

CLAIM NUMBERS
(as listed in the group register)

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
IN THE MATTER OF THE MIRROR NEWSPAPER HACKING LITIGATION
B E T W E E N:-

VARIOUS CLAIMANTS

Claimants

- and -

MGN LIMITED

Defendant

GENERIC PARTICULARS OF CLAIM

Pursuant to the Order of Mann J dated 24th May 2019

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Summary of the Claimants' case

1. At all material times throughout the relevant period, namely from as early as 1991 onwards, MGN was the publisher of *The Daily Mirror*, *The Sunday Mirror* and *The People*, three national tabloid newspapers with enormous circulations and readerships within this jurisdiction both in their hard copy form and through the publication of their content online at various URLs including www.mirror.co.uk and www.people.co.uk.
2. The Claimants' case is that the use of voicemail interception, blagging and the unlawful obtaining of private information through the instruction of private investigators, blaggers and others, was both habitual and widespread across all three of the MGN titles, not only from 1998 until 2007 (for which the Claimants will rely upon the generic findings made by Mr Justice Mann in his judgment in *Gulati v MGN* [2015] EWHC 1452 (Ch) (“**the Trial Judgment**”)), but also starting as early as 1991 and continuing until even as late as at least 2011.
3. Whilst the true nature and extent of these activities will only become clear once full disclosure has been provided, pending this the Claimants will refer to the fact that these unlawful information-gathering activities were carried out by numerous MGN journalists and executives, working on the News, Showbiz, TV, Features, Picture and Sports Desks, as well as by the Heads of Content, Editors and Deputy Editors of these national newspapers.
4. Further, Senior Executives within MGN and its parent company, Trinity Mirror Group PLC (now “Reach PLC”), namely members of the Trinity Mirror Board and the MGN Legal Department knew or were aware of the use of these unlawful activities from at least as early as 2002 (and certainly by 2007). This included Sly Bailey (the former Chief Executive of Trinity Mirror and member of the Executive Committee which had day-to-day responsibility for managing the PLC), Paul Vickers (Group Legal Secretary, Board Member and fellow member of the Executive Committee) and Marcus Partington (Head of the Editorial Legal Department who worked closely with and reported directly to Mr Vickers).
5. Despite this knowledge or awareness, Senior Executives not only failed to take steps

to stop these unlawful activities but they even sought to conceal them and deliberately lied to and misled both the public and the Leveson Inquiry by falsely denying their existence. The Claimants expressly reserve the right to amend or add to these Particulars in light of further disclosure which MGN will need to provide.

6. For the avoidance of any doubt, the Claimants will rely at trial upon such lies and concealment for the following purposes in this litigation:

6.1 *As proof of MGN's wrongdoing.* The Claimants will invite the Court to infer that Senior Executives took these steps to lie about or conceal evidence of these unlawful activities because they knew that they were widespread and habitual at all three of MGN's newspapers during this period. There would be no other reason to do so.

6.2 *As supporting inferences as to the scale and extent of these unlawful activities within MGN.* In accordance with the principles set out in *Armory v Delamirie* (1722) 1 Strange 505, and in line with the Trial Judgment, the Claimants will refer the Court to the fact that MGN (deliberately) concealed its wrongdoing (including the destruction, spoliation or deletion of millions of documents), as justifying the most favourable inferences being drawn as to the scope, nature and frequency of MGN's unlawful activities, as well as the likely source of suspicious articles.

6.3 *As vitiating any reliance upon a defence of limitation.* The Claimants will rely upon MGN's deliberate concealment of its wrongdoing as rebutting any attempt to seek to defend these claims or part of them on the basis that they fall outside the statutory limitation period and should therefore be statute-barred.

6.4 *As seriously aggravating the damage caused to the Claimants.* The fact that Senior Executives within the Board and/or Legal Department were aware of these activities at the time and took no steps to prevent them, and then after the event have sought to lie about or conceal them, has greatly aggravated the injury caused to the Claimants. The same is true of the fact that as a result the Claimants have not only been deprived of the opportunity

to sue at the time but have also been unable to ascertain the full extent of the unlawful activities undertaken in relation to them.

MGN's knowledge of the widespread and habitual use of phone hacking and related unlawful activities

A. The widespread and habitual use of unlawful activities by MGN

7. The use of voicemail interception, blagging and/or the unlawful obtaining of private information including through private investigators, blaggers and others by or on behalf of journalists working for *The Daily Mirror*, *The Sunday Mirror* and *The People*, was both habitual and widespread from as early as 1991 onwards until as late as 2011.

8. Pending further disclosure, the Claimants will rely upon the following facts and matters as the best particulars which can presently be provided of the true scale and extent of such activities during this period:

8.1 The very large number of MGN victims, as is evidenced by:

(a) the number of individuals whose names, mobile phone numbers and/or other personal information were recorded in the Palm Pilot of Dan Evans, and were therefore victims or intended victims of phone hacking for *The Sunday Mirror*;

(b) the number of individuals whose names, mobile phone numbers and/or other personal information were recorded in the Palm Pilot of Nick Buckley, the Sunday Mirror's Head of Content and were therefore victims or intended victims of phone hacking for *The Sunday Mirror*.

(c) the number of successful civil claims for misuse of private information brought against MGN in Waves One, Two and Three of this litigation ("MNHL"), or in pre-action settlements, by claimants who have included, amongst others, actors, musicians, sportsmen, politicians and victims of

crime.

- 8.2 The substantial number of calls made to the Orange Generic Platform (which was just one way of accessing voicemails for Orange mobile phone users) by MGN journalists during the period from at least 2000 to at least 2007.
- 8.3 The volume of instructions and/or payments given to private investigators or other similar agents acting on behalf of all three MGN newspapers in order to blag or otherwise unlawfully obtain personal information about individuals, such as mobile phone numbers, itemised billing records, lists of BT “friends and family” numbers, utility credit card and banking information and medical information, as well as ex-directory telephone numbers, vehicle registration numbers, criminal record checks and mobile phone reversals. Pending further disclosure of MGN invoices and contributor payment records (“**contributor requests**”), the Claimants will refer to the following facts and matters:
- (a) The extensive use of these private investigators carried out by or on behalf of the News, Showbiz, TV, Features, Picture and Sports Desks at these newspapers. The Claimants will rely amongst other things upon the existence and contents of the private investigator invoices and contribution requests in support of their case that these activities were habitually used by each of these Desks throughout the period from 1991 to 2011.
 - (b) The large number of different companies or individuals used for these activities which included (but was by no means limited to):
 - (i) the original private investigators admitted to in December 2014 by MGN for the years 2000 to 2007, namely TDI/ELI, Rob Palmer/Avalon, Andy Gadd/Trackers UK and Southern Investigations (under its aliases Media Investigations and Law and Commercial);

- (ii) other private investigators and blaggers (whose use was only revealed in July 2019 as a result of the Order of the Court of 6 December 2018) such as Steve Whittamore (JJ Services), further aliases of Southern Investigations (Planman, Sid Fillery and The Investigations Company), Christine Hart (Warner News), Jonathan Stafford (Newsreel Ltd), Starbase (Secret Steve), Gwen Richardson (Searchline), Rachel Barry, Taff Jones (Sevenside), Mark Hinchcliffe (MSH Security Ltd), Code 10 (where Lloyd Hart worked before setting up TDI/ELI), John Boyall (LRI Research Ltd where Glenn Mulcaire worked up until 2001), Malcolm and Jackie Scott (System Searches and Legal & Commercial) and Spencer Tillen and Scott Dove (Unique Pictures and Lenslife); and
 - (iii) other private investigators and blaggers (whose use and the extent of such use was only recently revealed in August 2019 as a result of an Order of the Court) which had been admitted to the Leveson Inquiry in October 2011, namely Hogan International, BDI UK Ltd, and Steve Grayson (Global News)
- (c) The Claimants will also rely upon the number of targets (in their thousands) named in the ‘Red Book’ of Steve Whittamore, and other notebooks and papers disclosed to the Claimants by the Information Commissioner in relation to “Operation Motorman” the Commissioner’s investigation into the private investigator who provided his services (like others named above) to numerous newspapers at the time including all of MGN’s titles. The requests contained in the ‘Red Book’ and other notebooks and papers disclosed related to instructions seeking private information about individuals made on behalf of journalists at the *Daily Mirror*, *The Sunday Mirror* and *The People*.
- (d) The private investigators, blaggers and others (such as freelance reporters

and photographers using similar methods) obtained information for MGN unlawfully or illegally, as its journalists were aware, and/or the information was used by MGN journalists as part of its unlawful information gathering activities. Pending full disclosure of the invoices and Contributor Requests (and in particular the detailed contents thereof), the Claimants will refer to the fact that the obtaining of information such as ex-directory telephone numbers, itemised phone bills, vehicle registration numbers, criminal record checks and mobile phone reversals was, by its nature, unlawfully obtained, and that location searches made through the misuse of credit reference agency licences, or through misuse of other access to the Electoral Roll, were also unlawful.

(e) The Claimants will also refer to the following examples as demonstrating how systemic, extensive and routine the use of these private investigators was by MGN:

(i) Following national news reports that Milly Dowler had gone missing on her return home from school, Ian Edmonson, the Assistant News Editor at *The People* at the time, commissioned private investigators Starbase on 27 March 2002 to obtain information in relation to the murdered teenager. It is to be inferred from the use of Starbase (believed to be the individual referred to as ‘Secret Steve’), as well as the considerable sum of money paid (namely £450), that the information was obtained unlawfully. *The People* published a lengthy story about Milly Dowler on 31 March 2002 entitled “*Screams Clue Over Milly*”. The Claimants will also refer to the fact that other private investigators were also tasked to obtain information relating to the murdered teenager by both *The Sunday Mirror* (edited by Tina Weaver) and *The Daily Mirror* (edited by Piers Morgan) in March and April 2002.

- (ii) MGN made extensive use of the medical blagger, Christine Hart (who also provided services for other tabloid newspapers), in order to obtain highly personal and sensitive medical information through blagging hospitals in both England and the United States, as well as other information. By way of example, this included her obtaining information: (a) about the post-natal depression of a famous female television presenter for *The People*; (b) about whether the wife of a television comedian was pregnant for *The Sunday Mirror*; (c) about a well-known pop star entering rehab for alcohol and drug addiction for *The People*, and (d) about a football manager having therapy for *The Sunday Mirror*. Ms Hart was regularly instructed from at least 1998 by MGN journalists such as Doug Kempster, Matthew Bell, Ian Hyland, Dennis Rice, Andrew Buckwell, Rupert Hamer, Sean Hoare, Bridget Rowe, David Wooding, Paul Field and David Rowe. Her contact number also appears in Nick Buckley's Palm Pilot.
- (iii) Despite claims to the contrary, MGN continued to make use of private investigators until at least late 2011, even after the announcement and setting up of the Leveson Inquiry (at which such use was denied, as referred to below). The Claimants will refer to the fact that MGN, and in particular *The People* which was edited by Lloyd Embley at the time, instructed Scott Tillen and Spencer Dove (of Unique Pictures Limited and Lenslife respectively) on numerous occasions from July to December 2011. Further, both the *Daily Mirror* and the *Sunday Mirror* continued to instruct the well-known blagger, Jonathan Stafford/Newsreel Ltd, who was regularly used by MGN for many years and appears in the Nick Buckley Palm Pilot, during 2011, making 42 payments to him up until September of that year. Some of these payments were authorised by prolific hackers such as Mr Buckley and James Scott. The Claimants will also refer to the fact that Newsreel Ltd (Mr Stafford's company) is one of the private

investigators whose MGN payment records since 2005 were released to the Leveson Inquiry by Mr Vickers and Vijay Vaghela (Group Finance Director and fellow member of the Executive Committee with Mr Vickers and Ms Bailey), who were therefore well aware of their existence at the time of Trinity Mirror/MGN's statements to the public in 2011 claiming that its journalists operated within the law.

- (iv) The fact that MGN chose to use private investigators even though (as MGN, and in particular its Legal Department, was aware) these investigators had been convicted for illegally obtaining private information. The Claimants will refer by way of example to (a) Rachel Barry, who despite being convicted in October 1997 for blagging mobile phone bills and obtaining ex-directory phone numbers for newspapers (as was reported in the press) was continually used by MGN including by the *Daily Mirror*, the day after her conviction, including in relation to James Hewitt (as referred to in paragraph 10 below). The Claimants will also refer to the fact that Ms Barry is included in Dan Evans' Palm Pilot under the entry "Rachel Blag", as well as in Nick Buckley's Palm Pilot. Ms Barry continued to be used by senior MGN journalists such as Gary Jones, David Jeffs, Lee Harpin and Mark Thomas until at least 2006; (b) Steve Whittamore, who despite his being raided by police in 2003, his arrest in 2004 and conviction in April 2005 was used by MGN to unlawfully obtain private information, for example by the *Daily Mirror* until at least December 2005 and by *The People* until at least October 2006, and (c) Southern Investigations, who despite the arrest and conviction of Jonathan Rees in 1999 and 2001 respectively MGN continued to use under one of its aliases after that time.

- (f) Some of the payments or instructions to private investigators related to stories that were also the subject of or related to legal complaints, and

therefore their existence was known to the Legal Department, as referred to herein below.

(g) The fact that the systemic and widespread use of these private investigators by MGN journalists to unlawfully obtain private information was authorized at senior levels, such as by Desk Heads, Editors (including Tina Weaver, Mark Thomas, Richard Wallace and Bridget Rowe) and, most importantly, Managing Editors or Senior Executives such as Pat Pilton, Peter Willis and Eugene Duffy. The Claimants will refer to the fact that, as Managing Editor, Mr Duffy was one of the group of individuals (along with Tina Weaver, Richard Wallace, Mark Thomas, Paul Vickers and Marcus Partington) tasked with dealing with MGN's response to the conviction of Goodman and Mulcaire in 2007 and to the phone hacking scandal in July 2011. Further, Mr Duffy was not only involved in the investigation of David Brown's employment tribunal complaint in 2006/7 (as referred to below) but he had also repeatedly commissioned work from, and authorised payments to, the private investigators Jonathan Stafford and LRI (when Glenn Mulcaire worked there) and whilst he was the News Editor at the Daily Mirror.

8.4 The large number of journalists and editorial staff at the *Daily Mirror*, *The Sunday Mirror* and *The People* involved in the use of these activities throughout the period, many of whom also worked for The Sun and the News of the World and used the same unlawful information-gathering activities to obtain similar types of stories for publication in those rival tabloid newspapers throughout the period.

8.5 The volume of articles published in *Daily Mirror*, *The Sunday Mirror* and *The People* throughout the entire period (but in particular, from 1991 to 1998 and from 2007 to 2011), as identified and complained of in claims against MGN in the course of this litigation, which the Claimants contend derived from, contained, or were corroborated by information obtained through the product of voicemail interception, blagging or the unlawful obtaining of private

information by their journalists or by private investigators acting on their behalf.

9. The Claimants will also rely on the following paragraphs of the Gulati Judgment, from which the widespread and habitual nature of these activities, and the fact that they were approved of, directed and participated in by both journalists and senior executives at each of the newspapers, was assessed and determined between the period of 1998 and 2007 ("**the Generic Facts**"):

- 9.1 The widespread, routine and important use of phone hacking as a journalistic tool for MGN [paragraphs 55, 57, 68, 72, 83, 209];
- 9.2 The fact that it was known about and conducted at all levels, not just by journalists but also by editors [paragraphs 69, 72, 83];
- 9.3 The use and volume of untraceable mobile phone activity, as compared to use of landline phones and the inferences to be drawn from the incomplete nature of the landline call data [paragraphs 53, 73, 77];
- 9.4 the fact that voicemail interception through the generic Orange platform for users of Orange mobile phones was substantial and successful (even where individuals may have not set up any PIN code [paragraphs 76-78];
- 9.5 The evidence of Dan Evans as to the methodology and practice of phone hacking and the use of private investigators [paragraphs 40-58, 67, 70];
- 9.6 The nature and significance of Mr Evans' back pocket list of victims [paragraph 49];
- 9.7 The use of information obtained from voicemails or mobile telephone numbers, including the process of 'farming' and the sharing of information amongst journalists [paragraphs 47, 50-51, 67, 70, 75, 99]; the nature and enormous scale of the use of private investigators which was part of the large-scale pattern of the unlawful obtaining of private information [paragraphs 51-52; 79-81]; and
- 9.8 The deliberate attempts to conceal these unlawful activities, including the

policy of destroying potentially incriminating documents [paragraphs 64, 103].

B. Examples of unlawful activities and the knowledge of the Legal Department and/or the Board

James Hewitt

10. From 1995 onwards, and particularly throughout 1998 and 1999, the *Daily Mirror*, under the editorship of Piers Morgan, carried out a campaign of vilification against James Hewitt, the former British Army officer who had been involved in a relationship with Diana, Princess of Wales. The newspaper believed Mr Hewitt had sold his story about their relationship to an author called Anna Pasternak for inclusion in her book, *Princess in Love*, which had been published in 1994. This campaign involved not only commissioning articles about him from his former lover, Anna Ferretti, who attempted, and ultimately succeeded in, the theft of Mr Hewitt's love letters from Princess Diana, but also instructing private investigators such as Southern Investigations and Rachel Barry (who, as the newspaper knew, had been convicted of criminal data obtaining offences in 1997) to carry out various information checks around or relating to Mr Hewitt.
11. The newspaper campaign was personally waged by Mr Morgan until at least March 1999, when he ordered the publication by Nic North (Chief Daily Mirror reporter) of two articles about Mr Hewitt entitled "*PROOF Lying Hewitt was paid £103,000 for the book that broke Dianna*" and "*JUST TRY TO DENY IT NOW*". In these articles, the newspaper published the details and contents of Mr Hewitt's private bank account (including the number of the account and various entries relating to it), which Mr Morgan had personally seen, as he later boasted to Mr Hewitt himself and then in his book *The Insider*.
12. Pending further disclosure, the Claimants will refer to a number of private investigator invoices provided to the *Daily Mirror* by Ms Barry and by Southern Investigations, relating to Mr Hewitt, including one from Southern Investigations in the name of Gary Jones (a senior investigative journalist at the *Daily Mirror* and close colleague of Mr Morgan) dated 15 March 1999, the day before Mr North's

articles were published.

13. The Claimants will also refer to the fact that, as senior executives and the Legal Department at the newspaper were well aware at the time, Southern Investigations was able to and had previously managed unlawfully to obtain private financial information about individuals from their banks and building societies. The Claimants will rely in support of this contention upon the following examples, where financial information had been obtained from Southern Investigations by Mr Jones on behalf of the *Daily Mirror*, namely (a) a story written by Mr Jones and Ms Oonagh Blackman in October 1998, entitled “*ALL RATE FOR SOME*”, which revealed the confidential mortgage details of members of the Bank of England committee that set interest rates and (b) a further story written by Mr Jones and Ms Blackman in January 1999, reporting on financial difficulties which Prince Michael of Kent was allegedly facing by reference to his bank account with Coutts and Co.
14. Given the highly sensitive as well as newsworthy nature of the story, the length of the campaign, the fact that the Editor knew of the contents of Mr Hewitt’s personal bank records, and the decision to publish them in such detail notwithstanding their obviously private and sensitive nature, the Claimants contend that the MGN Legal Department (including Mr Partington and the Group Legal Director and Board Member, Mr Vickers) was or must have been made aware of the existence or contents of these bank records and the fact that they had been obtained unlawfully by private investigators.
15. The Claimants will also refer in support of this contention to the fact that in about August 2000, Mr Morgan was interviewed by the police in relation to the theft of Mr Hewitt’s love letters from Princess Diana by a former girlfriend, Anna Ferretti, whose story vilifying Mr Hewitt had also been published by the *Daily Mirror*, and the fact that Mr Morgan was accompanied in the interview by a member of the MGN Legal Department, who (it is to be inferred) would have known or investigated the circumstances surrounding the nature and extent of the *Daily Mirror’s* involvement in relation to Mr Hewitt, with the risks that it posed for the company, especially where the serving Editor of a national newspaper is brought in for interview by the police in relation to activities in the course of his employment.

Prince Michael of Kent

16. On 26 January 1999, the *Daily Mirror* published a front-page story entitled “*PRINCE’S BANK CRISIS*”, written once again by Oonagh Blackman and Gary Jones, which revealed confidential details of Prince Michael of Kent’s bank account with Coutts & Co. The article suggested that he had incurred an unauthorized overdraft in the sum of £220,000 through his business Cantium Services, and was £2.5m in debt to his bank.
17. A follow up story was published in the *Daily Mirror* the next day, on 27 January, again written by Ms Blackman and Mr Jones, which claimed the Prince had five years to clear his debts. The Claimants will refer to the fact that the newspaper was sufficiently confident in its story that it published it notwithstanding the fact, as it boasted in the article itself, that “*Prince Michael denied yesterday owing Coutts money*”.
18. In fact, this story was obtained illegally through the use by Mr Jones of private investigators Jonathan Rees and Southern Investigations. Mr Rees provided him with the numbers of three of the Prince’s company’s bank accounts, and had commissioned a known blagger (who had also worked for JJ Services and was later convicted of data theft offences in 2006) called John Gunning to blag private financial information from the bank.
19. Prince Michael then made a legal claim against MGN in relation to the story. As a result, in about April 1999, MGN’s Legal Department sought confirmation through Mr Jones as to how Southern Investigations had obtained the information about the Prince’s bank account and that it had been done by lawful means. Shortly after, MGN settled the claim and agreed to publish an apology to Prince Michael.
20. In the circumstances, pending further disclosure, the Claimants will contend that the MGN Legal Department and the Board (which included Mr Partington and Mr Vickers) was or must have been made aware that private financial information had been unlawfully obtained by Southern Investigations and that the claim could not be defended by MGN since it could not rely upon or reveal this ‘source’ of information.

The Arrest of Doug Kempster

21. On 24 September 1999, Doug Kempster a senior journalist at *The Sunday Mirror* was arrested by the Metropolitan Police in the course of Operation Two Bridges which was monitoring the illegal activities of Jonathan Rees and Southern Investigations. Mr Kempster was believed to be involved in an illegal newsgathering conspiracy with a view to corrupting serving police officers. Mr Kempster had made a number of payments to Southern Investigations to unlawfully obtain private information for the newspaper.
22. Although Mr Kempster was ultimately not charged by the CPS, he was suspended by MGN for several months and investigated internally, not least because of the risks posed for MGN by this arrest of a senior employee for alleged criminal conduct in the course of his employment. Pending further disclosure, the Claimants will contend that given the seriousness of the arrest and the obvious possible implications for the newspaper, and the decision to suspend their employee, the Legal Department and the Board will have investigated the payments or commissions made by Mr Kempster to Southern Investigations, as well as other payments made by the newspaper and/or MGN to these private investigators, and payments commissioned by Mr Kempster to other private investigators (including Jonathan Stafford and Christine Hart) and would therefore have discovered that MGN was paying for and receiving unlawfully obtained private information from this company, as was the case.

Heather Mills

23. In 2001, MGN journalist and prolific hacker, James Scott, obtained and played to the editor of *The Daily Mirror*, Mr Morgan, a private and highly sensitive voicemail message which Sir Paul McCartney left for his then wife, Heather Mills. Details of the engagement, marriage and breakdown of the relationship between the well-known Beatle and the high-profile campaigner had attracted and were guaranteed to attract enormous press interest. Despite the obvious news value of this exclusive story, Mr Morgan decided not to publish it in light of the sensitivity of the voicemail message and a complaint he had received from Sir Paul personally.
24. Mr Scott then passed the intercepted voicemail to Sean Hoare, the admitted phone

hacker who was working for *The People* at the time under Neil Wallis (the Editor) and Ian Edmondson (News Editor). Mr Wallis rang Ms Mills and told her that he had heard that she had had an argument with her husband, and he had sung a song down the phone to her. Ms Mills accused Mr Wallis of listening into her voicemails because this was the only way that he could have known this. Mr Wallis simply laughed at this, but he also (like Mr Morgan) chose not to publish the story.

25. Given the highly sensitive as well as newsworthy nature of this private voicemail message, the legal complaint from Sir Paul and the comments of Ms Mills, the Claimants will contend that the MGN Legal Department (which included Mr Partington and Mr Vickers) was or must have been aware of the existence or contents of this voicemail message and the fact that it had been obtained unlawfully.

Amanda Holden and Les Dennis

26. On 24 March 2001, the *Daily Mirror* published an article entitled “*Amanda’s fury over her friend’s ‘fondness’ for Les; get out of our lives, she says*”, which was written by prolific hacker James Scott. The article reported on Ms Holden falling out with her friend, soap star, Emily Symonds over her becoming ‘*too close*’ to Mr Dennis, Ms Holden as being ‘*paranoid about Emily*’ and quoting an unidentified ‘friend’. This information was largely repeated in the notorious 3am column on 2 April 2001 under the heading, “*The best of Emmernies*”.
27. On 3 April 2001, solicitors for Ms Holden and Mr Dennis wrote to the *Daily Mirror* making a legal complaint about the story in which they pointed out that it was ‘*astonishing*’ that the newspaper had chosen to publish this information without even attempting to check it first with Ms Holden or Mr Dennis. Despite having been sufficiently confident of its story to publish without even attempting to check it first with any of those involved, MGN made no attempt to defend the claim, choosing instead to apologise shortly afterwards.
28. The story had in fact been obtained through voicemail interception by James Scott (as MGN was later forced to admit in its Defence dated 8 January 2016 in the MNHL claim brought by Ms Holden). The Claimants will refer to the two invoices in the name of Mr Scott from private investigators ELI, who were commissioned by the

newspaper in March 2001, which relate for example to “*extensive enquiries*” carried out by them in relation to Ms Holden.

29. The Claimants will contend that the Legal Department investigated and settled this claim because it became aware that the 'source' of the story was or involved voicemail interception by James Scott and/or the use of unlawful information gathering by private investigators and therefore could not be relied upon in any legal action to defend the complaint.

Garry Flitcroft

30. On 31 March 2002, *The People* published a story about a series of extra-marital relationships which Garry Flitcroft, a former professional footballer, had engaged in with two different women, Helen Hammond and Pamela James. This publication followed the setting aside by the Court of Appeal of an injunction granted in Mr Flitcroft's favour restraining *The People* newspaper from publishing this earlier in 2001.
31. As later stated in his MNHL claim brought against MGN for misuse of private information in 2012 (“**Mr Flitcroft's claim**”), Mr Flitcroft's case was that the newspaper had obtained only Ms James' contact details through unlawful activities. This is because Mr Flitcroft had believed at the time that the newspaper had first been contacted by Ms Hammond and because Ms Hammond had given a witness statement stating that she did not know Ms James (and therefore could not have been the source of the newspaper contacting Ms James). Ms James had provided MGN with a witness statement in the course of the injunction proceedings in 2001 to say that she had been contacted by Alison Cock, a *People* journalist, to sell her story about Mr Flitcroft.
32. In 2013, MGN sought to strike out Mr Flitcroft's claim (as it did the claim brought by Abbie Gibson, referred to in paragraph 55 below. MGN contended that it had encountered Miss James through normal investigative journalism. The evidence in support of this was a witness statement produced by Mr Partington, to which he exhibited one page (out of several) of a memo that had been prepared by the Ms Cock at the request of her news editor, James Weatherup, for MGN's Legal Department as part of the injunction proceedings on 30 April 2001.

33. In his witness statement, Mr Partington stated that Ms Cock had approached James Weatherup, her news editor (and convicted phone hacker), on Friday 20 April 2001 (several days after getting the story tip) who told her that another woman (Ms Hammond) had also apparently recently ‘contacted’ the newspaper with a story about an extra-marital relationship with Mr Flitcroft. Pending further disclosure, the Claimants will refer to the recently disclosed Starbase private investigator invoice dated 20 April for “Consultancy re Flitcroft” and “DCS”, which the Claimants believe refers to his phone billing data from which the telephone numbers of these women would have been ascertainable.
34. Further, in the course of the heavily contested injunction proceedings, MGN had sought to suggest that Mr Flitcroft had been in heavy telephone and text contact with Ms Hammond, in the quarter (January to March 2001) before the hearing, which was far more than Mr Flitcroft had referred to in his evidence. The Claimants will refer to the communications to this effect from MGN’s Legal Department (and in particular, Mr Partington), requesting through his solicitors that Mr Flitcroft disclose his mobile phone bills. It is to be inferred that the reason for these requests was that the Legal Department was already in possession of Mr Flitcroft’s mobile phone records, which, as the Legal Department was well aware, were not obtained lawfully.
35. At no stage during the lengthy injunction proceedings (which were around the same time as the Starbase instruction), or in the witness statement for the strike out application, did MGN make any mention of the private investigator invoice revealing that MGN had unlawfully obtained Mr Flitcroft’s mobile phone billing data at the outset.
36. Despite Mr Partington claiming in his witness statement that the newspaper had not obtained Ms James’ name or contact details (or information about the affair) through phone hacking or any other unlawful means, Mr Justice Mann refused to strike out Mr Flitcroft’s claim against MGN. The Claimants will refer to the fact that, as now appears clear, Mr Partington confined his assertions only to Ms James’ contact details, and did not refer to those of Ms Hammond.
37. The Claimants will also refer to the fact that not only did MGN lose its application to strike out Mr Flitcroft’s claim, and was forced to pay the considerable costs of

doing so, but it subsequently agreed to pay him compensation for his claim (which solely related to the publication of these stories through unlawful activities by MGN), despite its vigorous contention at the strike out hearing that the claim was hopeless and doomed to fail.

38. The Claimants will contend that MGN deliberately settled the claim, once the strike out application failed, because the Legal Department knew that the story involved or was confirmed or corroborated up by the use of unlawful activities and therefore the claim could not be defended to trial and/or disclosure of relevant documents be provided to Mr Flitcroft.

Sven Goren Eriksson and Ulrika Jonsson

39. On Friday 19 April 2002, MGN published a sensational story in the Daily Mirror revealing that the then England Football Manager Mr Sven Goran Eriksson was engaged in a sexual relationship with TV presenter Ulrika Jonsson. The revelation of the affair was promoted as a "*World Exclusive*" for the newspaper's "*3AM Showbiz*" column, which had been created by the Editor at the time, Piers Morgan, and his Deputy, Richard Wallace. The story was obtained or corroborated through the interception by MGN's journalists of voicemails messages left by Mr Eriksson for Ms Jonsson.
40. Given the potential sensitivity and importance of this "*World Exclusive*", the highly private and intrusive nature of the information which was published and the decision to publish without confirmation of the affair from both parties, the Claimants will contend that the MGN Legal Department must have been aware of the true source of the story about Ms Jonsson and Mr Eriksson, and that this source had been obtained unlawfully. Pending further disclosure, the Claimants will also rely on the recent disclosure (in another claim where Ms Jonsson was an associate) of a TDI invoice relating to Ms Jonsson of 17 April 2002 (two days before the article), relating to an instruction by James Scott (the journalist who obtained the story about Ms Jonsson and Mr Eriksson).
41. The Claimants will also refer to the fact that Mr Morgan effectively admitted that the story had been uncovered by phone hacking in the *Daily Mail* in an article dated 28

May 2009 and entitled "*Piers Morgan: My Life and Other Celebrities*", which contained the following entry for Saturday 18 April 2009 (which the Claimants contend is truthful):

"Nancy... left a voicemail message for me. 'Piers, darling, I am in Rome and thinking of you. I hope you have recovered from our night together Let's get together again soon. '

Given that it was the Daily Mirror, under my editorship, which exposed Sven's fling with Uirika Jonsson after learning of a similar message left by the then England manager on her phone, I can only hope and pray that the gutter press... aren't hacking into my mobile now."

42. Further, in his evidence on oath to the Leveson Inquiry, Jeremy Paxman, the highly regarded broadcaster and journalist, stated that he attended a lunch on about 20 September 2002, hosted by Sir Victor Blank, then Chairman of the Trinity Mirror Board, which was also attended by Mr Morgan (who was still Editor of the *Daily Mirror*) as well as Ms Jonsson herself. During the lunch, Mr Morgan admitted to those present that it was easy to access people's voicemail messages. This included Mr Morgan teasing Ms Jonsson about the voicemail messages which he heard that had been left for her. Mr Morgan's teasing was so persistent that Mr Paxman considered such behaviour close to bullying.
43. The Claimants will refer to the fact that in response to this evidence, Mr Morgan publicly tweeted the following words: "*Right - that's the last time I'm inviting Jeremy Paxman to lunch. Ungrateful little wretch.*" The Court will be asked to infer from his response that Mr Morgan fully accepted that this was a true account of what happened at the lunch, and in particular his admission to those present, including the Chairman of the Board, as to the knowledge and practice of voicemail interception within MGN.
44. The Claimants will also rely on a number of occasions where Mr Morgan has publicly admitted to the fact that he was well aware of the practice of voicemail interception at the time and how widespread its use was, including at the *Daily Mirror*, for example in an article on 19 October 2006 in the *Daily Mail*, in an interview with

Naomi Campbell (the former supermodel) published in the April 2007 issue of GQ magazine, and in his Desert Island Discs interview with BBC Radio 4 which was broadcast on 12 June 2009.

The Shafta Awards 2002

45. Shortly after the story about Ms Jonsson and Mr Eriksson was broken, Mr Morgan had been co-presenting the showbusiness journalism's prestigious awards ceremony, the Princess Margaret Awards (known as "*the SHAFTA Awards*"), in April 2002 alongside his rival, the Editor of The Sun, Dominic Mohan. During the event, Mr Mohan commented to all present that it was in fact Vodafone's (the sponsor of the event) "*lack of security*" which had led to the Mirror's showbusiness exclusives under Mr Morgan.
46. The Court will be asked to infer from the fact that this comment prompted the biggest laugh of the evening (according to a report dated 1 May 2002 in The Guardian) that many or most of those present, including Mr Morgan, were well aware of the fact that the *Daily Mirror* was widely using voicemail interception to obtain showbusiness exclusives.

Reports of phone hacking in 2002

47. By 2002, reports were beginning to emerge, at least in the industry- read media section of the national press, that voicemail interception was a common practice amongst tabloid newspaper, including at MGN. The Claimants will refer by way of example to an article published in The Guardian on 14 October 2002 entitled "*Celebrity 'phone hacking' on the increase*" which reported that the unlawful phone hacking of celebrity mobile telephones by journalists was in the increase.

Rio Ferdinand

48. On 19 October 2003, the *Sunday Mirror* published a sensational front-page story revealing that the well-known footballer Rio Ferdinand had lied about a drugs test which he had missed. The article, entitled "*Rio Phone Sensation*", was described as

an 'exclusive' which would leave "football in crisis", and was written by James Saville and James Weatherup (the convicted phone hacker). The story, which referred extensively to the use of his mobile phone and "sources close to Ferdinand", was obtained through unlawful information gathering techniques, as MGN has had to admit in the MNHL litigation.

49. Given the potential sensitivity and importance of this 'exclusive', the highly private and intrusive nature of the information which was published and the decision to publish despite Mr Ferdinand's claims about the drug test (effectively branding him a liar, and thereby potentially libelling him), the Claimants will contend that the MGN Legal Department was or must have been aware of the true source for this story and the fact that it had been obtained unlawfully.

Michelle Collins

50. On a date in late 2003, Michelle Collins, a well-known professional actress, complained to MGN's Legal Department through her solicitors, Carter-Ruck. This was because she had been confronted by reporters from The People newspaper the day before at a secret location. The only way that this location could have been obtained (as far as she believed) was through accessing her private voicemail messages somehow. Ms Collins' solicitor warned the newspaper over a speakerphone conversation with both the editor of The People, Mark Thomas (who was a prolific hacker), and the Legal Department that the information about her location was private, that no story should be published and in any event, he suspected that to obtain the location it must have been through illegally accessing her messages (which they denied vehemently), and that if anything was published the police would be informed.
51. It is to be inferred from the sensitive and intrusive nature of the story, the warning from respected media lawyers, and the fact that the newspaper chose not to run the story the next day, that the Editor and the MGN Legal Department (including Rachel Welsh who was the lawyer who was present when the warning was given) was or must have been aware of the true source for this story (namely through the interception of Ms Collins' voicemails) and the fact that it had been obtained unlawfully.

Culture Media and Sport Select Committee in 2003

52. In the same year, 2003, the findings of the Culture Media and Sport Select Committee were published in a report entitled "*Privacy and media intrusion*". The Select Committee expressly referred in the report to MGN's newspapers, as well as articles in national newspapers reporting unlawful newsgathering techniques used by MGN.

Operations Glade and Motorman

53. From 2003 to 2005, the conduct of journalists from The Mirror, The Sunday Mirror and The People (as well as other newspapers) was under investigation by the MPS and ICO under Operation Glade and Motorman respectively in relation to their commissioning of private investigator Steve Whittamore and others to unlawfully obtain private information for MGN. The Legal Department and the Board were notified of this conduct by the ICO through the Press Complaints Commission.
54. During the course of Operation Glade, three MGN journalists were interviewed under caution in January 2004 (Mike Greenwood, Euan Stretch and Gerard Couzens) for commissioning and making payments to Mr Whittamore to unlawfully obtain confidential information from the Police National Computer through corrupt police employees, information which was then used in published articles. The interviewing of these journalists by the police for criminal offences carried out whilst in the course of their employment by MGN, was or must have been notified to and considered by the Legal Department and the Board, as would have been records of work commissioned by these individuals (and other journalists) to Mr Whittamore. The Claimants will contend that such an investigation would have revealed extensive unlawful information gathering by MGN journalists.

Abbie Gibson and the Beckhams

55. In April 2005, the News of the World published an exclusive front-page interview given to them by Abbie Gibson, the former nanny of the Beckhams who had been sacked by the high-profile celebrity couple over the Rebecca Loos allegations of an affair with David Beckham. In the interview, Ms Gibson had described a number of affairs which Mr Beckham had engaged in, his treatment of his wife and the arguments which had taken place between the couple. As the News of the World

story reported, and as was well-known in the press (including the MGN Legal Department), the Beckhams, who were famously litigious, had sought unsuccessfully to injunct Ms Gibson from giving this interview. This story attracted enormous press attention. In the wake of it, the People newspaper published an 'exclusive' story on 10 July 2005 entitled "*Becks Phone Fury*", in which it reported that David Beckham had "*mounted an astonishing telephone hate campaign*" against Ms Gibson "*with a string of abusive messages since she quit her job four months ago*". In the article, numerous references were made to the content of these private messages, the timing of the calls, "*sources close to Abbie*" or an unnamed "*friend*".

56. In fact, this story was obtained by MGN journalists through voicemail interception. The Claimants will refer in support of this contention to the following facts and matters:

56.1 Miss Gibson brought a voicemail interception claim against MGN in 2012 solely in relation to this story. MGN sought to strike out her claim on the grounds that it had no realistic prospect of success because (it was said that) there was no evidence that any messages had been left by David Beckham (who had complained to MGN shortly after publication of the story that he had been libelled since it was false and defamatory to say that he had left abusive messages).

56.2 In the course of the hearing on 24 October 2013, MGN produced a transcript of the recording of a conversation which they had retained from back in 2005 between its journalist, Lee Harpin (a prolific phone hacker) and Ms Gibson in which Mr Harpin warned her that the People were intending to publish this story and that they already had a 'source' for it. It was clear to Ms Gibson that the newspaper did not need her confirmation in order to be certain of the accuracy of their 'source' that abusive messages had been left on her voicemails. Ms Gibson did not confirm this, not least because she had not heard any such voicemails herself as she had not been listening to her messages.

56.3 Despite the lack of confirmation from Ms Gibson (or the Beckhams), the fact that the newspaper was even warned before publication by her solicitor that it

should not publish and the well-known litigiousness of the Beckhams, the newspaper chose to publish this defamatory story. The Claimants will contend that MGN was sufficiently confident in the accuracy of the 'source' to publish regardless.

- 56.4 Shortly after publication, the Beckhams made a legal complaint to the newspaper through their solicitors stating that the allegation that David Beckham had made abusive and threatening calls was false and defamatory. Despite having been confident enough of its source to publish at the time, the newspaper settled almost immediately with the Beckhams, agreeing to a public Statement in Open Court and to pay a large sum of money in damages and costs.
- 56.5 The Claimants will invite the Court to infer that MGN settled this claim because it became clear that the 'source' was voicemail interception and therefore could not be relied upon in any legal action to defend the story (as David Brown, another People journalist, stated in his witness statement for his tribunal proceedings 18 months later as referred to below.
- 56.6 The Claimants will rely upon the fact that at the strike out application in October 2013, MGN steadfastly declined to provide a witness statement from the journalist Lee Harpin or its Head of Legal, Marcus Partington confirming that there was an actual source for the story (as Mr Harpin had told Ms Gibson) and that it was a person whilst still being able to maintain confidentiality or anonymity to protect the source, if so desired.
- 56.7 In particular, the Claimants will refer to the highly incriminating nature of MGN's deliberate decision not to do so, given that (1) Mr Partington was present during the hearing; (2) he had chosen to provide a witness statement confirming the source of a similar story which formed the subject-matter of another claim brought by Garry Flitcroft that was also part of MGN's strike out application; (3) the Judge commented on the deliberate decision not to do so and the fact (which was correct) that if one had been provided this would have made Ms Gibson's claim unsustainable and the strike out application inevitably successful.

- 56.8 Not only did MGN lose its strike out application of Ms Gibson's claim, and pay the considerable costs of the application, but it subsequently agreed to pay her compensation for her claim (which solely related to the publication of this story through the interception of her voicemails).
- 56.9 Further, given its size and potential importance, the Claimants will contend that the complaint from the Beckhams' solicitors to MGN in July 2005 was investigated and its settlement (which included the payment of a substantial sum by way of compensation) was known about and approved of by the Legal Department (and particularly the Head of the Legal Department at the time, Marcus Partington) as well as the Board, at least Paul Vickers, who (as he confirmed in his statement to the Leveson Inquiry dated 13 October 2011) held the authority to settle such legal claims and operated a 'no surprises rule' with Mr Partington in relation to legal complaints.
- 56.10 As a result of this investigation of the complaint and the decision to settle the potential legal claim and pay damages despite the original confidence in publishing an obviously defamatory story about a highly litigious couple, the Court will be invited to infer that Mr Partington and Mr Vickers were or must have been aware that the source of the story that Mr Harpin had referred to was in fact Ms Gibson's voicemails and that it had therefore been obtained unlawfully and could not be defended in an action for libel.
- 56.11 The Claimants will also refer to the call data disclosed by MGN under Order of the Court dated 6th December 2018 which revealed numerous calls from MGN landlines to Abbie Gibson's mobile telephone between 1st April 2005 and 31 July 2005 and plainly demonstrates voicemail interception by Lee Harpin and other MGN journalists, supporting both the evidence of David Brown in his statement about these activities as well as the fact that *The People* was forced to apologise quickly for the story as the Legal Department investigated its source following the Beckhams' legal complaint, and discovered (or alternatively already knew) that MGN could not defend the claim because the story had been obtained by voicemail interception and needed to be settled (and yet took no steps to sanction the journalists involved

the story).

‘What Price Privacy’ and ‘What Price Privacy Now’

57. In 2006, the then Information Commissioner, Richard Thomas, published two highly critical reports, entitled ‘*What Price Privacy*’ and ‘*What Price Privacy Now*’, in which he detailed the widespread and unlawful commissioning and obtaining of private information from a private investigator by journalists at all three of MGN's titles. It also showed that MGN was the most prolific user of Mr Whittamore's services. It is to be inferred that such a damning public indictment of MGN's journalistic activity, including wholesale breaches of the Data Protection Act and invasions of privacy, was or must have been notified to and discussed by MGN's Legal Department and the Board.
58. The Claimants will refer to the fact that in his Witness Statement for the Leveson Inquiry, Mr Vickers states that a meeting was held to discuss the reports and this was attended by the Chief Executive and fellow Board member, Sly Bailey, Mr Partington and Eugene Duffy (the Managing Editor of Nationals, who when he was News Editor of the Daily Mirror had commissioned or approved instruction of the private investigator firm LRI where Glenn Mulcaire worked), as well as the three national editors of the Daily Mirror (Richard Wallace), the Sunday Mirror (Tina Weaver) and the People (Mark Thomas), all of whom were involved in these unlawful information gathering activities. This is also confirmed by Ms Bailey in her Witness Statement to the Leveson Inquiry dated 13 October 2011.

Arrest and conviction of Mulcaire and Goodman

59. In August 2006, Clive Goodman, the Royal correspondent and showbusiness journalist of the News of the World, was arrested by the MPS along with Mr Mulcaire for voicemail interception and other unlawful information gathering activities. The arrest of such a prominent tabloid journalist for criminal charges relating to his journalism was picked up by the other tabloid newspapers and caused serious concerns.
60. Whilst the coverage of this story was limited in terms of circulation, it was reported in the industry media. For example, in the media section of the Guardian on 11

August 2006 in an article entitled "*Hipwell: voicemail hacking rife at tabloids*", James Hipwell, the outspoken former MGN journalist stated that phone hacking was "*widespread*" at tabloid newspapers. In particular, he stated that "*many*" of the Daily Mirror stories would come from hacking into a celebrity's voicemail and gave examples of articles in the Daily Mirror which were sourced from phone hacking including exclusive stories about (a) the Spice Girls, where one Mirror journalist had even deleted one of their voicemail messages to prevent his rival on The Sun getting hold of it, and (b) Ms Jonsson and Mr Eriksson affair, which was discovered through a voicemail left by him on her phone. Mr Hipwell also stated that he was in the middle of writing a book which would describe "*the lengths to which tabloid reporters would go to hunt down stories*". The Guardian reported that it had approached the Daily Mirror in order to put this to the newspaper but it had declined to comment.

61. Given that these statements were made by a former Daily Mirror journalist, in the wake of the arrest and charge of Goodman and Mulcaire, that they linked the unlawful activities at the News of the World with similar activities being rife at one of MGN's newspapers, that they were being published in an industry read national newspaper and that the newspaper was even approached for comment about them but deliberately decided not to do so, the Court will be asked to infer that Mr Hipwell's statements and/or the use of these unlawful activities was discussed at the time with the Legal Department (including Marcus Partington) and with members of the Board (including Paul Vickers).
62. In January 2007, Goodman and Mulcaire were convicted and sentenced for voicemail interception. Following their conviction, the industry publicity about phone hacking (including Mr Hipwell's confirmation that this was widespread at MGN), and the growing concerns that this raised throughout the tabloid newspapers as to the use of these criminal activities, Ms Bailey and Mr Vickers held another meeting to discuss and investigate these concerns. This meeting was again attended by Board members, Ms Bailey and Mr Vickers (as they both confirm in their witness statements to the Leveson Inquiry), Mr Partington and Mr Duffy (who by this time had chaired the investigation into David Brown's dismissal and his evidence of widespread use of these activities at MGN's newspapers), as well as Mr Wallace, Ms Weaver and Mr Thomas. The Claimants will refer to the fact that in her evidence to the Leveson

Inquiry, Ms Bailey admitted that she might have been aware of what Mr Hipwell was saying back in 2007.

David Brown's Employment Claim

63. At about the same time, David Brown, the former People journalist, was bringing proceedings in the Employment Tribunal against MGN following his dismissal in late 2006 after an investigatory hearing conducted by Mr Duffy.
64. In his signed witness statement dated 16 May 2007, Mr Brown stated that "*reporters on all of the Trinity Mirror titles used illegal information supplied to them by private eyes to get personal data on celebrities and story subjects such as ex-directory phone numbers, mobile phone numbers and phone records.*" He described how he had personally been sent to Sweden to doorstep a British man living in Stockholm (who was wrongly believed to be Ms Jonsson's new lover) from information obtained from "*screwing*" or "*tapping*" her "*phone's message bank*".
65. Mr Brown confirmed that these techniques were widespread at MGN (as the Court has held in the Judgment), and even named a number of "*celebrities who were regularly targeted*" which included "*the Beckhams, TV actress Jessie Wallace, former boxer Frank Bruno, Noel Edmonds, Coronation Street star Tina O'Brien, and Big Brother contestant Jade Goody*". He described how MGN "*regularly used information from 'screwed' mobile phones*", and gave an example of this with the David Beckham nanny story. As he explained "*it took the company less than a month to pay David Beckham substantial damages because it knew it could not produce the evidence of tapped mobile phones in any litigation*".
66. Mr Brown also confirmed that the People paid "*thousands of pounds*" to private investigators, for obtaining information such as car vehicle registration numbers or blagging medical records, and identified Mr Whittamore and ELI/TDI as examples, both of whom were regularly used by MGN (as their accounting records demonstrated).
67. Mr Brown also explained that the arrest of Mr Goodman had caused such concern at MGN that on 8 August 2006 (the day of his arrest), Trinity Mirror Head of Resources, Jill Harrison, was instructed to contact executives at its newspapers to warn them that

if they were asked by other newspapers or trade publications whether they had used information from "screwed" mobile phones, they should deny it. This indicated "a major media plc was not only allowing its staff to carry out illegal activity by at best turning a blind eye to it, but also taking part in an organised cover -up of that activity".

68. Mr Brown's evidence about the widespread use of these unlawful activities at not just the People but all three MGN titles, as well as the specific examples he gave (which were correct, as has been proved by the findings in the Judgment, as well as during the course of the MNHL litigation), was or must have been known to, investigated and/or verified by the Legal Department including its Head at the time, Marcus Partington, as well as Board member, Mr Vickers. The Court will be invited to infer that Mr Partington, Mr Vickers and Ms Bailey were aware that Mr Brown's evidence about the widespread use of these unlawful information gathering activities by MGN journalists was correct, and that this evidence would be highly damaging to MGN if it became public. As the Legal Department was aware and must have informed the Board, this evidence was due to be heard in a public Tribunal hearing.
69. The Claimants will also rely upon the markings and highlighting made on a copy of the David Brown witness statement (inspection of which was provided by MGN in June 2019), which demonstrate particular concern about Mr Brown's evidence in relation to (a) "screwing mobile phones where private citizens' mobile phone numbers were hacked into for personal information"; (b) "reporters of all Trinity Mirror titles using information illegally supplied to them by Private investigators , including ELI/TDI", and (c) "a major media plc not only allowing its staff to carry out illegal activity by at least turning a blind eye to it, but also taking part in an organized cover-up of that activity".
70. As a result, shortly after the service of this witness statement, despite the weakness of his unfair dismissal case, MGN settled the Employment Tribunal claim brought by Mr Brown and agreed to pay him compensation on the condition that his evidence would be confidential and not repeated publicly. The Court will be invited to draw the conclusion that MGN settled the claim because Mr Partington and/or Mr Vickers knew (or discovered after investigating it) that Mr Brown's evidence of habitual and

widespread unlawful activity was true and therefore needed to be concealed.

71. Given the nature and significance of these unlawful activities, especially in light of the recent conviction of Goodman and Mulcaire, the settlement of Mr Brown's claim (including his evidence and the results or conclusion of Mr Duffy and/or the Legal Department as to the investigation or verification of his evidence) was or must have been discussed with and approved by the Board, namely at least Paul Vickers (Secretary and Group Legal Director) and Sly Bailey (Chief Executive Officer), two of the three Executive Directors.
72. In the circumstances, the Legal Department and Board were well aware by this time (if not before) of the widespread or habitual use of these activities at MGN, which had been corroborated by former journalists, James Hipwell and David Brown.

Sean Hoare

73. In September 2010, following the 'one rogue reporter' lie peddled by NGN and the denials by News of the World editor, Andy Coulson, the well-known showbiz journalist, Sean Hoare, publicly confessed in the media to years of phone hacking, including the direct involvement of Mr Coulson in such unlawful activities, as well as confirming their widespread use within the tabloid industry. As referred to above, Mr Hoare worked at the People on its showbusiness section until 2001 when he joined the News of the World and worked for Mr Coulson.
74. The Claimants will also refer to the emails sent by Mr Hoare, following his decision to become a whistle-blower in summer 2010. In particular, in an email dated Wednesday 28 July 2010 sent at 16:35 to Charlotte Harris (a prominent Claimants' solicitor who was the time was bringing claims for voicemail interception) entitled "*THIS IS GOING TO ROCK YA BOAT*". In this email Mr Hoare stated that "*I had a long chat with Marcus Partington last week. He has no idea that you and I talk. But he clearly knows the coup. He is a smart, informed man. I needed to talk to Marcus because I trust him and he knows my past — indeed he calls me London's best criminal... on all accounts his advice was excellent, indeed refreshing... Marcus is on vacation but I'll be talking to him again.*"
75. Given that they worked together at the People until 2001, the Court is invited to infer

that Mr Hoare still trusted Mr Partington and sought him out for advice because Mr Partington had been aware of Mr Hoare's involvement in these unlawful activities at the time they both worked for MGN.

76. The Claimants will also refer to a further email sent by Mr Hoare to James Hanning (the journalist and former editor of the Independent) on 2 December 2010 at 18:03, entitled "*Re Ripples and Waves*". In this email, Mr Hoare stated "*As I said during lunch my aim is true and I don't have a problem with you talking to anyone. Marcus (Partington) knows I was sitting with Harpin when he bragged to a Mirror reporter regarding Sven and Piers knows the source too*". This was a reference to Lee Harpin, the well-known MGN journalist and phone hacker who was working for the News of the World in 2002, and had boasted over a drink to MGN journalist, James Scott, in Mr Hoare's presence, that he had listened to Mr Eriksson's voicemail message to Ms Jonsson, as had Mr Morgan.

Operation Weeting

77. In January 2011, the MPS commenced Operation Weeting, an investigation into phone hacking at the News of the World, resulting in the arrest (and conviction) of a number of its journalists including James Weatherup, Ian Edmondson and Dan Evans, all of whom had also previously worked at MGN newspapers.
78. In early 2011, with the emergence of public concern about the phone hacking scandal, Mr Vickers called a further meeting with Mark Hollinshead (the managing Director of its Nationals division, to whom Mr Duffy reported) and Nick Fullagar (the Director of Corporate Communications), both of whom were on the Executive Committee with Mr Vickers and Ms Bailey), as well as Mr Partington, Mr Duffy and the three national editors. The meeting was arranged with the express purpose of discussing MGN's position in relation to the use of these activities, the company's reaction to the allegations and the public response which they should release to the media.
79. As the trial Judge held in the Judgment, the public pronouncements by Trinity Mirror gave the clear posture that these activities had not gone on at MGN, which was untrue as it was or must have been aware by this time. The Claimants will further refer to

paragraph 214 of the Judgment, in which the Judge held that:

"wrong, not just disingenuous, statements were made to the Leveson inquiry by at least 2 deponents, and that the newspaper group was indeed putting up what was in effect a strong denial, from which it has had to resile. I also find it likely that some of the witnesses were aware of Mr Brown's allegations by the time of the Leveson inquiry it not before - it is inconceivable that in the face of that inquiry, with senior journalists and executives giving evidence, that some of them did not know about it."

David Montgomery

80. As a result of the growing publicity surrounding the phone hacking scandal, in about September 2011 onwards (shortly before the start of the Leveson Inquiry), David Montgomery, a former MGN editor and Trinity Minor shareholder, became concerned about MGN's involvement in those unlawful activities and their cover-up by the Board. As he had discovered:

80.1 A witness statement had been sworn by David Brown for his employment tribunal hearing in 2007, in which he stated that phone hacking and other unlawful information gathering activities had been widely used. This statement had been drawn up by his lawyers.

80.2 MGN had settled Mr Brown's tribunal claim before it went to a public hearing. This settlement had been discussed with and known about by "*two main board directors*", namely Sly Bailey and Paul Vickers, as well as the "*in-house lawyer (reporting to PV)*", Marcus Partington, who considered the strength of the evidence was sufficient to force them to settle. However, they appeared not to have informed the other Board members.

80.3 Mr Brown had confirmed in his witness statement that in another case brought by the Beckhams following a 2005 story in the People, MGN had quickly settled the claim in their favour in order to avoid these activities being exposed.

80.4 Mr Brown's witness statement had been removed from internal human

resources department files and kept off-site at another lawyer's office.

80.5 Mr Montgomery also referred to certain Board directors being well aware of the use of these activities by its editorial executives, citing as examples of this the fact that: (a) Sly Bailey had approached a senior MGN editor to request to uncover the identity of the owner of a mobile phone number (ie. the practice of spinning a number), and (b) Sir Victor Blank had asked an MGN editor to request to find the name of the owner of a mobile number he had. This contrasted with the 'public' statements released by Trinity Mirror at the time which gave the clear (false) impression that these activities had not taken place at MGN. Given its status as a public limited company, Mr Montgomery was concerned with the serious (criminal) consequences of misleading the market as well as its shareholders.

80.6 Mr Montgomery's concerns were correct. As a number of former MGN journalists have confirmed in witness statements (for example, Mr Evans at the Sunday Mirror, Graham Johnson at the Sunday Mirror, James Hipwell at the Daily Mirror and David Brown at the People), and as the Court held in Gulati, these unlawful information-gathering activities were rife throughout each of the three MGN titles, involving not just journalists but also Editors.

Dan Evans' evidence

81. The Claimants will rely upon the admissions made by Mr Evans that he was instructed not only how to undertake these unlawful activities but also to take steps to conceal them by Nick Buckley and the then editor of the Sunday Mirror, Tina Weaver, who were personally engaged in or authorised or well aware of such acts. The Claimants will refer specifically to the following passages in Mr Evans' Witness Statement dated 27 September 2013, namely:

- a. the third, fourth and fifth paragraphs on page 3;
- b. the second, third and fourth paragraphs on page 7;

- c. the first and second paragraph on page 8;
 - d. the last paragraph on page 11;
 - e. the entirety of page 12;
 - f. the first and second paragraphs of page 13;
 - g. the entirety of pages 29 and 30;
 - h. the first four new paragraphs of page 31.
82. The Claimants will also refer to paragraphs 24 to 29 of Mr Evans' First Witness Statement dated 9 December 2014, relied upon in the Gulati trial.

Graham Johnson

83. The Claimants will also rely upon the generic witness statement of Mr Johnson (served in relation to the actions brought against MGN by Rupert Lowe and others). In particular, the Claimants will refer to paragraphs 13 to 16 of Mr Johnson's Witness Statement dated 16 June 2017. In his Statement, Mr Johnson confirmed that he regularly used private investigators to obtain private information for stories, and these unlawful information gathering activities were so widespread that they were even known about by the Legal Department.
84. Mr Johnson gave an example of a specific occasion where he was asked by Paul Mottram, an in-house lawyer working on the Sunday Mirror who was legalling one of his stories (relating to the television presenter Anne Diamond), about how he knew two people involved in the story were communicating and how he knew that they 'knew' each other. Mr Johnson explained to Mr Mottram that he had pulled mobile phone bills of the two individuals and their numbers had appeared in the phone bills, thereby confirming they were in communication. Mr Johnson showed the phone bills, which he believed had been blagged by private investigator Jonathan Stafford and the handwritten list of numbers faxed to the news desk fax, to Mr Mottram to confirm his source.

Legal Department practice

85. Further, it was common practice for the Editors and the Legal Department at MGN to interrogate and confirm with journalists the source for their stories, especially major exclusives or potentially intrusive or sensitive stories. As a result, they were or must have been aware of the unlawful methods used to obtain corroborate them, for example:

85.1 In his Witness Statement for the Gulati trial dated 15 December 2014, Mr Hipwell gave evidence that it was *"inconceivable that the senior legal managers on the [Daily Mirror] were not asking the showbusiness journalists where they were getting their stories from. An extremely significant editorial concern on all newspapers is whether a contentious story that the paper is considering running would get the paper sued for libel, or force it to publish an embarrassing retraction or apology. For that reason, the Daily Mirror's in-house legal team was also heavily involved in assessing the veracity of journalists' stories given the evidence gleaned from sources. In my experience a journalist is willing to answer the following question when it is put to them by a lawyer working on the newspaper: where did you get this story and what is the evidence that it is true."*

85.2 The Claimants will also rely upon the fact that at trial, the Defendant through its Leading Counsel deliberately chose not to challenge Mr Hipwell's evidence on this at all (in contrast to his evidence about the involvement of Mr Morgan). The Claimants will refer at trial to the transcript of Day 10 (13 March 2015) of the Gulati trial, and in particular pages 157 to 160.

86. As referred to above, in his Witness Statement dated 16 June 2017, Mr Johnson stated that these unlawful information gathering activities were so widespread that they were even known about by the Legal Department, and provided an example (relating to Anne Diamond) of showing *"pulled"* mobile phone bills to one of the MGN lawyers, Paul Mottram, who enquired as to the 'source' of Mr Johnson's story. Mr Mottram was or must have been aware that this information was unlawfully obtained.

87. In his Witness Statement dated 27 September 2013, Mr Evans gave evidence that the

Editor was very hands on and discussed stories in detail not only with the executives but also took an interest at reporter-level on the newsroom floor, and in particular discussed stories with him on many occasions, including those which came from phone hacking. Mr Evans stated that the Editor "*knows the origins to pretty much every story*", and that meant that the Editor and the Legal Department "*had to be sure of their provenance and reliability*". He confirmed that there were "*two or three lawyers responsible for overseeing editorial and they would cast an eye over every story*". Mr Evans explained that "*sometimes he would be questioned about evidential chains and whether certain quotes for example had been agreed with the subject or had been recorded*". Mr Evans also gave an example where Mr Partington even made an 'in-joke' to Nick Buckley (the Head of News, and the person responsible for teaching Mr Evans how to intercept voicemail messages) about whether he knew if Mr Partington whether had received any messages that day.

88. The Claimants will also refer to the Michelle Collins story referred to above, as well as the stories in relation to (a) James Hewitt, (b) Prince Michael of Kent, (c) Heather Mills, (d) Amanda Holden, (e) Garry Flitcroft, (f) Ulrika Jonsson and Sven-Goran Eriksson, (g) Rio Ferdinand, (h) the Beckhams and Abbie Gibson and (i) Anne Diamond.
89. In further support of the contention that Mr Partington (and Mr Vickers, to whom he reported all legal complaints or potential risks under their 'no surprises rule') was or must have been aware of the widespread use of these unlawful activities at the time they were taking place, the Claimants will rely on the admissions made by Chairman of the Board, David Grigson at the reception after the Annual General Meeting ("AGM") of Trinity Mirror PLC on 7 May 2015. In particular:
- (a) Having publicly questioned during the AGM why the David Brown evidence had been deliberately covered up in 2007, Mr Johnson raised with Mr Grigson at the post AGM reception, in front of a circle of journalists and others present, the position of Mr Partington (who had by then been promoted to Legal Director, and Board Member, of MGN) as follows:

“JOHNSON: [Marcus] was told in 2006 that phone hacking was going on in the employment tribunal involving David Brown...

GRIGSON: Yes

JOHNSON: ...and he chose... to pay out and cover it up.

GRIGSON: Right. Yes.”

- (b) Mr Johnson proceeded to enquire of Mr Grigson whether Mr Partington had been asked about the matter and what he said, to which Mr Grigson admitted that Mr Partington had told him “*that he was aware that things were going on*”, although he “*could not comment on any individual claims as he wasn’t in the detail*”.

90. This was consistent with the fact that, as Mr Grigson had publicly stated in his speech to shareholders at the Annual General Meeting the previous year in May 2014 (and as reported for example in The Guardian on 16 May 2014), MGN had claimed to have done everything it could short of “*ripping up the floorboards*” in an exhaustive investigation of the use of phone tracking by its journalists:

"Over the past two years we have built on the work that had already been done by the company to look into the allegations of phone hacking], I can't go into details but as chairman of your company I can assure you of the very extensive investigations that have been undertaken, short of ripping up the floorboards, in a way that would disrupt the good running of the company".

C. Conclusion on the knowledge of the Board and Legal Department

91. In the circumstances, the Claimants will contend for the reasons set out above, as well as the fact that MGN was incurring and authorizing at senior levels enormous expenditure across a lengthy period of time for the services of numerous private investigators, that at the very least:
- (a) members of the Legal Department, including Marcus Partington and Paul Mottram, and
- (b) members of the Board and Executive Committee Members, Sly Bailey and Paul Vickers (who oversaw the Legal Department and to whom Mr Partington

directly reported and with whom he operated a ‘no surprises rule’)

knew or must have been aware of the habitual and widespread use of these unlawful information-gathering activities at the time they were being carried out, as well as taking no steps to prevent them continuing.

Trinity Mirror/MGN’s deliberate lies and concealment of its wrongdoing

92. The Claimants will rely in support of their contention that Trinity Mirror/MGN has deliberately sought to lie and conceal its wrongdoing on the following, namely that:
- (a) The Legal Department and/or Board knew that these unlawful activities were habitual and widespread at the time and not only failed to stop them but deliberately avoided taking proper steps to investigate the full extent of such activities.
 - (b) Instead they sought to conceal the wrongdoing, including by settling legal claims or complaints brought against MGN in relation to various contentious articles published in its newspaper titles in the period 2001 to 2011 in order to avoid exposure of the unlawful activities of their journalists.
 - (c) Further, the Legal Department and/or Board deliberately settled David Brown’s Employment Tribunal proceedings in 2007, despite the weakness of his claim, in order to avoid his evidence of widespread unlawfulness being heard in the Tribunal and so as to conceal their wrongdoing from the public.
 - (d) The Board knowingly lied to or misled the Leveson Inquiry in 2011 and 2012 by concealing or falsely denying the involvement of MGN journalists in unlawful activities such as voicemail interception or the unlawful obtaining of information by private investigators.
 - (e) The Board knowingly lied to or misled the public by putting out press or market statements in which it deliberately sought to create the clear and false impression, as the Board and/or Legal Department knew, that none of MGN’s journalists had been or were involved in unlawful activities such as voicemail interception or the unlawful obtaining of information by private investigators.

- (f) MGN deleted, destroyed or otherwise spoliated masses of documents including emails relating to the period of these activities, despite the complaints of wrongdoing, and/or failed to take proper steps to preserve such documents, including safely preserving hard drives of MGN computers used during this time period as required by the Leveson Inquiry so that they could be searched, if necessary, for relevant material relating to MGN's journalistic and editorial practices and compliance with the law.
- (g) During the course of this litigation, MGN has repeatedly sought to avoid providing generic disclosure which would demonstrate the true extent of its wrongdoing, and in particular invoices and contributor payments from the full list of private investigators it used. By way of example, the Claimants will contend that by only admitting to the use of four unlawful PIs in late 2014 during the first round of the litigation, MGN sought to give the (false) impression that this was the totality of private investigative work commissioned by MGN during the period they covered. The Claimants will refer to the fact that MGN chose not to admit even to those private investigators identified by Mr Vickers and Mr Vaghela and confidentially provided to the Leveson Inquiry, (such as Jonathan Stafford, Newsreel, JJ services, Hogan, BDI and Global).

- 93. As set out in paragraphs 10 to 91 above, the Legal Department and/or Board knew that these unlawful activities were habitual and widespread in MGN at the time but chose not to stop them or to take proper steps to investigate the full extent of this wrongdoing. Instead, MGN took active steps to conceal its wrongdoing.
- 94. This included deliberately settling legal claims or complaints which might otherwise reveal the unlawful activities being carried out by MGN journalists or senior editorial staff, such as those brought by Prince Michael of Kent in 1999, by Amanda Holden and Les Dennis in 2001, by the Beckhams in 2005 and by Garry Flitcroft in 2013.
- 95. Further, as referred to in paragraphs 62 to 73 above, following its Legal Department (in particular Mr Partington) concluding that Mr Brown's evidence of widespread phone hacking and other unlawful activities was accurate (as it has since proved to be in this litigation) and therefore highly damaging to MGN, MGN decided to settle

his Employment Tribunal claim and to pay him compensation, despite the obvious weakness of the claim itself. MGN insisted on the inclusion of a confidentiality clause preventing Mr Brown from publicly revealing these activities so as to conceal them from the public.

96. The Claimants will refer in support of their contention that the Board and/or Legal Department failed to stop these activities once they were aware of them, or to investigate them properly, choosing to conceal them instead, to the fact that (a) these activities were highly profitable for the company; (b) the products of this activity were extremely useful for the production or publication of stories in its newspapers, especially exclusive scoops, which thereby increased sales and (c) the fact that by concealing its wrongdoing, these senior executives with shares in Trinity Mirror PLC had a direct financial benefit from the ‘false market’ which this concealment from the public created, as Mr Montgomery stated in his email to Nick Miles of MCom Group on 3 October 2011 in which he shared his concerns about Board knowledge of the activities which were the subject of the Leveson Inquiry.
97. The Board knowingly lied to or misled the Leveson Inquiry in 2011 and 2012 by concealing or falsely denying any involvement in unlawful activities such as voicemail interception or the unlawful obtaining of information by private investigators. As referred to above, despite their clear knowledge of and/or involvement in this wrongdoing, a number of senior MGN/Trinity Mirror executives gave evidence denying this. The Claimants will refer by way of example to the evidence of Tina Weaver, Piers Morgan, Richard Wallace, Sly Bailey and Paul Vickers. By contrast, MGN sought to attack the credibility of witnesses who testified to the Inquiry that these activities had in fact taken place at MGN, such as James Hipwell.
98. Pending further disclosure, the Claimants will also refer to the fact that despite discovering in the course of preparing a Trinity Mirror Board Review of Editorials and Procedures (“the Vickers Report) following the publicity surrounding the hacking scandal in 2011 that MGN journalists had been paying enormous sums to private investigators, and that there was inadequate controls over the sourcing of stories from external sources, and then issuing new internal guidance on the use of

such 'external contributors', MGN concealed the fact that Mr Vickers had discovered this or that the company policy had been changed as a result in order to avoid its wrongdoing being made public.

99. Further, Trinity Mirror/MGN deliberately put out public statements in the national press and to the London Stock Exchange and its investors which were carefully crafted to create the clear impression of a firm denial that any of its journalists had been or were involved in unlawful activities such as voicemail interception or the unlawful obtaining of information by private investigators. This denial was false, as Trinity Mirror/MGN well knew (for the reasons set out above). The Claimants will refer to paragraphs 213 to 214 of the Trial Judgment.
100. Between 2007 and 2010/2011, MGN has deleted, destroyed, spoliated or lost masses of documents including emails relating to the period of these activities, and/or failed to take proper steps to preserve such documents. The Claimants will refer in support of this contention the following:
 - (a) the striking paucity of emails on the Clearwell database, especially for the period from 1999 to 2002, including the emails or email boxes of key individuals such as Piers Morgan, Neil Wallis and Marcus Partington;
 - (b) the lack of any telephone call data up until June 2002;
 - (c) the loss or disposal of the copies retained on microfiche of all private investigator invoices for the period between January 1996 and May 1998 and the loss of contribution payment request forms in the period 1996 to 1998 (backups of which were not kept);
 - (d) the loss or disposal of periodic and other backups of MGN's/Trinity Mirror's servers;
 - (e) the changeover of MGN's/Trinity Mirror's computer system in 2010 during which hard drives previously used by its editorial staff were wiped, reused or disposed of, and
 - (f) MGN's deliberate decision to discard the hard drives into plastic crates

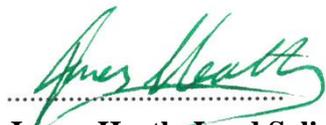
without any form of protection from electrostatic discharge, protection from mishandling, protection from the elements, labelling or attempt to safeguard their contents, despite a specific request from the Leveson Inquiry to preserve these hard drives so that they could be searched, if necessary, for relevant material relating to MGN's journalistic and editorial practices and compliance with the law. The Claimants will invite the Court to infer that MGN deliberately rendered the hard drives into such a state that it would be almost impossible for them to be searched in any meaningful way and thereby sought to conceal or render unusable material which would evidence its wrongdoing.

101. Despite the commencement of the MNHL litigation and the pursuit of numerous claims, MGN firmly and publicly created the impression that their journalists had not been involved in voicemail interception or related unlawful activities. However, in September 2014, without warning, MGN sent letters admitting liability in the claims then progressing in the most general terms. Shortly after this, MGN sought to enter judgment against itself in the litigation, a step which was as unprecedented as it was unsuccessful. The Claimants will invite the Court to infer that this was a blatantly deliberate attempt to avoid MGN having to provide any generic disclosure and thereby prevent the revelation of the true nature and extent of the wrongdoing on a generic level.

DAVID SHERBORNE
JULIAN SANTOS

Statement of Truth

The Claimants believe that the facts stated in this Generic Particulars of Claim are true.



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James Heath, Lead Solicitor

Served this 28th day of September 2019 by James Heath, Lead Solicitor for the Claimants, of
Atkins Thomson, 3 Fleet Street, London EC4Y 1AU