesaid, the Defendant has in its possession in the course of business and without the consent of the Claimant, Articles which are and which it knows or has reason to believe are infringing copies of the Letter.</p>		<p>36. Further each of the Defendant's, its readers' and Mr Markle's rights under Article 10 ECHR and Article 11 Charter of Fundamental Rights of the EU would be seriously interfered with by any right of the Claimant to enforce any copyright that may subsist and belong to her. The interference with those rights of the Defendant, its readers and Mr Markle (both taken individually and cumulatively) outweigh any slight interest the enforcement of any copyright that may subsist.</p>	
<p>PARTICULARS OF KNOWLEDGE</p> <p>17 .1 The letter dated 14 February 2019 referred to at paragraph 11 above and subsequent pre-action correspondence between the parties.</p> <p>17.2 The subsistence of copyright in literary works is common knowledge in the newspaper industry.</p> <p>17.3 The Defendant has plainly had the benefit of legal advice</p>		<p>PARTICULARS</p> <p>36.1 Hereunder the Defendant relies upon paragraphs 3 to 6, 13, 15, 16.1, 16.6 and 16.7 above. In particular, the Defendant and its readers have rights under the aforesaid articles to report upon and scrutinise the royal family and its members and their conduct (and in the case of its readers to receive such reporting and scrutiny). The Defendant and their readers have a particular right to report upon and scrutinise (and receive such reports and scrutiny) when the Claimant had by her own actions deliberately caused or permitted the existence of the Letter and a description of its contents and a version of her conduct</p>	

concerning the retention and use of copies of the Letter.

toward her father to be reported and placed in the public domain which her father claims was untrue and misleading.

36.2 Further, Mr Markle has rights under the aforesaid articles publicly to explain his relationship with and estrangement from his daughter. In particular he has a right publicly to describe his view of the Letter and his reaction and disappointment to receiving it, including where the contents of it are, in his view false or misleading. Moreover, Mr Markle has a particular right to explain these matters and correct what in his view was a misleading account of the contents of the Letter and the Claimant's conduct toward him that has been placed in the public domain by the Claimant's own actions.

36.3 The rights of the Defendant and its readers and Mr Markle in this regard are particularly weighty when the version of the contents of the Letter that had been placed in the public domain does not appear to be an accurate reflection of its actual contents and, according to Mr Markle, the account of the Claimant's conduct that had been placed in the public domain was not accurate either.

37. Further or in the alternative, the alleged acts of copyright infringement were fair dealing for the purposes of reporting current events, pursuant to section 30(2) of the Copyright Designs and Patents Act 1988. Hereunder, the Defendant relies upon the matters set out at paragraphs 3 to 6, 13, 15,

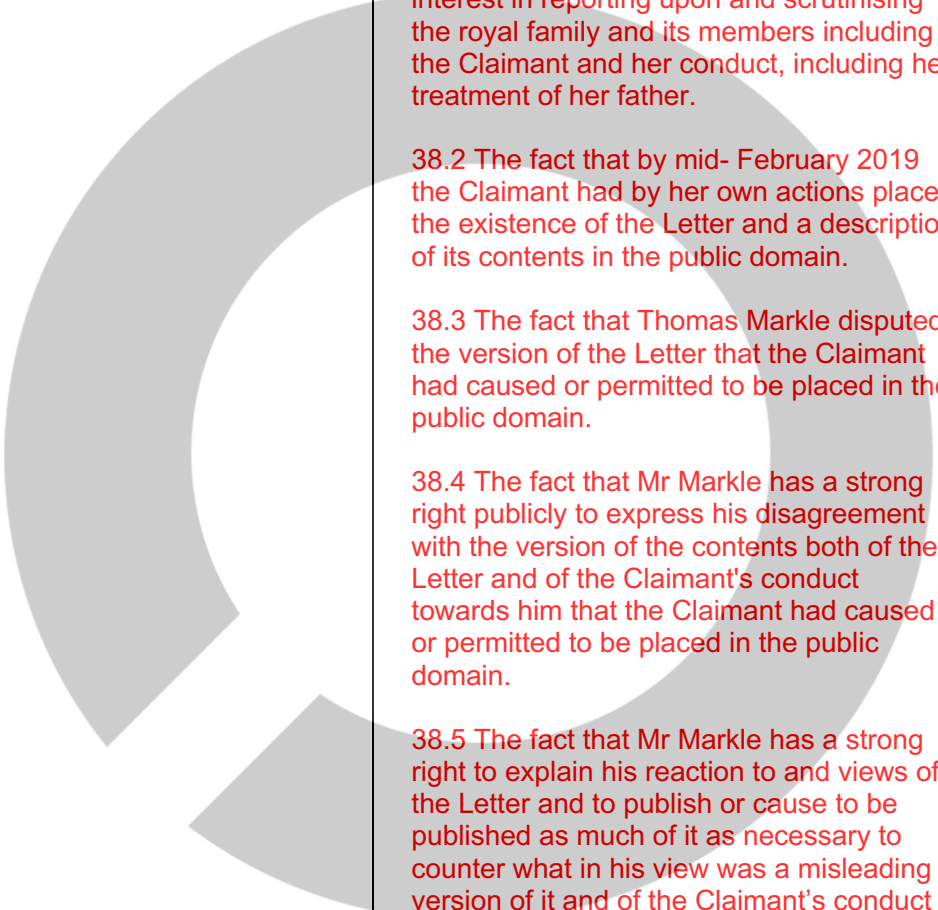
19.6 Paragraph 37 is denied. In particular, it is denied that anything referred to in the Defence could possibly make the Defendant's blatant acts of copyright infringement "fair dealing for the purposes of

16.1, 16.6 and 16.7. The Defendant avers that the Claimant's relationship with and estrangement from her father was at all material times a current event the legitimate subject of news reporting. Further, by mid-February 2019 the existence of the Letter and a description of the contents of the Letter and the Claimant's version of her conduct towards her father had very recently entered the public domain and was being reported very widely as set out above. The Claimant's relationship with, her estrangement from and her conduct towards her father were accordingly all particularly current and placed in or raised in profile in the news agenda by the Claimant's own actions. Yet further Mr Markle's reaction to and view of the Letter and the People interview were also current events the legitimate subject of news reporting. In particular, his dispute with the version put in the public domain by the Claimant's own actions and his contradiction of and dispute with the version of the Claimant's conduct toward him was also a current event the legitimate subject of news reporting. The Claimant was acknowledged sufficiently and the Defendant's use of the Letter was entirely fair.

38. Further or in the alternative, the Defendant's use of the Letter as complained of herein was in the public interest. The Defendant repeats paragraphs 36 and 37 above and relies upon the totality of the balance of the rights and interests in the circumstances of this case. Without limitation

reporting current events". In particular and without limiting the generality of this denial, it is denied that a brief and passing reference in a US magazine to the Claimant's Letter and her father's response could render the Claimant's private relationship with her father a "current event that formed a legitimate subject of news reporting", or similarly that the Defendant's desire to publish Mr Markle's dispute with the version of their relationship constituted a "current event that formed a legitimate subject of news reporting", or that the use of the detailed contents of the Letter for that purpose was "fair".

19.7 Paragraph 38 is also denied. In particular, it is denied that the Defendant's use of the Letter, or the Defendant's reporting of the intimate details of the Claimant's relationship with her father was in

		<p>the Defendant particularly relies upon the following:</p> <p>38.1 The fact that there is a general public interest in reporting upon and scrutinising the royal family and its members including the Claimant and her conduct, including her treatment of her father.</p> <p>38.2 The fact that by mid- February 2019 the Claimant had by her own actions placed the existence of the Letter and a description of its contents in the public domain.</p> <p>38.3 The fact that Thomas Markle disputed the version of the Letter that the Claimant had caused or permitted to be placed in the public domain.</p> <p>38.4 The fact that Mr Markle has a strong right publicly to express his disagreement with the version of the contents both of the Letter and of the Claimant's conduct towards him that the Claimant had caused or permitted to be placed in the public domain.</p> <p>38.5 The fact that Mr Markle has a strong right to explain his reaction to and views of the Letter and to publish or cause to be published as much of it as necessary to counter what in his view was a misleading version of it and of the Claimant's conduct towards her father.</p> <p>38.6 The fact that the Defendant (and its readers) have a strong right to report on and</p>	<p>the public interest, or that the Claimant had by her own actions placed the existence of the Letter and/or a description of its contents in the public domain.</p>
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		<p>scrutinise (and receive reports and scrutiny of) the dispute between the Claimant and her father as to the contents of the Letter and the conduct of the Claimant towards him in their estrangement.</p> <p>38.7 The Defendant and its readers have a particularly strong right to scrutinise (and receive scrutiny of) the version of the contents of the Letter and of the Claimant's conduct toward her father that had been placed in the public domain by the Claimant herself (either directly by causing others to place it in the public domain or by consenting to them doing so). The right is particularly strong because that version of the content of the Letter is disputed by Mr Markle and not reflected by the Letter itself and the version of the Claimant's conduct is also disputed by him. Publishing the content of the Letter in the way the Defendant did and publishing Mr Markle's reaction to and opinion of it is a perfectly legitimate exercise of those rights.</p>	
<p>18. In the premises, the Defendant has infringed the Claimant's copyright in the letter and intends to infringe further the Claimant's copyright in the Letter.</p>		<p>39. In the premises paragraph 18 is denied.</p>	
<p>Remedies</p> <p>19. By reason of the matters set out above, the Claimant has been caused considerable distress, damage, humiliation and embarrassment. The Claimant will</p>	<p>Of paragraph 19.4:</p> <p><i>"the Defendant chose to selectively edit the extracts of the Letter in a calculated attempt to portray the Claimant in an unfavourable light".</i></p>	<p>Remedies</p> <p>40. The first sentence of paragraph 19 is not admitted, except that that the Claimant has expressly disavowed seeking damages for compensation to reputation, or vindication of her reputation, and therefore the reference to</p>	<p>Remedies</p> <p>20. As to paragraph 40, and the response to her claim for remedies for the misuse of her private information, the breach of her Data Protection Rights and the</p>

<p>rely in support of her claim for general and/or aggravated damages, further or alternatively compensation pursuant to Article 82 of the GDPR and section 168 of the DPA, upon the following facts and matters:</p> <p>19.1 The Defendant's actions were flagrantly unlawful and constituted a gross invasion of the Claimant's privacy.</p> <p>19.2 The Claimant was shocked and deeply upset by the publication of the detailed contents of her private letter to her father. The fact that the Defendant deliberate chose to publish them in such a sensational and inflammatory manner, and without any warning or attempt to seek consent from her beforehand only served to make this far worse.</p> <p>19.3. Given the self-evidently private and sensitive nature of the contents of the Letter, the Claimant will invite the Court to draw the inescapable inference that this decision not to warn the Claimant or seek her consent was a deliberate decision taken in order in order to avoid the risk of her seeking to prevent the publication (had she been so</p>	<p>22. Please state in relation to each of the Articles precisely how it is alleged the Defendant selectively edited the extracts of the Letter in a calculated attempt to portray the Claimant in an unfavourable light, identifying the specific words from the Letter which are said to have been selectively edited and how such words were edited.</p> <p>Response 22</p> <p>The Claimant repeats and relies upon her responses in 7 and 11 above.</p> <p>Of paragraph 19.7:</p> <p><i>"The Claimant has been deeply shocked and upset by the Defendant's deliberate and blatant distortion and manipulation of the true sentiment of the Letter".</i></p> <p>23. Please state what is alleged to be the true sentiment of the Letter.</p> <p>Response 23</p> <p>As already stated in responses 7 to 14 above, and in the</p>	<p>"damage" in that sentence is not understood, is not relevant and is denied. The Claimant's entitlement to damages and/or aggravated damages and/or compensation is denied, as alleged or at all. As to the matters alleged under paragraph 19:</p> <p>40.1 Paragraph 19.1 is denied.</p> <p>40.2 As to paragraphs 19.2 and 19.3: The first sentence of paragraph 19.2 is denied. The Claimant had caused or permitted or authorised the existence of the Letter and a description of its contents to enter the public domain and therefore it is inherently unlikely that she was shocked or upset by those matters being disclosed. If and in so far as the Claimant was shocked or upset about the Articles, it is to be inferred from the Particulars of Claim that this was because she objects to her father's side of the dispute being published.</p> <p>40.2.1 As has already been stated, it is admitted that the Defendant did not ask for the Claimant's consent before publishing the words complained of. It was not obliged to do so, since, for reasons set out above, those words were published lawfully, as were the rest of the words in the Articles (and it is noted that the vast majority of the words in the Articles are not alleged by the Claimant to have been published unlawfully). The Defendant does not offer copy approval to people who are referred to in its reports, not even to members of the royal</p>	<p>infringement of her copyright, it is unnecessary for the Claimant to plead either to the Defendant's denials (since they are deemed to be denied by this Reply in any event) or such admissions which the Defence contains (and as are plainly unavoidable for the Defendant).</p> <p>21. However, for the avoidance of any doubt, the Claimant will rely, as she is entitled to do, on the manner in which, as a result of her bringing proceedings, the Defendant has sought to attack and intimidate her, both in the Defence and in print, including what amounts to little more than a gratuitously offensive (but utterly misconceived) 'tabloid' rant in paragraph 40.6, all of which has added to the distress she was caused by the original and unlawful publication of the detailed contents of a deeply private communication in which (to the use the Defendant's own words) she "pours out her heart in a moving letter to her estranged father". It was the Defendant's publication of these contents, and the highly manipulated, sensational and deliberately inflammatory way in which this was done that so deeply upset her, not the fact that the newspaper published "her father's side of the dispute" (a "dispute"</p>
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<p>warned) and in order to secure the enormous 'scoop' which the Defendant wished to achieve with such a highly sensational story.</p> <p>19.4. Worse still, the Defendant chose to selectively edit the extracts of the Letter in a calculated attempt to portray the Claimant in an unfavourable light. Paragraph 9(8) above is repeated. While substantive parts were kept intact, those sections were cherry-picked to only disclose the parts that fitted the Defendant's agenda. For example, the omitted parts, which amount to almost half the letter, were removed as they demonstrate the Claimant's kindness and concern about the UK tabloid media exploiting her father, and did not fit the Defendant's narrative. Despite these deliberate omissions, the Defendant deceived and misled its readers by announcing that they were disclosing the "full content" of the "five-page letter" , in both the sub-heading and the body of the Articles defined at Paragraphs 4(1) and 4(3) above.</p> <p>19.5 The Claimant sets out below a visual representation of the Letter, reconstructing those sections which were reproduced</p>	<p>Confidential Schedule, the Defendant deliberately omitted and manipulated the Letter in a way which sought to avoid undermining its negative characterisation of the Claimant or demonstrating the falsity of the account given about her contact with her father and her concern for his welfare. When properly read without such omissions, and in context, the true sentiment of the Letter is that the Claimant was concerned about her father and his welfare, as well as the fact that he was being exploited by the UK tabloid media and should stop talking to them.</p> <p>24. Please state in relation to each of the Articles precisely how it is alleged the Defendant deliberately and blatantly distorted and manipulated the true sentiment of the Letter, identifying the specific words from the Letter which are said to have been distorted or manipulated and how such words were distorted or manipulated.</p> <p>Response 24</p>	<p>family, because to do so would seriously interfere with the objectivity of its reporting. 40</p> <p>40.2.2 Except as set out above, the second sentence of paragraph 19.2 and paragraph 19.3 are denied.</p> <p>40.3 As to paragraph 19.4, paragraph 17 above is repeated. Further:</p> <p>40.3.1 There is no basis for the allegations that the Defendant made a calculated attempt to portray the Claimant in an unfavourable light or had an improper agenda, which allegations are denied. The Claimant's purpose was to publish a complete account of the Claimant's dispute with her father and their exchange of letters to correct the one-sided and misleading account published in the People interview.</p> <p>40.3.2 It is denied that any of the Letter demonstrated "kindness and concern". It was not a kind letter and it did not demonstrate any concern for Mr Markle.</p> <p>40.3.3 It is denied that the Defendant misled its readers. The Articles properly conveyed the meaning and effect of the Letter.</p> <p>40.3.4 The rest of paragraph 19.4 is denied.</p>	<p>which the Defendant itself created), as is suggested in paragraph 40. It is the Defendant's (unlawful) actions that give rise to the Claimant's claim, and not her father's conduct.</p>
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<p>by the Defendant in the Articles (shown in blurred form) and those sections which were deliberately omitted (shown in the form of redacted blocks of text, so as not to reveal more of the Claimant's private correspondence).</p> <p>[Followed by images of letter blurred.]</p> <p>19.6. Further, the Claimant will refer to the fact that even once the proceedings were issued, and the Defendant's decision deliberately to suppress sections of the Letter was pointed out to the public, the Defendant then chose to put out a press release defending its actions and stating that "specifically, we categorically deny that the duchess's letter was edited in any way that changed its meaning." This was plainly a lie, as the Defendant knew full well. Paragraphs 9(B) and (9) above are repeated.</p> <p>19.7. The Claimant has been deeply shocked and upset by the Defendant's deliberate and blatant distortion and manipulation of the true sentiment of her Letter (the privacy of which had already been violated by the Defendant).</p>	<p>The Claimant repeats and relies upon her responses in 7 to 14 above and the Confidential Schedule of Deliberate Omissions.</p> <p>25. Please state on what basis it is alleged that such distortion was dishonest (as alleged in paragraph 19.4).</p> <p>Response 25</p> <p>The Claimant repeats and relies upon her response 8 above.</p> <p>Of paragraph 19.8:</p> <p><i>"this is wholly consistent with the Defendant's obvious agenda of publishing intrusive or offensive stories about the Claimant intended to convey her in a false and damaging light"</i>, and the list of articles in paragraphs 19.8(1) to 19.8(5) (and without prejudice to the Defendant's case that the Claimant is not entitled to rely on publications that are not the subject of the claim in order to support a claim for damages):</p> <p>26. On the basis that the Claimant is not entitled to rely on "examples" of articles</p>	<p>40.4 Paragraph 19.5 and the illustration under it are noted. It is not a proper form of pleading, but a submission, and one without merit. The pictures in the Particulars of Claim are not "visual representations" of the Letter but of some other document, possibly a typed copy of the Letter, although it is impossible to tell since the text is illegible. Pictures of an illegible and redacted document cannot support the allegation that any material of substance in the Letter was withheld from publication or any relevant allegation.</p> <p>40.5 As to paragraph 19.6:</p> <p>40.5.1 The allegation in the first sentence that the Defendant chose to "suppress" sections of the Letter is denied in so far as "suppress" means "conceal". Paragraph 17 above is repeated. The Defendant properly and legitimately chose not to publish the whole Letter.</p> <p>40.5.2 The first sentence is also misleading in that this alleged decision was not "pointed out" by some third party as the Particulars of Claim imply. The Particulars of Claim fail to state that, as is the fact, it was the Claimant and her husband who issued a public statement dated 1 October 2019 referring to the alleged decision to suppress sections of the Letter. The Claimant has continuously sought to litigate this dispute in public, releasing statements of case and solicitors' correspondence to</p>	
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<p>19.8. However, as the Claimant is also distressed to realise, this is wholly consistent with the Defendant's obvious agenda of publishing intrusive or offensive stories about the Claimant intended to portray her in a false and damaging light. The Claimant will refer to the following articles published by the Defendant by way of example of this:</p> <p>(1) "Harry's girl is (almost) straight outta Compton: Gang-scarred home of her mother revealed - so will he be dropping by for fear" published on MailOnline on 20 November 2016;</p> <p>(2) "Kitchen supported by Meghan's cookbook Is housed inside mosque 'which has links to 19 terror suspects including Jihadi John' published on MailOnline on 24 November 2018;</p> <p>(3) "How Meghan Markle's Australian aide Samantha 'the Panther' Cohen rose from a Brisbane home to Buckingham Palace - before becoming the second aide to walk out on the 'difficult Duchess' published on MailOnline on 10 December 2018</p>	<p>complained about and the Defendant is entitled to know the case it has to meet, identify each and every article published by the Defendant that is relied on in support of the allegation as to the Defendant's "obvious agenda of publishing intrusive or offensive articles ... intended to convey her in a false and damaging light" (in addition to the list in paragraphs 19.8(1) to 19.8(5)).</p> <p>Response 26</p> <p>It is not accepted that the Claimant is not entitled to rely on examples of articles, given that this is part of her claim for damages and therefore the use of examples is a proportionate and reasonable method of supporting her case in this respect. The Claimant has already identified in her Particulars of Claim a series of articles which demonstrate that the Articles complained of are consistent with the Defendant's obvious agenda of publishing intrusive or offensive stories about the Claimant intended to convey her in a false and damaging light. This is the</p>	<p>the public and having her solicitors make public comments about the case and the parties' positions. It is to be inferred from this conduct that this claim is brought to enhance the Claimant's public reputation.</p> <p>40.5.3 It is admitted that in response to the public statement issued by the Claimant and her husband, the Defendant issued its own statement. Despite the fact that the Claimant's public statement was lengthy and made numerous very serious and unfounded allegations against the British media generally and the Defendant specifically, including accusing them of lying repeatedly about her, in response the Defendant issued a very short statement that was the minimum necessary to state its position and rebut the numerous allegations that the Claimant had made, which read: "The Mail on Sunday stands by the story it published and will be defending this case vigorously. Specifically, we categorically deny that the Duchess's letter was edited in any way that changed its meaning."</p> <p>40.5.4 That statement was correct and not 'plainly a lie' as has been inappropriately and improperly alleged. The Letter had not been edited in any way that changed its meaning. Paragraph 17 above is repeated.</p> <p>40.5.5 Except in so far as admitted above, paragraph 19.6 is denied.</p>	
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<p>(4) "How Meghan's favourite avocado snack - beloved of all millennials - is fuelling human rights abuses, drought and murder' published by the Daily Mail on 22 January 2019;</p> <p>(5) "Doria Ragland spotted alone in LA while daughter Meghan Markle parties with famous friends at her \$300k baby shower" published on Dailymail.com on 20 February 2019.</p> <p>19.9. Despite letters from the Claimant's solicitors outlining her distress and concern about the Articles, the Defendant has treated the Claimant's complaint in a dismissive manner, even refusing to accept the publication of the detailed contents of the Letter constituted an invasion of her privacy.</p> <p>19.10. Further, despite all of the above, the Defendant still retains a copy of the Letter. Paragraph 16 above is repeated. This has only served to increase the Claimant's ongoing sense of intrusion.</p>	<p>case which the Defendant is expected to meet.</p> <p>27. In respect of each and every article relied on in support of the Defendant's alleged agenda, taking each article in turn:</p> <p>27.1 Please identify the specific words in the article that are alleged "to convey [the Claimant] in a false and damaging light" (either by reproducing those words in a document or by supplying a copy of the article with those words underlined or indicated clearly in some other way).</p> <p>27.2 In relation to the words in each article identified in response to Request 27.1 above, please (i) specify the meaning(s) the Claimant attributes to the particular words, and which she says is false, and (ii) give particulars of why the words identified are false and what is alleged to be the true position.</p> <p>Response 27</p> <p>(a) The Defendant is again reminded of the true purpose</p>	<p>40.6 Paragraph 19.7 is denied. In Response 23 the Claimant has stated that the "true sentiment of the Letter" is that the Claimant was concerned about her father and his welfare, as well as his exploitation by the UK tabloid media. That is also denied. The Letter showed no real concern for Mr Markle or his welfare. Had the Claimant felt such concern, she would have issued a statement supporting her father before the wedding, after receiving his text on 16 May 2018, making it clear to the public that he was too ill to attend the wedding; would have responded to his attempts to contact her after the wedding; would not have waited for a further three months before making any contact or responding to his messages; would have enquired as to his well-being in the Letter and offered support; would not have caused or permitted a tendentious and misleading account of the Letter and his letter in response to be given to People magazine; and would not now be insisting in these proceedings that her father's account of their relationship and his reaction to the Letter had no validity and should never have been published. If the Claimant had been or was concerned about her father and his welfare, she would not have cut her father, a sick 75-year-old man, out of her life for the perceived sin of speaking to the press about his daughter who had become a famous royal duchess.</p> <p>40.7 In paragraph 19.8, under the guise of seeking aggravated damages, the Claimant</p>	
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	<p>of CPR Part 18 and its Practice Direction. This is part of the Claimant's claim for damages and therefore the use of examples is a proportionate and reasonable method of supporting her case in this respect.</p> <p>(b) Furthermore, this is not a claim for defamation and there is therefore no need to specify or attribute a meaning to the articles identified.</p> <p>(c) The Claimant's case in relation to each of the articles identified in subparagraphs 19.8(1) to 19.8(5) is as follows:</p> <p>(1) In relation to the article entitled "Harry's girl is (almost) straight outta Compton: Gang-scarred home of her mother revealed – so will he be dropping by for tea", the statement that the Claimant lived or grew up in Compton (or anywhere near to it) is false. The fact that the Defendant chose to stereotype this entire community as being "plagued by crime and riddled with street gangs"</p>	<p>seeks to litigate the truth or falsity of 9 articles (5 referred to in the Particulars and a further 4 in the Response) that are not relied on as separate causes of action. That is not a permissible course of conduct, because, amongst other reasons which have been fully set out in correspondence, none of those articles is alleged by the Claimant to have been published unlawfully and therefore none of them gives rise to an award of damages. In the premises, paragraph 19.8 and the particulars in support of it in paragraphs 19.8(1) to 19.8(5) and Responses 26 and 27, are liable to be struck out. Pending the determination of an application to strike out the Defendant does not plead to those paragraphs.</p> <p>40.8 As to paragraph 19.9, the Defendant has not treated the Claimant's complaint in a dismissive manner. It has responded fully and carefully at every stage. The Defendant's denial of liability is not dismissive but is based on its understanding of the law and the facts of this case.</p> <p>40.9 As to paragraph 19.10, as set out above, it is admitted that the Defendant retains a copy of the Letter.</p>	
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and thereby suggest (in the first few days of her relationship being revealed) that the Claimant came from a crime ridden neighbourhood is completely untrue as well as intended to be divisive. The Claimant will also refer to the fact that the article cites her aunt as living in "gang-afflicted Inglewood" in order to bolster this negative and damaging impression of where this (black) side of her family is said to come from. In fact, Ava Burrow (said to be "the actress' aunt") is not her Aunt or any blood relation at all, a fact which if correctly stated would have undermined the narrative which the Defendant was intended to convey.

(2) In relation to the article entitled "Kitchen supported by Meghan's cookbook is housed inside mosque 'which has links to 19 terror suspects including Jihadi John', the connection made between the Hubb Community Kitchen (in which the Claimant worked with those effected by the

Grenfell tragedy as part of a cookbook project which became a New York Times best-selling book) and the Al Manaar Muslim Cultural Heritage Centre (supposedly “linked to 19 Islamic extremists”) is at best a highly tenuous and deliberately inflammatory one. The characterisation of these victims as being linked to terrorism in the same way as the Claimant is said to be supporting or endorsing jihadi terrorists through her participation in a cookbook for victims of Grenfell, is as false as it is offensive.

(3) In relation to the article entitled “How Meghan Markle’s Australian aide Samantha ‘the Panther’ Cohen rose from a Brisbane home to Buckingham Palace – before becoming the second aide to walk out on the ‘difficult Duchess”, the suggestion that Samantha Cohen (who was private secretary for both the Duke and Duchess of Sussex) walked out on the Claimant or that she did so because

the Claimant was “difficult” to work for (a word used six times in this article) is untrue, as well as damaging. Ms Cohen, who was a highly respected and dedicated member of Her Majesty the Queen’s staff for sixteen years, personally chose to come out of retirement in order to work for the Claimant. Far from walking out on her, Ms Cohen even extended the original year which she had intended to work for as she wanted to carry on helping the Duke and Duchess with their office. Further, the Claimant’s “personal assistant” was in fact assistant to both the Duke and Duchess, and, contrary to what the Defendant stated in the article, she did not “quit”. (4) In relation to the article entitled “How Meghan’s favourite avocado snack – beloved of all millennials – is fuelling human rights abuses, drought and murder”, the connection made between the fact that the Claimant likes eating avocado and made avocado on toast for a friend who visited her with

human rights abuses, murder and environmental devastation is another highly tenuous and deliberately inflammatory one. The suggestion that by liking avocados she is fuelling or supporting these extreme occurrences, and therefore is disingenuous about her “campaigning for racial equality and female empowerment”, is again as absurd as it is offensive.

(5) In relation to the article entitled “Doria Ragland spotted alone in LA while daughter Meghan Markle parties with famous friends at her \$300k baby shower”, the suggestion that the Claimant deliberately left out her mother from her baby shower and ditched her in favour of her famous friends is untrue and offensive to her. The Claimant’s mother was of course invited, and the Claimant also offered to buy her airline tickets. However, her mother was unable to attend due to work commitments. It was also untrue and offensive to suggest, as the article does,

that “not a single guest had known [the Claimant] for more than a decade”. In fact, the true position was that the baby shower (which actually cost a tiny fraction of the \$300k falsely stated in the article) was organised and hosted by one of her best friends from university; the fifteen guests who attended the shower were close friends and included long-term friendships some of which had existed for over 20 years.

(d) The Claimant will also refer to the numerous articles (as exemplified below) which the Defendant chose to publish about the ‘renovation’ of Frogmore Cottage, the Claimant’s official residence, in which it stated that the Claimant had:

- (1) “splashed out £5,000” on a copper bathtub (which does not exist and is completely untrue);
- (2) “forked out £500k” on soundproofing to block out the noise of planes (which does not exist and is completely untrue);

(3) variously installed a “yoga studio” (which does not exist and is completely untrue); an “orangery” (which does not exist and is completely untrue), a “tennis court” (which does not exist and is completely untrue) and a “guest wing” for her mother to stay in when she visited (which does not exist and is completely untrue).

The clear intention was to portray the Claimant in a damaging light by suggesting that she had indulged in this series of absurdly lavish renovations, which were in fact false (as the Defendant was informed at the time) and entirely made up.

Furthermore, the Defendant sought to portray these renovations as being done at “the taxpayer’s expense”, costing “£2.4m of YOUR cash”. This was also false and misleading. In fact, the Cottage is a grade 2-listed 17th century residence, which was already undergoing much needed renovation for safety, and

its refurbishment back to its original state as a single family home was funded by Her Majesty the Queen, as part of her obligation and responsibility to maintain or refurbish the upkeep of buildings of historical significance through a portion of the sovereign grant, made in exchange for the revenue from her Crown Estate (which is several times the amount of the sovereign grant).

The Claimant will refer to the following articles in which these statements were published:

(a) "Luxury on tap! Meghan Markle and Prince Harry splash out up to £5,000 on a hand made copper bath for Frogmore Cottage" published in the Mail on Sunday on 30th June 2019;

(b) "Meghan and Harry (or rather, the public purse) has splashed out £5,000 on this top-of-the -range copper bath – but is it money down the drain"

published in the Daily Mail on 5th July 2019;

(c) “Meghan and Harry forked out 500k on soundproofing Frogmore Cottage” published in the Daily Mail on 30th June 2019, and

(d); “They could’ve moved next door!’ Fury as it emerges Harry and Meghan spent £2.4million of YOUR cash on Frogmore Cottage ‘to escape rift with Kate and William’ - and final bill could hit £3m” published in the Mail Online on 25th June 2019.

Of the Claimant’s Response to the Defendant’s Request for Further Information dated 23 October 2019

Of Response 27(d):
“The Claimant will also refer to the numerous articles (as exemplified below) which the Defendant chose to publish about the ‘renovation’ of Frogmore Cottage”.

1. Please identify each and every article relied on in support of the case set out in Response 27(d).

2. State the meanings or imputations in each article alleged to be false.

3. Set out why those imputations are false.

Responses 1 to 3

(a) The Defendant is again reminded of the true purpose of CPR Part 18, as recited above.

(b) The passage referred to is part of the Claimant's claim for damages and therefore the use of examples is a proportionate and reasonable method of supporting her case in this respect.

(c) Notwithstanding this, the Claimant has already identified in her Response 27(d) those articles upon which she intends to rely. This is the case which the Defendant is expected to meet.

(d) Furthermore, this is not a claim for defamation and there

is therefore no need to specify or attribute a meaning to the articles identified.

(e) The Claimant's case in relation to these articles has already been set out in Response 27(d).

Of the Confidential Schedule of Deliberate Omissions:

"her father did not answer the Claimant's calls, [but] he did instead speak to the tabloids":

4. State when each of these calls was made and whether i e chose not to answer them and if so on what basis that allegation is made.

Response 4

(a) As the Defendant is aware, the quote is a reference to a passage in the Claimant's (private) letter to her father, relating to telephone calls made from her mobile phone to her father's phone in the period shortly before her wedding.

(b) Given that this is a request for information relating to the Confidential Schedule of Deliberate Omissions of the Letter from the published

articles, the Claimant's response to this is set out in a Confidential Schedule to this Response. This is also to avoid this Revised Second Request being used by the Defendant as a vehicle for intruding further into her privacy. The Claimant repeats Response 7 of the First Request.

And of the claim for damages in paragraph 19:

27. (sic) State whether the Claimant is claiming reputational damages.

Response 28

The Claimant's claim for damages is already sufficiently pleaded. In any event, it is not understood what is meant by the phrase 'reputational damages'. However, for the avoidance of doubt, the assessment of the compensation to which the Claimant is entitled includes (but is not limited to) the humiliation, harm and overall negative impact which the

	<p>Articles, and the form and manner in which they were published, caused to her dignity and standing, as is encompassed by the protection of Article 8 rights and the law of misuse of private information.</p>		
<p>20. Further, the Claimant is entitled to and claims additional damages pursuant to section 97(2) of the Copyright, Designs and Patents Act 1988 ("the CDPA"), having regard to all the circumstances, and in particular to the flagrancy of the infringement and the benefit accruing to the Defendant by reason of the infringement. Pending full disclosure and/or further information, the Claimant relies upon the facts and matters set out in paragraphs 9 and 19 above. In the premises, pending full disclosure by the Defendant, the Claimant will contend that the Defendant deliberately calculated that the benefit to them in infringing the Claimant's copyright in the Letter far outweighed any sanction (whether in terms of damages or howsoever) which it would have to face as a result.</p>		<p>41. As to paragraph 20:</p> <p>41.1 It is denied that the Claimant is entitled to additional damages under section 97(2) of the Copyright, Designs and Patents Act.</p> <p>41.2 The inference in the last sentence of paragraph 20 is denied.</p>	

<p>21. Further or alternatively, since the Defendant has knowingly, or with reasonable grounds to know, infringed the Claimant's copyright, the Claimant is entitled to and claims damages pursuant to article 13(1) of the Enforcement Directive having regard to all the circumstances, and in particular to the unfair profits made by the Defendant and the moral prejudice caused to the Claimant by reason of the infringement. Pending full disclosure and/or further information, the Claimant relies upon the facts and matters set out in paragraph 19 above.</p>		<p>42. As to paragraph 21:</p> <p>42.1 It is denied that the Claimant is entitled to damages under Article 13 of the Enforcement Directive as an alternative to ordinary damages. It is also denied that the Claimant is entitled to any award of damages that mixes up and comprises an element of damages and account of profits of the Defendant.</p> <p>42.2 The rest of paragraph 21 is denied.</p>	
<p>22. The Claimant is entitled to and claims interest on all sums found due to her (other than by way of general damages) pursuant to section 35A of the Senior Courts Act 1981 or under the equitable jurisdiction of the Court.</p>			
<p>23. In the absence of an undertaking to the Court, or alternatively an Order to the same effect, the Defendant threatens and intends to continue the acts complained of by the Claimant, whereby she will suffer further loss and damage. The Claimant will rely in support of this contention upon the Defendant's refusal to acknowledge the unlawfulness of</p>		<p>43. As to paragraph 23, the Claimant is not entitled to an undertaking or an order to cease publication of the words complained of, and the Defendant is entitled to continue to publish the same.</p>	

<p>its actions, as well as its deliberate decision not to contact the Claimant prior to publication of the Articles.</p>			
<p>24. Further or alternatively, the Claimant seeks an order pursuant to Article 79 of the GDPR and section 167 of the DPA to ensure that the Defendant will cease further processing of the Letter pursuant to Article 21 of the GDPR, erase the Letter without further delay pursuant to Article 17 of the GDPR and communicate each of these fact to any third party to whom it has disclosed the Letter pursuant to Article 19 of the GDPR.</p>		<p>44. Paragraph 24 is noted, and the entitlement to an order as sought is denied.</p>	
<p>AND THE CLAIMANT claims:</p> <p>(1) Damages (including aggravated damages) for misuse of private information</p> <p>(2) Further or alternatively, compensation under Article 82 of the GDPR and section 168 of the DPA.</p> <p>(3) Further or alternatively, an inquiry as to damages (including additional damages under section 97(2) of the Copyright, Designs and Patents Act 1998 and/or damages under article 13(1) of the Enforcement Directive), or alternatively at the Claimant's</p>		<p>45. The Claimant is not entitled to the relief sought or any relief.</p> <p>46. Without prejudice to the generality of the foregoing the Claimant is not entitled to seek both damages and an account of profits in respect of the same acts, nor to seek to reserve the right to elect for an account of profits in the future. The damages and compensation which will be in issue at trial and which are sought in paragraphs 1 and 2 of the prayer for relief are in respect of the same acts said to comprise infringement of copyright.</p> <p>47. Further, and without prejudice to the contention that the Claimant is not entitled to any order for delivery up at all, the Claimant is not entitled to delivery up of the copy of the</p>	

option an account of profits, for infringement of copyright, together with

(a) an Order for payment to the Claimant of all sums found due to her upon the taking of such inquiry or account and

(b) interest thereon pursuant to section 35A of the Senior Courts Act 1981 or under the equitable jurisdiction of the Court; () An Order to restrain the Defendant whether acting by its directors, officers, servants or agents or otherwise howsoever from further publishing, republishing, licensing, assigning, authorising, procuring, syndicating, holding, disseminating or otherwise howsoever processing the Claimant's Letter.

(5) An Order pursuant to Article 79 of the GDPR and section 167 of the DPA that the Defendant

(a) cease the processing complained of;

(b) erase the personal data referred to and

(c) communicate to third parties to whom it has disclosed the

Letter made by Thomas Markle and given to the Defendant unless and until the Claimant alleges and proves that its making by Mr Markle was such that it is an infringing copy.

48. Except in so far as admitted above, each and every allegation in the Particulars of Claim, the Response and the Second Response dated 9 December 2019 to the Defendant's 44 Second Request for Further Information dated 28 November 2019 is denied as if it had been expressly denied in this Defence.

<p>Claimant's personal data the fact of each of these steps.</p> <p>(6) Delivery up and forfeiture of all copies of the Letter (including but not limited to notes of the Letter) in the possession, power, custody or control of the Defendant.</p> <p>(7) Such further or other relief as is just or apposite.</p> <p>(8) Costs</p>			
Statement of Truth	STATEMENT OF TRUTH	STATEMENT OF TRUTH	Statement of Truth