Neutral Citation No: [2026] NIKB 20 *Judgment: approved by the court for handing down (subject to editorial corrections)**	*Ref:* **HUM13036** *ICOS No.* **23/53966** *Delivered:* **05/05/2026**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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KING'S BENCH DIVISION

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Between:

NEIL SANDS
and
DONNA SANDS

Plaintiffs/Respondents

and

(1) SEBASTIAN BOND
(2) YUZU ZEST LIMITED
and
(3) KUMQUAT TREE LIMITED

Defendants/Applicants

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Gavin Millar KC and Peter Girvan (instructed by Gateley Legal) for the Plaintiffs/Respondents
Tony McGleenan KC and David Mitchell (instructed by Mills Selig) for the first and third Defendants/Applicants

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HUMPHREYS J

Introduction

[1] The plaintiffs in these proceedings describe themselves respectively as an entrepreneur who works for a global media company and a businesswoman specialising in fashion. Both have enjoyed an extensive online presence and the second plaintiff has a particular reputation as an influencer.

[2] Tattle Life describes itself as "a commentary website on public business social media accounts". It permits members of the public to comment and criticise individuals who "choose to monetise their personal life as a business", including so-called influencers.

[3] It has been established through these proceedings that Tattle Life was founded by the first named defendant, Sebastian Bond. The second named defendant, Yuzu Zest Limited, is a company which was incorporated in England & Wales in December 2019 with Mr Bond as its sole director and shareholder. It entered members' voluntary liquidation on 27 September 2024. The third defendant, Kumquat Tree Limited, is a company incorporated in Hong Kong, again with Mr Bond as its sole director and shareholder. In July 2025 the Tattle Life website proclaimed that it was wholly owned and operated by Kumquat Tree Limited.

[4] The plaintiffs commenced proceedings on 28 June 2023 seeking damages and injunctive relief in respect of alleged harassment, misuse of private information, breach of data rights and defamation arising out of material published on the Tattle Life website between February 2021 and May 2023.

[5] These proceedings have had an unusual and complex history, which I will outline in due course, but judgment was entered in favour of the plaintiffs in the sum of £300,000, together with costs, on 1 December 2023.

[6] Before this court are applications for the following relief on the part of the first and third defendants:

(i) An order striking out the proceedings as an abuse of the process of the court;

(ii) An order setting aside the court's order for substituted service;

(iii) An order setting aside the service of the writ of summons and/or staying the proceedings.

[7] The plaintiffs have, in turn, applied for:

(iv) An order deeming the service of the proceedings and the documents of record good;

(v) An order for a subpoena compelling the first defendant to attend to give evidence; and

(vi) An order for discovery in relation to the email account tattlelife@hotmail.com ("the Hotmail address").

Chronology of court proceedings

[8] To place the current applications in context, it is necessary to rehearse the chronology of proceedings and court orders to date:

(i) On 23 June 2023 ("the first ex parte application"), the plaintiffs obtained an order from Temporary High Court Judge Friedman KC entitling them to issue

proceedings in anonymised form, describing them as "EWC" and "EWD", and granting leave under Order 65 rule 4 of the Rules of the Court of Judicature (Northern Ireland) 1980 ("the Rules") to effect service of the writ and statement of claim on the defendants by email sent to the Hotmail address by their solicitor (the substituted service order ("the SSO")). The defendants were named as "Person or Persons Unknown Operating under the Pseudonym 'Tattle Life'". The judge also imposed a Reporting Restriction Order ("RRO").

(ii) On 23 June 2023 the court also made a Norwich Pharmacal Order ("NPO") against Xenforo Limited requiring this company to deliver up information in its possession which identified or assisted in identifying the operators of Tattle Life and the proper defendants.

(iii) On 8 September 2023 ("the second ex parte application") the plaintiffs sought and obtained an order from McAlinden J entering judgment against the defendants in default of appearance and in default of defence with damages to be assessed. The order included an injunction requiring the defendants to take down the thread relating to the plaintiffs and to disclose the identities of the individual users who posted the offending material. The RRO was to remain in force. Leave was given to the plaintiffs to serve the order and notice of the assessment of damages hearing on the defendants by email to the Hotmail address.

(iv) On 1 December 2023 ("the third ex parte application") damages were assessed in the sum of £150,000 for each plaintiff and an order was made that the defendants pay the costs of the action on the indemnity basis. The RRO was ordered to continue in force and leave was given to continue to serve documents of record by email to the Hotmail address.

(v) On 9 December 2024 ("the fourth ex parte application") the plaintiffs sought and obtained a Worldwide Freezing Order ("WFO") restraining the defendants from removing any of their assets from within Northern Ireland up to the value of £1,800,000 or in any way disposing of, dealing with or diminishing the value of any of their assets whether they are in or outside Northern Ireland up to the same value. This figure was made up of the damages of £300,000 and the legal costs incurred to that date of £1,500,000. This order explicitly referenced Sebastian Bond and Yuzu Zest Limited but they were not named as defendants at that stage.

(vi) On the same date the court made a further NPO requiring some 26 companies, from across the world and from a range of sectors, to deliver up information relating to the identity of the operators of Tattle Life.

(vii) The court also made a Bankers Trust Order against a range of financial institutions, requiring disclosure of bank accounts and business records of the

defendants. These orders also referred to Sebastian Bond and Yuzu Zest Limited.

(viii) The court granted leave to serve the 9 December 2024 orders on Mr Bond at a range of addresses and email addresses but otherwise the plaintiffs continued to have leave to serve the defendants by email at the Hotmail address. The RRO remained in place.

(ix) On 20 March 2025 ("the fifth ex parte application") the plaintiffs sought and obtained a variation of the WFO from Colton J to apply its terms to Kumquat Tree Limited, and further Bankers Trust Orders were made against additional financial institutions. Again, the RRO remained in place and the same provision made in respect of substituted service.

(x) On 13 June 2025 ("the sixth ex parte application"), on the plaintiffs' application, Colton J discharged the RRO and anonymity order and substituted the plaintiffs' real names for the ciphers "EWC" and "EWD." He also substituted the three named defendants for the previous "Persons Unknown". The WFO was maintained in full force and effect and further Bankers Trust Orders were made.

(xi) On 22 July 2025 the first and third defendants were granted leave to enter conditional appearances. The WFO was varied, on these defendants' application, to increase the amount permitted to be spent on legal expenses and on the first defendant's living expenses.

(xii) At the hearing of the first and third defendants' applications to set aside on 1 December 2025, it was ordered that the plaintiffs provide discovery of certain documents created prior to and during the currency of the proceedings.

The Tattle Life website

[9] At the time of the offending publications being made in relation to the plaintiffs, the Tattle Life website operated on a wholly anonymous basis. It was not possible to identify anyone who was involved in its ownership or operation. This was a breach of:

(i) Regulations 24 and 25 of the Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015;

(ii) Regulation 2 of the Data Protection (Charges and Information) Regulations 2018; and

(iii) Regulation 6 of the Electronic Commerce (EC Directive) Regulations 2002.

[10] Registered users of the website could post comments, often under assumed or false names. On the plaintiffs' case, two particular threads, ostensibly relating to a business involving the second plaintiff, contained vile and vitriolic abuse and defamatory statements. The published rules of the website prohibit hateful, abusive or threatening content but the plaintiffs' case is that there was no moderation of the material published. McAlinden J found that the plaintiffs' reputations had been "utterly trashed" by the offending material.

[11] On the evidence before the court, the website receives millions of visits per month and generates an income through online advertising. At its peak, Tattle Life had an annual income of over £500,000.

The pre-proceedings communications

[12] The evidence produced by the plaintiffs, in the form of several affidavits and a considerable volume of discovery, reveals that there were significant actions taken prior to the issue of legal proceedings.

[13] The first plaintiff complained about the content of a thread on the Tattle Life website on 21 February 2021 by email addressed to the Hotmail address. He asked for it to be removed. Having received no reply, further messages were sent on 15 March and 5 April 2021. The latter makes it clear that legal action would be taken if no response were forthcoming.

[14] On 24 September 2021 the plaintiffs received an email from a "Helen McDougal", using the Hotmail address, which said:

> "We've now collected enough data and information from the last week and from when you started using our site in February 2020 to satisfy our legal advisors that a civil conviction is likely to be successful."

[15] The email demanded that the plaintiffs admit that they are behind an Instagram account called "the_detechtives", apologise to the members of Tattle Life and then delete the account, failing which there will be "undesirable publicity" and civil action.

[16] In September 2022, the first plaintiff was engaging directly with Nardello & Co LLP ("Nardello"), an internationally renowned investigations firm, seeking to identify a woman referred to as "Helen W" who was at that time believed to be an administrator of the website. On 6 October 2022 Nardello provided its business proposal to the first plaintiff. By 11 October, solicitors in the firm of Gateley Legal had become involved and a formal letter of engagement was sent by Rory Lynch of that firm on 17 October 2022.

[17] On 10 November 2022, Nardello provided an initial draft report entitled "Re Helen W", which set out their findings to date in relation to that individual and the

ongoing lines of inquiry. On 17 November Nardello was instructed to carry out more work – namely, to investigate further the individuals behind Tattle Life and the individual known as "Helen McDougal."

[18] Discovery has revealed emails passing between the first plaintiff and a confidential source who appears to have been working for Xenforo, a forum software provider used by Tattle Life until December 2021. The first of these was dated 22 March 2023 but it was clearly preceded by previous email correspondence which has not been located as it is believed to have involved a different email address. The emails indicate the source has identified an IP address said to be hosting the Tattle Life site. The first plaintiff asked if he should proceed with a court order against Xenforo and is advised that he should.

[19] On 14 April 2023, the first plaintiff sent an email to Nardello in the following terms:

> "We have an email and an IP address for tattle owners FYI."

[20] Accompanying this email were a series of Xenforo purchase orders, dated between 2018 and 2021, which reveal the name Sebastian Bond, the post code BH** *** and two email addresses, 5******@gmail.com and bastian.durward@nestandglow.com.

[21] On 24 April 2023, the first plaintiff emailed his source stating, incorrectly, that his legal team had made an application to court for a production order. Later that same evening the source sent a message as follows:

> "So we have a name which is Sebastian Bond. This we believe should match the card which was used to pay for the tattle license including a Poole post code which should match the card billing address."

[22] Shortly thereafter in a further email it was said:

> "The existing site is apparently associated with Lime Goss but no such entity exists as far as we can tell. But Sebastian Bond comes up as a director for Yuzu Zest. Maybe a tenuous link but worth looking into."

[23] By 26 April 2023, the first plaintiff is able to tell his source that progress had been made on Sebastian Bond to the extent that "It feels like we are almost there."

[24] On 1 May 2023, the first plaintiff indicated that the NPO application was drafted and that they had been working on addresses for Bond. On 4 May 2023, at

0621 hours, the source emailed stating that Bond had paid Xenforo using a Starling Bank debit card, which was linked to a particular address in Poole, Dorset.

[25] It is noteworthy that in late June 2025, following the lifting of the RRO, the first plaintiff reposted an Instagram story created by the second plaintiff which was an "Ask me anything." The question posed was "When did you uncover Sebastian's identity?" to which the answer was given "@neilsands- worked it out years ago, before he deleted all these videos online." An online video from "Nest and Glow", a site associated with Sebastian Bond, was playing with the date "4 May 2023" superimposed on the screen.

[26] On 12 May 2023, the plaintiffs' solicitors wrote a detailed pre action letter addressed to the "publisher of Tattle Life" and sent by email to the Hotmail address. This letter specifically required the publisher to identify himself within seven days in order that proceedings could be commenced against them in the Northern Irish courts. No response was received.

[27] Two weeks later, on 26 May 2023, Nardello engaged third parties to carry out surveillance on properties in a specific post code area in line with the information provided by the source. One of these individuals called at the door of a particular property in Poole and the person at the house identified himself as Sebastian Bond.

[28] On 6 June 2023, Nardello provided what is described as a draft report to the plaintiffs' solicitors. Its subject matter is "Re Sebastian Bond." By this time, there was no other identified suspect as the possible owner or operator of the website in question. The report refers to the surveillance and identification of Bond and gives details of his family. Notably, multiple email addresses associated with him are referenced in the report.

[29] Nardello concluded:

> "Our analysis of Bond's digital footprint has identified a plethora of circumstantial ties between Bond and various aspects of Tattle.Life, from the web address itself, to the subject matter of the website, and to the very act of establishing an online forum."
>
> "It is eminently plausible that Bond is linked to Tattle.life."

The first ex parte application

[30] The first application made by the plaintiffs was grounded on an affidavit from their solicitor, Peter Barr, sworn on 20 June 2023. It set out in some detail the alleged tortious acts relied upon by the plaintiffs. It stressed that the plaintiffs would be unable to fully enforce their legal rights until the real identities of the defendants were known, and that any RRO would only be for a short period until this was revealed.

The affidavit also deposed as to the need for a NPO against Xenforo who had indicated that it had details which would assist in this identification and that they were willing to provide such information but required a court order. It also stated that the plaintiffs had instructed Nardello and they had indicated that the Xenforo information was likely to be of assistance in identifying the defendants. However, there is no reference whatsoever to the Nardello report dated 6 June 2023 addressed to the plaintiffs' solicitors or the information contained therein about Bond, the address in Poole, the payments to Xenforo or the surveillance operation.

[31] The plaintiffs also swore affidavits addressing the nature of the abuse they had been subject to and its direct effects on their lives. They did not address the source or the efforts to identify the operator of the website, including the identification of Bond by Nardello.

[32] At the hearing on 23 June 2023, Friedman J asked about the nature of the RRO and was told by counsel that this was likely to be of short duration until the relevant information had been received from Xenforo and the relevant persons identified. There was no mention at that hearing of either Sebastian Bond or Yuzu Zest Limited.

[33] On 28 June 2023, Xenforo responded to the NPO, providing the documents sought. These included references to the email addresses above and also to another, c*******@gmail.com. Mr Darby of Xenforo commented:

> "I believe there is concrete and actionable information contained within this data production and I wish you and your client well in your pursuit of Sebastian Bond."

[34] On the same date, Mr Lynch communicated this to Nardello and commented:

> "We can use that as evidence before the Court to apply to add the culprit as the Defendant to our legal proceedings and also identify his contact details (such as home address) for service and the court record."

[35] Also on 28 June 2023, Gateley sent an email to the Hotmail address providing a Mimecast link to a number of documents, namely the writ of summons, statement of claim, RRO and grounding affidavits and exhibits. This was sent in purported compliance with the court's SSO:

> "EWC and EWD are granted leave and permission pursuant to Order 65 Rule 4 of the Rules of the Court of Judicature (Northern Ireland) 1980 granting the to effect {sic} service of the Writ and Statement of Claim on the Defendants by email sent to tattlelife@hotmail.com by their solicitor."

[36] It is common case that in order to download these documents it was necessary to open the email attachment, click to download files, click "get access key", receive the access code by email and then use it to log in. At that stage the documents could be downloaded. The link provided by the email expired after 30 days. There is a receipt to indicate that the email was delivered to the address in question but there is no evidence in this case that anyone accessed the link sent on 28 June or downloaded the documents.

The second ex parte application

[37] Nardello provided a third report to the plaintiffs and their solicitors on 23 August 2023. This was a further iteration of the June 2023 report, incorporating the NPO disclosures, and repeated the conclusion that it was eminently plausible Bond was involved in the administration of Tattle Life. It also stated:

> "We have established to a high degree of certainty that Bond is linked to tattle.life"

[38] On 6 September 2023, the plaintiffs' solicitors sent a further Mimecast link to the Hotmail address, this time attaching a link to an ex parte docket to mark judgment in default, and the grounding affidavit of Mr Barr to that application. There was no provision in the SSO for the service of documents other than the writ and statement of claim by this particular means.

[39] This affidavit averred that the proceedings had been validly served in accordance with the SSO made by Friedman J and that no communication or engagement had been received in response.

[40] The court was advised on 8 September that the plaintiffs had been engaging with a specialist company in London to establish who operates Tattle Life but that had not been "bottomed out yet."

[41] A date was fixed for an assessment of damages hearing of 1 December 2023.

[42] The court order of 8 September was served as a pdf attachment to an email dated 11 September 2023 and sent to the Hotmail address. The body of the email also set out the terms of the draft order and notified the recipient that the damages assessment would take place on 1 December 2023. Further emails were sent to the same address on 20 October and 28 November 2023, confirming the damages hearing and seeking disclosure of the information set out in the order for an injunction. Bundles of documents for the hearing were sent on 28 and 30 November 2023 using Mimecast links.

The third ex parte application

[43] Prior to the hearing of the assessment of damages, a fourth report was prepared by Nardello and sent to the plaintiffs' solicitors on 13 October 2023. It repeated the "high degree of certainty" conclusion in relation to Bond's link to tattle.life. It also included an addendum in relation to Yuzu Zest Limited and stated:

> "It is plausible that Yuzu Zest Ltd is a company used to receive revenue from the monetisation of tattle.life"

[44] A fifth Nardello report was produced on 31 October 2023, expanding on the information relating to Yuzu Zest and the need for further disclosure orders.

[45] On 6 November 2023, the first plaintiff emailed his source asking whether Xenforo would have the debit card details used to buy the Tattle Life software since he was looking to deliver this to the courts. The answer was that they would only have the last four digits of the card number.

[46] A sixth Nardello report was forthcoming, dated 29 November 2023, which was identical to the one of 31 October save for a reference to Starling Bank as another candidate for a disclosure order.

[47] At the hearing on 1 December 2023 McAlinden J posed the question to counsel:

> "Has anyone been able to identify who these individuals are?"
>
> The reply given was:
>
> "At this point in time, the answer to that is no."

[48] In relation to Nardello, counsel stated:

> "… essentially for the last year they have been working with the material they have been provided including the material that was garnered from the Norwich Pharmacal Order and at the minute we have a draft report from them but it is not one at the minute they are not willing for it to be used in court but we are getting there if that makes sense."

[49] Damages having been assessed, the court order was sent as a pdf attachment to an email to the Hotmail address on 14 December 2023. Bank details were provided for the payment of the damages of £300,000, with further details to follow in respect of the liability in costs.

The fourth ex parte application

[50] On 18 and 20 December 2023, Mr Barr instructed Nardello to move to the next phase of the dispute which was to focus on the financial position and recovery rather than the identity and tracing of the owner.

[51] On 17 January 2024, Nardello produced a preliminary report which focussed on Tattle Life's revenue generation and recommendations for further disclosure orders. It was not concerned at all with the owners or operators of the website.

[52] There appears to have been no further communication until 16 October 2024 when Mr Barr informed Nardello that they were "on the cusp" of the next phase involving applications for further NPOs and a freezing order. Counsel had suggested some amendments to the January report for the purpose of use in evidence for these applications.

[53] Further surveillance was undertaken, at Nardello's direction, at the property in Poole on 28 and 29 October 2024, ostensibly to check if Bond was still living at that address.

[54] A further draft report was produced by Nardello dated 29 October 2024 which sought to draw together the two aspects of their investigation. In relation to the identification of Sebastian Bond, there was no difference of substance between that part of the October 2024 report and that which was produced a year earlier in October 2023.

[55] By October 2024, the resolution of Yuzu Zest Limited to enter members' voluntary liquidation had come to the attention of the plaintiffs and their advisors. Sebastian Bond had executed the necessary declaration of solvency on 27 September 2024 in Thailand. This information formed part of a series of revisions to the draft report until a final version was settled on 19 November 2024.

[56] The WFO was made by McAlinden J following a hearing on 9 December 2024. The application was grounded on a further affidavit from Mr Barr, exhibiting the November 2024 Nardello report and explicit reference was made, for the first time, to Sebastian Bond and Yuzu Zest Limited as the:

> "individual behind Tattle Life and the corporate vehicle used to locate some of its revenues and profits."

[57] At the hearing, counsel stated that his clients' experts had identified Bond as the person behind Tattle Life and Yuzu Zest Limited as the company through which it is operated. McAlinden J asked if the defendants were to remain "Persons Unknown" to which an affirmative answer was given. The plaintiffs indicated an intention to seek formal substitution in the future.

The fifth ex parte application

[58] The matter came before Colton J on 20 March 2025 when it was indicated that the Hong Kong corporate entity, Kumquat Tree Limited, had been identified and further orders were granted. No application to substitute defendants was moved at that time.

The sixth ex parte application

[59] On 10 June 2025 Reynolds Porter Chamberlain ("RPC"), solicitors acting for Sebastian Bond wrote to the first plaintiff in relation to an alleged campaign of harassment which was being pursued against Mr Bond and his family. In this letter it is admitted that Bond was a founder of Tattle Life. It also stated:

> "Our client is not aware of any legal proceedings against him or Tattle Life, but if such proceedings exist he understandably wishes to be aware of that. Consequently, if you are aware of any proceedings against our client or Tattle Life, please inform us of the nature of those proceedings by return."

[60] The following day the first plaintiff swore an affidavit pouring scorn on the suggestion that Bond was not aware of the extant legal proceedings and stating that he had instructed his solicitors to seek to lift the anonymity order and RRO which had been in place since 23 June 2023.

[61] In relation to the identity of Mr Bond, the first plaintiff deposed:

> "At all times, efforts to identify Mr Bond were carried out lawfully and professionally. Those enquiries were undertaken by Nardello & Co., a world-renowned corporate investigations firm, and not by me personally."

[62] The affidavit goes on to say:

> "At the time the original order was made, my wife and I were being targeted by an anonymous forum thread on Tattle Life that was extremely abusive, harassing, defamatory and invasive. The person running the site was hiding behind a pseudonym. We did not know who was behind it … we now know with certainty that Sebastian Bond is the person who runs Tattle Life."

[63] The application was also supported by a further affidavit from Mr Barr sworn on 12 June 2025. One section of the affidavit is entitled "Defendant's Identity Now Known" and in it Mr Barr deposes to the identification of Mr Bond and the admission made by his solicitors, RPC. He states that had the plaintiffs been in possession of the information which they now hold at the date of instigation of the proceedings they

would have named Sebastian Bond and Yuzu Zest Limited as defendants in the normal way. Mr Barr further says that disclosure made on foot of the NPOs and the findings of the Nardello report have brought clarity to the question of the operational and financial control of the Tattle Life platform.

[64] Mr Barr accepts that in a case where proceedings have been instigated against "persons unknown", the plaintiff is under an obligation to take all reasonable steps to establish the true identity of the defendant but also a corresponding duty to bring the matter back before the court and seek a formal substitution once that identity has been ascertained.

[65] It is also clear from this evidence that it was not the letter from RPC which was the trigger for the exercise of this "corresponding duty" since Mr Barr criticises RPC's statement as being "conspicuously Delphic" and "framed in the language of obfuscation", in contrast to the evidence placed before the court.

[66] At the hearing on 12 June 2025, the court was told that the plaintiffs were in the course of preparing a substitution application when the correspondence arrived from RPC. The following day Colton J made the various orders sought.

[67] The plaintiffs' solicitor served this order and associated documents by email with Mimecast link to the Hotmail address on 13 June and then to another email address, c*******@gmail.com on 16 June 2025.

Yuzu Zest Limited activity

[68] According to its filed accounts, Yuzu Zest Limited had a net asset balance of £601,000, all in cash, on 31 March 2023. Since its incorporation in 2019, the company had steadily accumulated cash reserves through advertising revenue for Tattle Life.

[69] The company paid a large dividend of £140,000 to Mr Bond in December 2023, shortly after judgment had been entered in these proceedings against persons unknown.

[70] Between April and August 2024, Yuzu Zest Limited made a number of transfers, totalling some US $90,000, to Kumquat Tree Limited, the third defendant. It had been incorporated in Hong Kong in February 2024.

[71] On 2 September 2024 the company transferred £898,632 to Mr Bond and the following day two dividend payments, totalling £12,950, were also paid to him.

[72] A resolution to wind the company up was passed on 27 September 2024 and Mr Bond swore a declaration of solvency which stated the expected surplus for distribution to be £903,000. At this time, the monies which had been transferred to Mr Bond were treated as being a director's loan.

[73] On 10 July 2025 the liquidators prepared a statement of affairs which identified unsecured claims against the company (including the costs and damages in this action) of £1,392,053 with assets of just £7,567.95. On 30 July 2025 the members' voluntary liquidation was converted to a creditors' voluntary liquidation.

[74] It is assumed or believed that the advertising revenue from Tattle Life has been paid to Kumquat Tree Limited since the resolution to wind up Yuzu Zest.

The subsequent events

[75] RPC wrote on behalf of their client on 18 June 2025 to the plaintiffs' solicitors stating that this was the first time these proceedings had been brought to his attention. It was said that the Hotmail address had not been active for a number of years.

[76] The first plaintiff has deposed to the fact that he sent two of his 2021 complaint emails to the Hotmail address using a customer relationship management platform called Hubspot. This has a facility whereby a report is received when an email is opened. This shows that emails from 2021 were being opened in October 2023. As late as November 2023 this email address was still appearing on the website as the designated address for complaints. This must cast significant doubt on the claim the email had not been active for a number of years.

[77] The plaintiffs further point to the lack of any sworn evidence from Mr Bond on this issue.

[78] On 14 September 2025, the first plaintiff sent an email to Nardello, copied to his legal team, to which was attached a document named "20211206reportprivilegedandconfidential." Mr Sands said:

> "FYI Gents this was shared with me previously. It was the disclosure from an NPO served on Xenforo in 2021 for a large online personality (500k+ followers) it has essentially all of the detail we received without the Poole postcode specifically for Bond's road … although it does give the region 600m away from his house …"

[79] It is unclear what was meant by "previously" but there is email correspondence from an unknown individual, referred to as "Anna", dated 9 September 2025 when a report was sent to the first plaintiff.

[80] The attached report, dated 6 December 2021, was prepared for the purpose of establishing the identity of "Bastian Durward" and the owner and operator of the website Tattle Life. The authorship of the report is unclear. Its findings were:

(i) Bastian Durward is a pseudonym of Sebastian Henry Bond;

(ii) He is a director of Yuzu Zest Limited;

(iii) His IP addresses are traced to Bournemouth and Poole;

(iv) Nest and Glow is a healthy recipe business operated by Mr Durward;

(v) Nest and Glow paid Xenforo for the software licence for Tattle Life;

(vi) Mr Bond was the operator of Tattle Life.

[81] The first and third defendants made applications to the court dated 5 September 2025. By this stage they had obtained legal representation in this jurisdiction and the applications were grounded on the affidavit of their solicitor, Emma Hunt of Mills Selig.

[82] Mr Bond also gave an interview to Unherd magazine in September 2025 in which he admits using the name "Helen McDougal" as a pseudonym and stating that the website continues to generate income of some £20,000 per month, paid to a company in Hong Kong.

[83] Nardello prepared a report for the court dated 3 October 2025, intended to provide an overview of its investigation. It states that this ran from September 2022 and culminated in the report of 19 November 2024. The authors of this report say that it was only in June 2025, by virtue of the RPC letter, that they received definitive confirmation that Bond was the operator of Tattle Life. Prior to that, they could only say with a high degree of certainty that he was linked to Tattle Life.

[84] Oddly, whilst the report does mention certain milestones in the Nardello investigation, it does not refer to the previous reports prepared in June 2023, August 2023, October 2023 or January 2024. It does not state that the information relating to the identification of Mr Bond did not change between October 2023 and November 2024.

[85] On 5 October 2025, the first plaintiff swore an affidavit in response to that of Ms Hunt. Despite his sworn statement on 11 June 2025 that he had not carried out any investigations personally into the identity of the defendant, he explained that he is a contributor to Forbes magazine and carried out journalistic research in 2022 into websites like Tattle Life for a series of articles. This led to him noticing that Tattle Life had used Xenforo software at one time and set out his subsequent engagement with this company.

[86] He avers that in Spring 2023 his wife observed the Instagram account "Nest and Glow" viewing her content without following her. The first plaintiff was readily able to establish that this account was operated by one Bastian Durward, which was an alias for Sebastian Bond. A confidential source suggested that he was involved in

Tattle Life and supplied the post code of the Poole property, which information was passed to Nardello. The Xenforo disclosure provided on 28 June 2023 led to:

> "the first formal court-ordered information relating him to the Poole residence and, critically, to Tattle.Life"

[87] Mr Sands also addresses the reposted Instagram story of June 2025 in this affidavit, stating that the reference to 4 May 2023 was just to the identification of Bastian Durward as Sebastian Bond, not to any connection with Tattle Life. There is, however, no explanation given for the discrepancy between his affidavits in relation to the personal efforts made by him to identify the website operators.

[88] The court also received further detailed affidavits from Messrs Barr and Lynch. In the latter, sworn on 5 October 2025, Mr Lynch makes a number of important averments:

(i) The Xenforo evidence could not be treated as conclusive or reliable evidence in relation to the operator of Tattle Life;

(ii) The findings of Nardello as set out in their October 2025 report aligned with his own knowledge and memory of the investigation;

(iii) It was as a result of the disclosure made on foot of NPOs between December 2024 and June 2025 that Yuzu Zest Limited was discovered;

(iv) The plaintiffs were contractually prohibited from disclosing any findings to the court without Nardello's consent;

(v) Nardello's work product was protected by litigation privilege and legal advice privilege;

(vi) It was only in November 2024 that Nardello gave written consent for their report to be relied upon;

(vii) It was his view that there was a legal and moral duty to only disclose the name of the operator of Tattle Life to the court when they were "100% sure."

[89] On 6 March 2026, Mr Lynch swore a further affidavit, following the production of documents on discovery, the purpose of which was to:

> "clarify my state of knowledge and my thinking during the period May to September 2023 in relation to Sebastian Bond and the operation of the website."

[90] The following significant averments were made:

(i) His previous statement in relation to his knowledge of Yuzu Zest Limited only emerging between December 2024 and June 2025 was wrong;

(ii) The existing affidavit evidence was "incomplete";

(iii) By April 2023 he considered that Mr Bond might be a proper defendant to any proceedings. He considered serving him personally or approaching him with a view to settlement or shutting down the website;

(iv) The June 2023 Nardello report spoke of plausible linkage rather than confirmation of Mr Bond's role;

(v) Due to an oversight on his part, the June 2023 Nardello report was not provided to either his colleague Mr Barr or counsel instructed in the case. With hindsight, he says, it ought to have been circulated more widely;

(vi) He did not believe that information from the confidential source could be used in court;

(vii) He did not carry out a proper review of the contemporaneous documents when preparing his previous affidavit;

(viii) He now accepts that the fact Mr Bond was the principal focus of the investigation, and the information known about him, ought to have been disclosed to the court at the time of the ex parte applications in relation to service, marking of judgment and the assessment of damages in 2023; and

(ix) He apologises to the court and asks it to conclude that these were honest mistakes, not intended to mislead or create any tactical advantage.

The legal principles

(i) Claims against "persons unknown"

[91] It is a basic tenet of civil litigation that the defendant to a claim should be named and afforded the opportunity to defend himself, including by a denial that he is the person responsible for any tortious activity. However, the courts have recognised that it may be appropriate, in exceptional cases, for proceedings to issue against "persons unknown." This facility has been utilised in the cases involving squatters or protesters or, more recently, online publications. There are two key requirements to such a course of action:

(i) The person's identity must be unknown; and

(ii) The person must be readily identifiable as a defendant to the claim.

[92] In *Canada Goose v Persons Unknown* [2020] EWCA Civ 303, the Court of Appeal in England & Wales set out at para [82] procedural guidance in relation to proceedings brought against persons unknown:

> "(1) The "persons unknown" defendants in the claim form are, by definition, people who have not been identified at the time of the commencement of the proceedings. If they are known and have been identified, they must be joined as individual defendants to the proceedings. The "persons unknown" defendants must be people who have not been identified but are capable of being identified and served with the proceedings, if necessary by alternative service such as can reasonably be expected to bring the proceedings to their attention. In principle, such persons include both anonymous defendants who are identifiable at the time the proceedings commence but whose names are unknown and also newcomers, that is to say people who in the future will join the protest and fall within the description of the "persons unknown."
>
> (2) The "persons unknown" must be defined in the originating process by reference to their conduct which is alleged to be unlawful.
>
> (3) Interim injunctive relief may only be granted if there is a sufficiently real and imminent risk of a tort being committed to justify *quia timet* relief.
>
> (4) As in the case of the originating process itself, the defendants subject to the interim injunction must be individually named if known and identified or, if not and described as "persons unknown", must be capable of being identified and served with the order, if necessary by alternative service, the method of which must be set out in the order.
>
> (5) The prohibited acts must correspond to the threatened tort. They may include lawful conduct if, and only to the extent that, there is no other proportionate means of protecting the claimant's rights.
>
> (6) The terms of the injunction must be sufficiently clear and precise as to enable persons potentially affected to know what they must not do. The prohibited acts must not, therefore, be described in terms of a legal cause of

> action, such as trespass or harassment or nuisance. They may be defined by reference to the defendant's intention if that is strictly necessary to correspond to the threatened tort and done in non-technical language which a defendant is capable of understanding and the intention is capable of proof without undue complexity. It is better practice, however, to formulate the injunction without reference to intention if the prohibited tortious act can be described in ordinary language without doing so.
>
> (7) The interim injunction should have clear geographical and temporal limits. It must be time limited because it is an interim and not a final injunction."

(ii) Abuse of process

[93] Order 18 rule 19 of the Rules empowers the court to strike out any pleading on the basis that it is an abuse of the process of the court. It has long been recognised that the High Court has a wider inherent power to prevent the misuse of its processes. Where an abuse of process has been identified, the court may take any of a number of remedial steps, up to and including striking out the claim.

[94] The definition given to abuse of process in *AG v Barker* [2000] 1 FLR 759, and in *Cable v Liverpool Victoria Insurance* [2020] EWCA Civ 1015 is:

> "a use of the court process for a purpose or in a way which is significantly different from the ordinary and proper use of the court process."

[95] In *Summers v Fairclough Homes* [2012] UKSC 26, the Supreme Court held that the jurisdiction to strike out a claim continued even after a trial, albeit this was a power which would be exercised only in very exceptional circumstances and where it was just and proportionate to do so.

[96] A separate issue, which was addressed by the Court of Appeal in England & Wales in *Terry v BCS Corporate Acceptances* [2018] EWCA Civ 2422, is whether the jurisdiction to strike out can be exercised after judgment has been given. It is a fundamental principle that once judgment has been given on a claim, the cause of action merges in the judgment. In such a case, the underlying cause of action is effectively superseded by the judgment and the claimant's sole remaining rights are on foot of the judgment. For this reason, the court held, there is no jurisdiction to strike a claim out as being an abuse of process after judgment has been given.

[97] As Lord Sumption observed in *Virgin Atlantic Airways Limited v Zodiac Seats UK Limited* [2013] UKSC 46, the doctrine of merger is one of the legal principles which falls

within the portmanteau term of res judicata (see para [17]). Such principles are concerned with the important public policy of promoting finality in litigation.

[98] In *Terry* the defendant had applied unsuccessfully to set aside a default judgment which had been made and subsequently pursued an application to strike the case out for abuse of process. The court enjoys a wide discretion, under Order 13 rule 8 and Order 19 rule 10 of the Rules, to set aside default judgments. In the appropriate circumstances, I am satisfied that it would be open to the court to set aside a judgment and then strike an action out as being an abuse of process.

Material non-disclosure

[99] In *Tugushev v Orlov* [2019] EWHC 2031 (Comm) Carr J identified the following principles at para [7]:

> "(i) The duty of an applicant for a without notice injunction is to make full and accurate disclosure of all material facts and to draw the court's attention to significant factual, legal and procedural aspects of the case;
>
> (ii) It is a high duty and of the first importance to ensure the integrity of the court's process. It is the necessary corollary of the court being prepared to depart from the principle that it will hear both sides before reaching a decision, a basic principle of fairness. Derogation from that principle is an exceptional course adopted in cases of extreme urgency or the need for secrecy. The court must be able to rely on the party who appears alone to present the argument in a way which is not merely designed to promote its own interests but in a fair and even-handed manner, drawing attention to evidence and arguments which it can reasonably anticipate the absent party would wish to make;
>
> (iii) Full disclosure must be linked with fair presentation. The judge must be able to have complete confidence in the thoroughness and objectivity of those presenting the case for the applicant. Thus, for example, it is not sufficient merely to exhibit numerous documents;
>
> (iv) An applicant must make proper enquiries before making the application. He must investigate the cause of action asserted and the facts relied on

before identifying and addressing any likely defences. The duty to disclose extends to matters of which the applicant would have been aware had reasonable enquiries been made. The urgency of a particular case may make it necessary for evidence to be in a less tidy or complete form than is desirable. But no amount of urgency or practical difficulty can justify a failure to identify the relevant cause of action and principal facts to be relied on;

(v) Material facts are those which it is material for the judge to know in dealing with the application as made. The duty requires an applicant to make the court aware of the issues likely to arise and the possible difficulties in the claim but need not extend to a detailed analysis of every possible point which may arise. It extends to matters of intention and for example to disclosure of related proceedings in another jurisdiction;

(vi) Where facts are material in the broad sense, there will be degrees of relevance and a due sense of proportion must be kept. Sensible limits have to be drawn, particularly in more complex and heavy commercial cases where the opportunity to raise arguments about non-disclosure will be all the greater. The question is not whether the evidence in support could have been improved (or one to be approached with the benefit of hindsight). The primary question is whether in all the circumstances its effect was such as to mislead the court in any material respect;

(vii) A defendant must identify clearly the alleged failures, rather than adopt a scatter gun approach. A dispute about full and frank disclosure should not be allowed to turn into a mini-trial of the merits;

(viii) In general terms it is inappropriate to seek to set aside a freezing order for non-disclosure where proof of non-disclosure depends on proof of facts which are themselves in issue in the action, unless the facts are truly so plain that they can be readily and summarily established, otherwise the application to set aside the freezing order is liable to become a form of preliminary trial in which the

judge is asked to make findings (albeit provisionally) on issues which should be more properly reserved for the trial itself;

(ix) If material non-disclosure is established, the court will be astute to ensure that a claimant who obtains injunctive relief without full disclosure is deprived of any advantage he may thereby have derived;

(x) Whether or not the non-disclosure was innocent is an important consideration, but not necessarily decisive. Immediate discharge (without renewal) is likely to be the court's starting point, at least when the failure is substantial or deliberate. It has been said on more than one occasion that it will only be in exceptional circumstances in cases of deliberate non-disclosure or misrepresentation that an order would not be discharged;

(xi) The court will discharge the order even if the order would still have been made had the relevant matter(s) been brought to its attention at the without notice hearing. This is a penal approach and intentionally so, by way of deterrent to ensure that applicants in future abide by their duties;

(xii) The court nevertheless has a discretion to continue the injunction (or impose a fresh injunction) despite a failure to disclose. Although the discretion should be exercised sparingly, the overriding consideration will always be the interests of justice. Such consideration will include examination of (i) the importance of the facts not disclosed to the issues before the judge (ii) the need to encourage proper compliance with the duty of full and frank disclosure and to deter non-compliance (iii) whether or not and to what extent the failure was culpable (iv) the injustice to a claimant which may occur if an order is discharged leaving a defendant free to dissipate assets, although a strong case on the merits will never be a good excuse for a failure to disclose material facts;

(xiii) The interests of justice may sometimes require that a freezing order be continued and that a failure of disclosure can be marked in some other way, for

> example by a suitable costs order. The court thus has at its disposal a range of options in the event of non-disclosure."

[100] These principles were set out in the context of a challenge to a WFO but they apply equally to any application made on an ex parte basis, as was confirmed by the Court of Appeal in England & Wales in *Derma Med v Ally* [2024] EWCA Civ 175 per Males LJ at para [30]. The nature of the application will be relevant to the issue of materiality and the consequences of non-disclosure but the obligations imposed on an applicant remain.

[101] Stephen Gee KC in his text on Commercial Injunctions points out that the test for materiality is an objective one and it is therefore no excuse for an applicant to say that he did not think or realise that certain facts were material. There is a concomitant duty on an applicant to come back to court in the event of the emergence of any new material information.

[102] Stephens LJ cautioned, in *X v MOD* [2017] NICA 66, that the court must always take a proportionate approach in cases of failure to comply with the disclosure duty:

> "These failures mean that the appellant has not given a fair account to the court. A failure to observe the rule as to full and frank disclosure entitles the court to refuse to make an order even if the circumstances would otherwise justify the grant of an order. However, in exercising that discretion a due sense of proportion must be maintained between marking the court's displeasure at the non-disclosure and doing justice between the parties. That proportion requires that consideration should be given to the degree of any culpability on the part of the appellant or of any prejudice to the respondent. A proper balance must be maintained between undermining "the heavy duty of candour and care" which fell on the appellant on the one hand and on the other preventing a windfall to a defendant who lacks substantial merit. The exercise of discretion also takes into account that there are other sanctions available to the court apart from declining to make an order or discharging an ex parte order and those sanctions include, for instance the court disallowing costs or the court making an indemnity costs order." (para [28])

(iii) Service of proceedings and other documents

[103] The importance of the proper service of proceedings was emphasised by the Supreme Court in *Wolverhampton CC v London Gypsies and Travellers* [2023] UKSC 47:

> "Service is significant for many reasons. One of the most important is that it is a general requirement of justice that proceedings should be brought to the notice of parties whose interests are affected before any order is made against them (other than in an emergency), so that they have an opportunity to be heard. Service of the claim form on the defendant is the means by which such notice is normally given." (para [55])

[104] By Order 10 rule 1 of the Rules, a writ of summons or other originating process may be served personally or by first class post to the defendant at his usual or last known address, where he is within the jurisdiction of Northern Ireland. By Order 11 rule 1(2), service outside the jurisdiction is permissible without the leave of the court where the defendant is domiciled in another part of the United Kingdom and the court has jurisdiction under the Civil Jurisdiction and Judgments Act 1982. In such a case, by Order 11 rule 5(3), the writ need not be served personally unless this is required by the law of the country concerned. In the case of a Northern Irish writ, it can be served in England & Wales by first class post.

[105] By Order 6 rule 7, a writ is only valid for the purposes of service for 12 months from the date of issue unless renewed by the court.

[106] Order 65 rule 4 provides for substituted service:

> "(1) If, in the case of any document which by virtue of any provision of these Rules is required to be served personally or is a document to which Order 10 rule 1 applies, it appears to the Court that it is impracticable for any reason to serve that document in the manner prescribed, the Court may make an order for substituted service of that document.
>
> (2) An application for an order for substituted service may be made by an affidavit stating the facts on which the application is founded.
>
> (3) Substituted service of a document, in relation to which an order is made under this rule, is effected by taking such steps as the Court may direct to bring the document to the notice of the person to be served."

[107] Service of documents which are not originating processes, or otherwise required to be served personally, is governed by Order 65 rule 5 and may be effected:

(a) by leaving the document at the proper address of the person to be served;

(b) by post;

(c) by fax; or

(d) through a document exchange.

[108] Service is effected on a United Kingdom limited company by posting documents to its registered office address pursuant to section 1139 of the Companies Act 2006.

[109] By Order 12 rule 8:

> "A defendant to an action may at any time before entering an appearance therein, or, if he has entered a conditional appearance, within the time limited for service of a defence, apply by summons or motion for an order setting aside the writ or service of the writ, or notice of the writ, on him, or declaring that the writ or notice has not been duly served on him or discharging any order giving leave to serve the writ or notice on him out of the jurisdiction."

[110] Where an irregularity has occurred in the service of proceedings, the court can cure this by deeming service good pursuant to Order 2 rule 1 of the Rules. This may happen, for instance, where service was defective but the defendant was nonetheless aware of the proceedings. The rule provides:

> "(1) Where, in beginning or purporting to begin any proceedings or at any stage in the course of or in connection with any proceedings, there has, by reason of anything done or left undone, been a failure to comply with the requirements of these Rules, whether in respect of time, place, manner, form or content or in any other respect, the failure shall be treated as an irregularity and shall not nullify the proceedings, any step taken in the proceedings or any document, judgment or order therein."

[111] The circumstances in which Order 2 rule 1 can be used to cure defects in service have been considered by the courts in a range of cases, including *Boocock v Hilton International* [1993] 1 WLR 1065 and *Bond-Bassom v Hutchinson* [2005] NIQB 86. One relevant feature will always be the degree of prejudice caused to the other party by the irregularity.

(iv) Norwich Pharmacal Orders

[112] In *Davidoff v Google* [2023] EWHC 1958 (KB), Nicklin J set out the legal principles applicable to the making of NPOs. The "basic requirements" are:

> "(1) a wrong must have been carried out, or arguably carried out, by an ultimate wrongdoer;
>
> (2) there must be the need for an order to enable action to be brought against the ultimate wrongdoer; and
>
> (3) the person against whom the order is sought must:
>
> (a) be mixed up in, so as to have facilitated, the wrongdoing; and
>
> (b) be able or likely to be able to provide the information necessary to enable the ultimate wrongdoer to be pursued. (para [16])"

[113] Nicklin J explained, at para [18], that the necessity of the order is a threshold condition, not a matter of discretion. In the event that the information could be obtained by other practicable means, relief will be refused.

[114] Once these requirements are met, the court retains a discretion as to whether to grant relief. In *Rugby Football Union v Viagogo* [2012] UKSC 55, Lord Kerr identified the following factors relevant to the exercise of this discretion:

> "(1) the strength of the possible cause of action contemplated by the applicant for the order;
>
> (2) the strong public interest in allowing an applicant to vindicate his legal rights;
>
> (3) whether the making of the order will deter similar wrongdoing in the future;
>
> (4) whether the information could be obtained from another source;
>
> (5) whether the respondent to the application knew or ought to have known that he was facilitating arguable wrongdoing;
>
> (6) whether the order might reveal the names of innocent persons as well as wrongdoers, and if so whether such innocent persons will suffer any harm as a result;

(7) the degree of confidentiality of the information sought;

(8) the privacy rights under article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms of the individuals whose identity is to be disclosed;

(9) the rights and freedoms under the EU data protection regime of the individuals whose identity is to be disclosed. Before a Court makes an order requiring disclosure of personal data, it must first take into account and weigh in the balance the right to privacy with respect to the processing of personal data; and

(10) the public interest in maintaining the confidentiality of journalistic sources, as recognised in section 10 of the Contempt of Court Act 1981 and article 10 ECHR."

[115] In *Davidoff*, Nicklin J stressed at paras [42] to [44], the particular importance of compliance with the duty of full and frank disclosure in applications for an NPO. The learned judge observed:

> "Typically, in applications concerning online postings, most respondents to a *Norwich Pharmacal* application do not actively oppose the grant of relief (some may even consent to it); and most do not attend any hearing. And even if the respondent does engage with the application, in most cases, the interests of the respondent to the application are unlikely to align with the interests of the absent target of the application. His/her interests are therefore unlikely to be represented by the respondent, whether adequately or at all. The fact that the respondent either consents to or does not oppose the grant of relief does not release the applicant or the Court from properly considering the absent target's position. The applicant retains the burden of ensuring that the Court receives full and frank disclosure and Courts dealing with this type of *Norwich Pharmacal* application must be especially vigilant to ensure that the engaged Convention rights of the absent target are properly identified and considered." (para [45])

Consideration

Was there an abuse of process?

[116] The plaintiffs contend that the court cannot strike this case out as an abuse of process since judgment has already been entered against the defendants in line with the authority of *Terry v BCS*.

[117] I propose, however, to assume that the court could set aside the judgment and then consider the question of abuse of process.

[118] As recent jurisprudence makes clear, it is common practice in cases involving the protection of reputation and online publication for proceedings to issue against persons unknown and to use NPOs to garner information in relation to the identity of publishers. Procedural safeguards can be put in place to ensure that fairness to litigants is preserved and, in particular, that a plaintiff pursuing such a course of action does not attain an unfair litigation advantage. It is important to recognise that a litigant does not need the court's permission to issue proceedings against persons unknown although it may require the intervention of the court to ensure effective service, and the court will always closely supervise such litigation.

[119] In the evidence before me, Mr Lynch has set out his reasons for proceeding in this fashion in the instant case. These were, in summary:

(i) The evidence in relation to the operation of the website was not conclusive or reliable;

(ii) The plaintiffs were contractually prohibited from disclosing and findings to the court without Nardello's consent, which was not forthcoming until November 2024;

(iii) Nardello's work product was protected by legal professional privilege;

(iv) He believed there was a legal and moral duty to only disclose the name of the operator of Tattle Life to the court when he was "100% sure".

[120] Mr Lynch now accepts that he acted on foot of a number of misunderstandings and that the information ought to have been provided to the court at the time of the ex parte hearings in 2023. He says that this was an honest mistake.

[121] I also take into account the fundamental point that had the operators of Tattle Life complied with their legal obligations in relation to transparency around the ownership and operation of the website, there would have been no need to issue proceedings against "persons unknown" or to seek an SSO.

[122] I am not satisfied, in all the circumstances, that the plaintiffs in this case used the court process for a purpose or in a way which was significantly different from the ordinary and proper use of the court process.

[123] I therefore decline to strike the action out as an abuse of process.

Was there material non-disclosure?

[124] In order to identify whether there have been material non-disclosures, it is essential to identify the state of knowledge of the plaintiffs at the time of the making of the first ex parte application on 23 June 2023. The evidence establishes:

(i) On 14 April 2023, the first plaintiff emailed Nardello stating, unequivocally, that he had an email and IP address for the "tattle owners";

(ii) The information attached to this email included the name Sebastian Bond, the post code BH***** and two email addresses, neither of which were the Hotmail address;

(iii) A link had been identified between Sebastian Bond and Yuzu Zest Limited (this was publicly available information);

(iv) On 26 April 2023, the first plaintiff was able to tell his source in Xenforo that they were "almost there";

(v) The source identified that Bond had paid Xenforo using a debit card linked to a specific address in Poole, Dorset;

(vi) In an Instagram posting after the RRO was lifted, the first plaintiff identified 4 May 2023 as the date he "uncovered" Sebastian Bond;

(vii) On 26 May 2023, a surveillance operative engaged by Nardello called at the Poole address and the occupant identified himself as Sebastian Bond;

(viii) On 6 June 2023, a report was received from Nardello, the subject matter of which was Sebastian Bond. The report identified a "plethora of circumstantial ties" between Bond and the website and concluded it was "eminently plausible" that he was linked to Tattle Life.

[125] It is necessary then to compare this level of knowledge to the evidence provided and submissions made to the judge who heard the first application. The following are uncontroversial conclusions:

(i) The court was told nothing of the engagement between the first plaintiff and his source and the information which was generated through this channel;

(ii) The court was told nothing of the work carried out by Nardello, the information gleaned or the conclusions reached;

(iii) The name Sebastian Bond was not mentioned to the court, nor was the address in Dorset or the surveillance carried out.

[126] It is an inescapable conclusion that there was a failure on the part of the plaintiffs to make full and frank disclosure at this hearing. Indeed, this has been the subject of admissions, albeit belatedly, by Mr Lynch.

[127] The next question to ask is whether, and to what extent, the non-disclosure was material. In *Tugushev*, Carr J identified the primary question as whether in all the circumstances its effect was such as to mislead the court in any material respect. In this case, had the court been informed as it ought to have been, the inescapable conclusion is that it would have directed service of proceedings in the conventional manner on Sebastian Bond by first class post at his known address in Poole and, in all likelihood, by use of the multiple email addresses which had been identified through the research carried out. To the extent that there were other persons unknown engaged in the operation of the website or responsible for the publications, a belt and braces approach may have involved service on them by use of the Hotmail address. Service in this fashion would have ensured that the proceedings were brought to the attention of Mr Bond.

[128] I am therefore satisfied that the SSO would not have been made had the plaintiffs complied with their disclosure obligations. In the circumstances, the court has been misled. On Mr Lynch's averment this was an honest mistake, not a tactical decision, but it is clear that it led to substantial litigation advantage.

[129] The authorities make it clear that if there has been some material non-disclosure, or fresh information comes to light, there is an obligation on a plaintiff to return to court. In this case, there were a number of material developments which were not brought to the attention of the court:

(i) Xenforo formally complied with the NPO on 28 June 2023, the day after it was served. Any misplaced concern there may have been around confidentiality or privilege surrounding the Bond information was immediately removed yet the plaintiffs did not return to court and explain to the judge what information had been obtained;

(ii) The plaintiffs knew that there had been no request for an access code for the Mimecast documents and therefore the documents had not been downloaded, and that the link expired within 30 (or up to a maximum of 90) days;

(iii) The plaintiffs received a further report from Nardello dated 23 August 2023 which stated that they had "established to a high degree of certainty that Bond is linked to tattle.life".

[130] None of these matters were brought to the attention of McAlinden J at the time of the second ex parte application when judgment was entered in default. Instead the

court was told that there had been engagement with a specialist company but matters had not, as yet, been "bottomed out".

[131] Had the court been informed of the position in relation to Mimecast documents, the state of knowledge in relation to Sebastian Bond, the alternative email addresses and the postal address for him, it would have taken steps to join him as a named defendant and make directions in relation to service.

[132] The outcome of the hearing on 8 September 2023 was not just a judgment in default but also injunctive relief supported by a penal notice. There was a high duty on the plaintiffs and their advisors to ensure full compliance with the disclosure obligations. There were evident material failings in that regard. These omissions have only served to compound the breaches of the duty of full and frank disclosure which occurred at the original hearing. I am satisfied that the order of 8 September would not have been made had the court been fully and properly informed.

[133] In addition, the application to enter judgment against the defendants was not properly served. There was no order for substituted service, nor was the court asked to deem service good, and therefore the provisions of Order 65 rule 5 continued to apply. Service of documents by email, whether using a filesharing link or not, is not good service. This defect could only be cured by the retrospective application of Order 2 rule 1.

[134] Between 8 September and 1 December 2023 there were further developments of significance:

(i) The plaintiffs were in receipt of a further three Nardello reports, dated 13 October, 30 October and 29 November 2023;

(ii) In these the "high degree of certainty" conclusion in relation to Bond's link to the website is repeated;

(iii) It was also concluded that it was plausible that Yuzu Zest Ltd was the company used to receive revenue from the monetisation of Tattle Life;

(iv) The first plaintiff made further contact with his confidential source in Xenforo making enquiries about the debit card details, saying that they were looking to deliver this to the courts.

[135] On 1 December 2023, at the third ex parte hearing, none of this was revealed to McAlinden J. The judge posed the direct question in relation to the identification of the defendants and was told:

> "At this point in time, the answer to that is no."

[136] This answer was materially deficient. In relation to Nardello, the court was told that they had been working with the material from the NPO, that a draft report was in existence but they were not willing for it to be used in court. As Mr Lynch now accepts, that answer was simply not good enough.

[137] These errors were compounded by the continued failure to inform the court that the Mimecast documents had not been downloaded and that the plaintiffs held alternative email addresses and a postal address for the only individual who had been linked to the website. The plaintiffs and their advisors were also well aware of the registered office address of Yuzu Zest Limited which was a matter of public record.

[138] I have concluded that had the court been informed of the true factual position, as it ought to have been, it would not have made the order on 1 December 2023.

[139] A period of over a year elapsed before the next ex parte hearing. Unless served before that time, the writ ceased to be valid in June 2024.

[140] During this time, there were no further efforts to identify any individuals or companies involved with the website. Any work done by Nardello during that period related to the financial issues and potential recovery.

[141] In the application for a WFO, a Nardello report was produced to the court for the first time. It revealed the clear evidential link between Bond, Yuzu Zest and the website. It also set out evidence of the dissipation of assets by the company and the move into members' voluntary liquidation. It was not disclosed to the court that this information relating to identification was all known to the plaintiffs at the time of the application to enter judgment in default.

[142] No order for substitution was made at that time although the intention of the plaintiffs to make such application was evinced. This order was ultimately made on 13 June 2025. The only additional material which had emerged by that stage in relation to the identification of the defendants was the RPC letter of 10 June 2025, characterised by the plaintiffs' solicitors as "Delphic" and obfuscatory. The court was not told of this fact.

[143] Having identified these manifold material non-disclosures, the next question is what remedy the court should grant, if any. In doing so, it is necessary to weigh up the very significant litigation advantage which accrued to the plaintiffs against the windfall which may benefit the defendants in the event that orders are set aside.

[144] Whilst the court must be cognisant of the sense of proportionality referred to in *X v MOD*, it is significant in this case that prior to being joined as named defendants, the litigation has reached the stage where:

(i) The plaintiffs had judgment against the defendants for £300,000 damages;

(ii) The defendants had been condemned in very substantial costs, taxed on the indemnity basis;

(iii) A WFO had been made against all the defendants' assets up to the amount of £1.8M.

[145] I have therefore decided, without hesitation, that the SSO ought to be set aside. There is nothing in this case which would cause the court to depart from the identified starting point of *Tugushev*. Indeed, the breaches of the obligation to make full and frank disclosure in this case were egregious, repeated and carried on for a period of two years across an array of ex parte applications.

[146] It will be apparent that for similar reasons the NPO dated 23 June 2023 ought not to have been made in accordance with the *Davidoff* principles. However, that order was complied with and any relief which the court may grant in respect of it would be otiose.

Were the proceedings served?

[147] There is a subsidiary issue as to whether the proceedings were properly served at all in accordance with the SSO made on 23 June 2023.

[148] In *Allen v Pramod Mittal* [2023] EWHC 920 (Ch) solicitors for the defendant had agreed to accept service by email. Documents were sent in the form of a Mimecast shared file and the court found that service was good.

[149] In *HCRG Care Ltd v Persons Unknown* [2025] EWHC 794 (KB) permission was granted to serve proceedings out of the jurisdiction and the defendant provided a means of contacting it via a web portal with a facility allowing documents to be uploaded. The uploading facility was not available and so the claimant sent an email to the web portal and included a link to a filesharing site where the documents were available. The court approved this as a mode of service.

[150] The defendants in this case argue that this situation is quite different. There was no agreement between the parties as to a mode of service. The SSO required service by way of email and what was sent was a Mimecast filesharing link which required an access code. The plaintiffs were well aware that no such code had ever been requested and therefore the documents had not been seen.

[151] I have concluded that, in appropriate circumstances, service by way of a file sharing link may be effective when an SSO is made for service by email. It is, however, an entirely different process from sending documents by way of email attachment. Software such as Mimecast provides the user with information as to when the documents have been downloaded and when the relevant link expires. It must be incumbent on a plaintiff who seeks to depart from the normal modes of service to inform the court in the event that the proceedings were not downloaded, particularly

in circumstances where the plaintiff is inviting the court to make mandatory orders enforceable by punitive sanction.

[152] In the circumstances of this case, therefore, I have concluded the proceedings were not served in compliance with the SSO.

Should service be deemed good?

[153] The plaintiffs contend that even if there were irregularities in service, these can be cured by an order pursuant to Order 2 rule 1 deeming service good. This could be made in circumstances where the court was satisfied that the relevant defendant, despite the irregularities, nonetheless knew of the proceedings. The burden rests on the plaintiffs to establish good reason why the rules relating to service should be departed from in all the circumstances of this case.

[154] Reliance is placed on a number of evidential factors in support of the proposition that Bond did have such knowledge:

(i) The Hotmail address was provided to the public as means of contacting the website up to November 2023;

(ii) "Helen McDougal" had communicated with the plaintiffs in 2021 using the Hotmail address;

(iii) Bond admitted that "Helen McDougal" was his pseudonym in the Unherd interview;

(iv) Someone opened the 2021 emails on 8 October 2023;

(v) The movement of monies out of Yuzu Zest and the incorporation of Kumquat Tree Limited only occurred after judgment had been entered and damages assessed;

(vi) Bond has not himself sworn an affidavit in relation to this issue.

[155] Ultimately, however, there is no evidence of actual knowledge on the part of Mr Bond. The court is asked to draw inferences of knowledge from certain facts and actions which it is simply not able to do. The defendants' solicitors have stated, on instructions, that the proceedings did not come to the attention of either Mr Bond or Yuzu Zest Limited until the various orders and associated documents were sent to the c*******@gmail.com email address on 16 June 2025, following the orders of Colton J. Strikingly, the plaintiffs' solicitors were able to identify that the relevant documents had been downloaded from the Mimecast link at 1731 hours on 16 June 2025.

[156] This serves to confirm the fundamental point – the solicitors were at all times able to confirm whether or not any documents sent by this means had been accessed,

seen or downloaded. The evidence in this case is clear that no such activity occurred until almost two years after the proceedings were issued.

[157] No explanation has been provided by the plaintiffs' solicitors for the defective service of the application to enter judgment.

[158] It is also apparent that these irregularities were not mere technicalities. They had very serious consequences for the defendants in terms of the further steps the plaintiffs were able to take in obtaining judgment, injunctive relief and a WFO.

[159] Accordingly, I find that the plaintiffs have failed to establish that Bond knew of these proceedings and the application to deem service good under Order 2 rule 1, in respect of the originating proceedings and the application to mark judgment, must fail.

[160] I have considered the plaintiffs' remaining applications in respect of the discovery of documents relating to the Hotmail address and leave to serve a subpoena on Mr Bond. The court has already been obliged to analyse over 20 affidavits sworn in these proceedings as well as some 8,000 pages of documentation. In the event, the court has identified multiple and significant non-disclosures on the part of the plaintiffs and these are sufficient to enable the court to dispose of the substantive applications. Compelling the production of further documentation, with the inevitable additional cost and consequent delay, is simply not necessary within the rubric of Order 24 rule 9 of the Rules.

[161] It would be most unusual in an application of this nature for the court to receive oral evidence. It would be even more unusual for such evidence to be compelled by way of subpoena and, I suspect, almost unheard of for such a subpoena to issue not to a witness but to the opposing party. In the event, I have concluded that it was neither necessary nor proportionate to issue such a subpoena in order that these applications could be heard and determined.

Conclusion

[162] The court makes the following orders:

(i) The application to strike the proceedings out as an abuse of process is dismissed;

(ii) The SSO made on 23 June 2023 is set aside;

(iii) Pursuant to Order 12 rule 8, the court declares that the writ has not been served on the first and third defendants;

(iv) The application to deem service good under Order 2 rule 1 is dismissed;

(v) The application for discovery is dismissed; and

(vi) The application for leave to serve a subpoena is refused.

[163] Since the proceedings have not been served, it follows as a matter of consequence that the judgment against the first and third defendants is set aside pursuant to Order 13 rule 8.

[164] One of the consequences of these orders is that the writ of summons issued in June 2023 is no longer valid for service. It also follows in these circumstances that the WFO must be set aside insofar as it relates to the first and third defendants.

[165] In relation to the position of Yuzu Zest Limited, the liquidators of that company have been aware of the judgment since December 2024 and have taken no action in respect of it. The judgment therefore remains valid and enforceable as against that defendant, and the WFO remains in place.

[166] I will hear the parties on any consequential relief arising, the precise form of the court's orders and on the issue of costs.