

London calling - Libel is still alive and kicking

15 OCTOBER 2013

Amber Melville-Brown

PARTNER | US

CATEGORY:

[BLOG](#)

A judge in the defamation court this week, struck out a libel claim brought by a former Russian policeman against a UK based fund manager, Mr Browder, in respect of an English language campaign website run by him. The case has been hailed as bringing to an end London's proud boast of being the libel capital of the world. No longer, happily say the media, will claims be brought by foreigners seeking to take advantage of our libel laws to obtain vindication here. But the judgment requires careful reading and those of us acting on the other side of the claimant / defendant divide suggest that it is wise to avoid a knee-jerk, hostile reaction against any foreign claimant seeking vindication in the defamation courts of England and Wales. Mr Browder had successfully lobbied for the US Magnitsky Act, which allows the US to freeze the assets of and withhold visas from Russian officials suspected of involvement in the death of Sergei Magnitsky, Mr Browder's former employee, and/or other human rights violations. He was sued by a Russian former policeman over serious allegations – including of torture and murder – published on his English language website. An application to strike out the claim brought in the libel courts of London was successful, the court finding that the claimant had insufficient links with the jurisdiction – links in fact, which the judge ultimately found to be 'exiguous'. Mark Stephens, who represents Mr Browder, was quoted in the [FT](#) arguing that in the past, 'crooks, brigands and oligarchs' had come to London to 'launder their reputation' and that this decision would be a further disincentive for them to do so. It is not surprising that the media and other defamation defendants have seen this as a far reaching success. But, although the facts of this particular case led to the strike out, this judgment also sets out quite clearly the assessment that the courts will make in considering a claim for a foreign claimant. The courts will entertain a complaint where a real and substantial tort has been committed in this jurisdiction, and where they have sufficient existing or imminent links to the jurisdiction. It also makes clear that where a reputation is both established here but at the same time destroyed by the actual article of complaint, the courts can hear the complaint. Joe Bloggs may not be known in this jurisdiction before the article vilifying him is published; but thereafter, his reputation is mud. Where he has sufficient links to the jurisdiction, and perhaps not an existing but an imminent reputation which has been ruined in advance by the article of complaint, he may still be able to seek recourse to justice through our domestic legal system. Today, as publications are instantly accessible across the Internet, reputations are under greater threat of worldwide damage than ever before. The law of defamation has had to catch up quickly with modern technology and is still striving to do so with a new Act forecast for implementation by the end of the year. As it does so, there will be reputational casualties along the way on both sides of the claimant-defendant divide. But as these individual battles are played out in the courts, we should remain proud of a legal system in which foreign claimants put their trust and respect and from which they are still keen to seek vindication.

Authors

Amber Melville-Brown

PARTNER | NEW YORK, LONDON

Media and reputation

 +1 212 848 9813 (NY) +44 20 7597 6408 (London)

 amber.melville-brown@withersworldwide.com