

A version of this article was published on The Conversation (UK) on 1 August 2022: *Wagatha Christie: what the judgment said, and what it means for future libel litigants* and it's available online here: <https://theconversation.com/wagatha-christie-what-the-judgment-said-and-what-it-means-for-future-libel-litigants-187955>

The 'Wagatha Christie' judgment explained

Fresh from the Depp vs. Heard worldwide headlines, the UK public's attention has been gripped once again by the high-profile '[Wagatha Christie](#)' defamation trial. Although the case against the defendant Coleen Rooney was dismissed, it still highlights important issues about the inherent risks of costly libel litigation, the expectations from social media users and the torrent of online abuse women can experience.

What was the trial about?

The case centred on Rooney's [viral social media post](#). A judge had previously [ruled](#) that her post essentially meant that fellow footballer wife Rebekah Vardy had 'regularly and frequently abused her status as a trusted follower' of her personal account by secretly informing The Sun of Rooney's private stories.

It was common ground that the issue at the heart of this dispute was whether this meaning was '[substantially true](#)'. This effectively meant that Rooney needed to convince the High Court that there was a more than 50 per cent chance that her allegation was true in substance and fact. This is a less onerous standard compared to criminal cases (where proof beyond reasonable doubt is required).

The libel dispute itself did not raise any complex legal issues. The outcome largely depended on the evidence and findings of fact in the particular case.

Substantially true? It's all about the evidence

Rooney successfully established her defence of truth, meaning that the court was persuaded that her detective work proved solid.

Vardy claimed that Rooney had no basis for making these allegations since she did not know whether it was Caroline Watt (her former publicist) or Vardy doing the leaking. At trial, the court heard that, in an unfortunate turn of events, Watt's smart phone had fallen into the North Sea, shortly after a legal request was made to inspect its WhatsApp exchanges.

Rooney's defence relied, among others, on a 1721 [legal precedent](#) (which has been endorsed in more [recent cases](#)) to argue that the judge is entitled to draw adverse inferences where potentially illuminating material was lost or evidential gaps were created.

Mrs Justice Steyn was highly critical of the loss of key communication evidence in the case. She [held](#) that the likelihood that the loss of the phone was accidental was 'slim' and found that Vardy and Watt 'deliberately deleted or destroyed evidence.' This is an assessment that no judge makes lightly.

The judge found on the evidence (or what was left of it) that it was 'likely' Vardy's former publicist 'undertook the direct act of passing information to The Sun,' but the evidence 'clearly' showed that Vardy 'knew of and condoned this behaviour, actively engaging in it by directing her publicist to the private Instagram account'. However, she acknowledged that Vardy's regular leaking to The Sun was 'unthinking rather than part of a considered and concerted business practice'.

The judge was unequivocal in her decision that Vardy's evidence should be treated 'with very considerable caution'. By contrast, she found Rooney an 'honest' witness who answered questions 'without any evasion' and gave 'clear and compelling' evidence.

The public interest argument

Rooney also made a bold attempt to make use of the challenging [‘public interest defence’](#) but this was ultimately defeated.

The court accepted that Rooney’s revelatory post highlighted the undesirable practice of betraying trust and crossing the line between private and public accounts when personal stories ended up in the press. Only few would be dismissive of the public interest value of the post. However, this secondary defence failed largely because Rooney had not given Vardy an opportunity to respond to the allegation before posting.

This is an interesting finding because the court seems to suggest that Rooney was expected to follow standard journalistic practice. It may not, however, appear entirely realistic to put most members of the public who post material on social media on the same par with news publishers or journalists writing for mainstream news websites.

Vardy’s online treatment

Importantly, the judge recognised that Vardy had faced [appalling online treatment](#) and ‘vile abuse’ from social media trolls, following Rooney’s claims. She emphasised that nothing of which Vardy had been accused could justify subjecting her and her family to ‘such vitriol.’

The disproportionate impact of online abuse on women is [well documented](#) and Vardy’s experience in the context of this trial is another indication why the [Online Safety Bill](#) - which aims (among others) to tackle such deeply harmful conduct but has been [put on hold](#) - should not be abandoned.

Two prices to be paid

Unfortunately for Vardy, the legal battle is not exactly over yet. She will have to pay Rooney’s legal costs as well as her own. Her loss means she will not receive any damages either.

It is estimated that the total bill for both sides will be roughly in the region of £2m. Considering the money at stake, some negotiations are expected before the court decides what is reasonable and proportionate for Vardy to pay. Even Rooney is likely to suffer losses. The winning party often recovers only about 70% of their costs.

But apart from the tangible aspects of financial loss, we cannot ignore the impact of the outcome on the intangible value of Vardy’s reputation capital. As with the [Depp/Heard litigation](#), days of cross-examination put aspects of her private life under the microscope and painted a far from favourable picture of her.

More damaging was perhaps the fact that in a 290-paragraph-long judgment running into 75 pages the judge made scathing observations on Vardy’s conduct. She wilfully destroyed critical evidence and engaged in a [‘publicity-seeking behaviour’](#). This is reputational damage which is difficult to recover from.

Vardy’s case serves as a warning to future litigants, who may feel pressure to clear their reputations especially in fear of a [‘cancel culture’](#) climate in the age of social media activism. You can sue for defamatory allegations published on social media but a libel trial is a risky way to pursue the path to vindication. Litigants in high-profile cases may expect months of overheated [media coverage](#) and any damages awarded will usually be dwarfed by the legal costs. Neither of the parties in this case is on the breadline, but both have lost some of their ‘market value’.

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1 Aug. 2022