

IN THE HIGH COURT OF JUSTICE

Claim No: HQ17M01051

QUEEN'S BENCH DIVISION

MEDIA AND COMMUNICATIONS LIST

THE HONOURABLE MRS JUSTICE NICOLA DAVIES DBE

Claim Form issued on 27 March 2017

B E T W E E N:

(1) STELLA CICCONE

(a child by Madonna Louise Ciccone
her mother and litigation friend)

(2) ESTERE CICCONE

(a child by Madonna Louise Ciccone
her mother and litigation friend)

(3) MADONNA LOUISE CICCONE

Claimants

-and-

ASSOCIATED NEWSPAPERS LIMITED

Defendant

STATEMENT IN OPEN COURT

SOLICITOR FOR THE CLAIMANT

My Lady, in this action I appear on behalf of the Claimants, who are Madonna Ciccone and her adopted twin daughters, Stella and Estere Ciccone, who are represented in these proceedings by their Mother.

Madonna adopted the young girls in February this year. Unfortunately soon after, she was compelled to take legal action against the Defendant, the publisher of the Daily Mail and the MailOnline, for what she regarded as a serious invasion of privacy.

By way of background, Stella and Estere Ciccone are twin girls, aged four. Madonna formally began the process of trying to adopt them in January 2017. Before they were adopted, the fact that Madonna was in the process of trying to adopt them was information which Madonna closely guarded and that she wished to remain strictly private and confidential. This was to protect the safety of the girls and to prevent any unwarranted interference in or prejudice to the integrity of the legal process involved in seeking their adoption.

Under Malawian law and equivalent provisions under English law, there are rules around identifying children who are in the process of being adopted, principally for their own security and welfare. As an example of the practical implementation of these rules, by Order dated 17 January 2017, Malawian Judge, Judge Mwale, directed that special measures be taken to protect the girls from coming into contact with the media during a hearing at the High Court of Madonna's petitions for their adoption. The girls were to be conveyed by vehicle directly into the Judges' car park, to which public entry was restricted, while Madonna would enter the building by the normal means of public access.

Before the adoption had gone through, on or about 25 or 26 January 2017, one of the Defendant's reporters spoke to a Government Official in the Ministry of Gender, Children, Disability and Social Welfare in Lilongwe, Malawi, seeking information for a story for publication in MailOnline. According to that official, she refused the reporter's request to be told the girls' identities and told him that there was a High Court prohibition upon the identities of the girls being divulged owing to their young age. Such prohibitions are normal and routine in the United Kingdom and elsewhere for the protection and welfare of children.

As the reporter certainly knew (as evidenced by his reporting of the fact) prior to their adoption, the girls lived in an orphanage in Malawi. Malawi is one of the poorest and least developed countries in Africa. Many people in Malawi know of Madonna as an individual of fame and financial means. They have acquired this knowledge from publicity inside as well as outside Malawi that accompanied her adoptions on two earlier occasions of children from Malawi, her patronage and funding of charitable projects in Malawi and the visits she has made to that country, which have been

widely reported. In the circumstances, Madonna believes that it would (and should) have been self-evident to the reporter:

- a. that the protection of the girls' identities pending the decision about their potential adoption was likely to be vital for their safety and welfare;
- b. that the safety and welfare of the girls had to be the paramount consideration, even of a journalist and a newspaper, when deciding what information could responsibly, legitimately or lawfully be published;
- c. that the publication of any information about the girls that might lead to their identification as the subject of pending adoption applications by Madonna should not, in any event, be made without the express permission of the High Court and the Children's Guardian-ad-Litem, in the case of the Children, and of Madonna, in the case of her own right to protect her private and family life and the confidentiality of her adoption proceedings.

It was against the background of the above matters that on or about 26 January 2017, without the permission of the High Court or the consent of the girls' Guardian-ad-Litem or Madonna, the Defendant published an article which has featured different headlines from time to time including: "*EXCLUSIVE: Madonna IS trying to adopt four-year-old twins named Stella and Esther from Malawi*" ("the Article"). The Article revealed the girls' names, race, age, the fact that they resided in an orphanage in Malawi and that they were the subject of pending applications for adoption by Madonna.

The article caused Madonna considerable personal distress and anxiety. The MailOnline published it at a time when, as the journalist ought to have appreciated, Madonna would be powerless to protect the girls from harm. Their actions could, in her view, have threatened the integrity and/or outcome of the adoption process which would have had potentially life-changing implications for the girls, as well as for Madonna and her family.

For all these reasons, as fully set out in her Particulars of Claim in these proceedings, Madonna felt she had no option but to mount a legal complaint against the MailOnline.

Consequently Schillings issued proceedings on behalf of Madonna and her girls for invasion of privacy and breach of the Data Protection Act. The Defendant subsequently made a settlement offer pursuant to which it will be paying damages and legal costs. The damages will be donated by Madonna to The Mercy James Institute for Pediatric Surgery in Malawi and she is pleased that at least some good can come out of the situation.

JENNY AFIA

PARTNER AT SCHILLINGS