

The Johnny Depp libel trial explained

On 2 November 2020, London's High Court handed down its hotly anticipated judgment in the high-profile libel case brought by Hollywood actor Johnny Depp over a newspaper article which labelled him a 'wife-beater'. In his 585-paragraph ruling, Mr Justice Nicol dismissed the actor's claim, holding in essence that the words used were legally acceptable.

What was this case about?

Mr Depp brought a libel action against the publisher of The Sun newspaper (and its executive editor Dan Wootton) in respect of an 2018 article which was first published online under the headline: 'GONE POTTY: How can JK Rowling be "genuinely happy" casting wife beater Johnny Depp in the new Fantastic Beasts film?' The story asserted that Mr Depp was violent towards his ex-wife Amber Heard during their relationship.

Mr Depp's case was that the article made seriously defamatory allegations which bore the meaning that he was guilty of serious domestic violence against his former wife. The defence [maintained](#) that the evidence showed the claimant "was violent towards Ms Heard on multiple occasions" during their relationship, and thus the "wife-beater" claim was justified. They relied on 14 alleged incidents of serious physical assault against Ms Heard which had occurred between 2013 and 2016. However, Mr Depp consistently denied the ["reputation-destroying and career-ending"](#) allegations.

The case was heard over the course of 16 days at London's Royal Courts of Justice in July 2020. Importantly, neither Mr Depp nor Ms Heard was on trial. And this wasn't a criminal trial either. In this libel dispute, there were two central issues: the meaning of the articles complained of; and whether the imputation conveyed by them (i.e. that the Hollywood actor engaged in unprovoked attacks and violent conduct against his ex-wife) was true in substance and fact.

What did the High Court rule?

Mr Justice Nicol [held](#) that the meaning of the words complained of was as contended for by The Sun, namely that Mr Depp was violent to Ms Heard, "causing her to suffer significant injury and on occasion leading to her fearing for her life". The judge also expressly acknowledged that Mr Depp proved the necessary elements of his cause of action.

In defamation law, however, if a defendant proves that the published words are ["substantially true"](#), they will have a complete defence: they cannot be successfully sued regardless of the gravity of the allegations. In this case, the judge found that the great majority of alleged incidents of violent physical assault against his ex-wife were proved to be substantially true and dismissed Mr Depp's claim.

Was it all worth it?

Audiences may have reasonably queried whether Mr Depp's action was ill-advised. Traumatic, intensely intimate and unflattering details of a tumultuous relationship apparently punctuated with blazing rows, a drug and alcohol-fuelled lifestyle and strenuously denied allegations of domestic abuse were uncovered in court and made front-page news worldwide. A parade of witnesses, including A-list actors, strode into London's High Court to support each side's versions of events. The court heard details of a costly trail of destructed property, a severed finger caused by a thrown vodka bottle, profoundly acrimonious texts and ["a large pile of faeces"](#) left in a bed.

In addition to the revelation of unattractive details of his personal affairs, Mr. Depp had to shoulder a taxing evidential burden as a result of a recent Supreme Court [ruling](#) which

confirmed that the threshold test for “serious harm” in defamation actions has been significantly raised under the 2013 Defamation Act, making it more difficult for claimants to succeed in their actions.

Nevertheless, Mr Depp must have considered that the trial was the lesser of two evils compared to unanswered reputational attacks of this magnitude. The conduct alleged was essentially criminal and highly defamatory, especially in the post-#MeToo landscape. The judge’s ruling suggests that the actor correctly assessed the potential reputational damage that the words ‘wife-beater’ would cause to his future. The heavy focus on Mr. Depp’s alleged criminal wrongdoing in The Sun’s article, the extent of its publication, the long-term effect of online libel and the undesired prospect of the actor’s removal from his role in a major film franchise provided a strong impetus for the claimant.

NGN took an equally bold, yet somewhat risky, decision. By relying on the defence of truth, the publisher was required to establish the essential truth of the ‘sting’ of the libel. This means that it was not necessary for NGN to prove that every single aspect of the statement complained of was absolutely true, so long as, taken as a whole, it was accurate. The standard of proof needed for a truth defence is that used in civil cases generally, i.e. the material must be proved true ‘on the balance of probabilities’, which is a lower bar to achieve than the usual criminal standard of being sure beyond a reasonable doubt. Although one might think that NGN had a relatively easier task to achieve, it should not be forgotten that when the truth defence is used, the burden rests on the publisher to prove that the allegations were true, rather than on the claimant (here, Mr. Depp) to show that they were false. This can give rise to further complications, as the success of a claim will regularly turn on the evidence in each individual case.

And when opposing accounts of what happened in private cannot be entirely ruled out, lawyers will struggle to persuade the court which version is more likely to be true. This is apparent in the [position](#) taken by Mr Depp’s lawyers that “the claimant was not violent towards Ms Heard; it was she who was violent to him”. Hence, media organisations may often be reluctant to defend libel actions and may opt for an out-of-court settlement to avoid the risk of high legal costs or damages. This was not the case with NGN which nevertheless sought to prove true a very serious allegation and succeeded, despite the challenges associated with this defence.

The case continues

The outcome was bitterly unfavourable to Mr Depp, who arguably suffered a crushing defeat with all that this might entail for this career. Moreover, his case has reportedly led to an estimated £5m in legal costs, and on top of that, he is likely to be made to cover a significant percentage of the winner’s legal costs.

The Sun, meanwhile, emerged victorious from a tense legal battle. The outcome may stiffen the resolve of the English press to report on matters of domestic violence, but it does not necessarily follow that the approach taken by the High Court in Depp’s trial is a uniform one in all cases.

The High Court’s decision doesn’t seem to spell the end of the legal battle. Depp’s representatives found the decision [“as perverse as it is bewildering”](#) and announced their intention to appeal. It will also be interesting to see whether the outcome in London can carry some weight and indirectly affect the libel rematch next May in the US against Ms Heard herself over an opinion piece she wrote for Washington Post.

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