

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
MEDIA AND COMMUNICATION LIST  
BETWEEN

Claim no. HQ17M01386

**ABDUL HADI AWANG**

**Claimant**

and

**CLARE REWCASTLE BROWN**

**Defendant**

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**WITNESS STATEMENT OF KEITH MATHIESON**

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I, **KEITH MATHIESON**, of Reynolds Porter Chamberlain LLP (**RPC**), Tower Bridge House, St Katherine's Way, London E1W 1AA, **WILL SAY AS FOLLOWS**:

1. I am a partner at RPC who are the Defendant's solicitors. I have conduct of this matter on behalf of the Defendant and am authorised to make this statement on her behalf.
2. Save where otherwise stated I make this statement from my own knowledge and belief. Insofar as matters set out in this statement derive from my own knowledge, they are true. Where matters are not within my personal knowledge, they are true to the best of my knowledge and belief and derive from the sources referred to.

3. There is now produced and shown to me a paginated bundle of true copy documents marked "KM1" and "KM2". In this document, references to page numbers are references to Exhibit KM1 unless otherwise stated. References to Exhibit KM2 are labelled as such. KM2 is a chronological schedule of selected publications, of which RPC are aware, that have harassed, defamed, intimidated or abused the Defendant and a prospective witness to these proceedings.

#### **The scope of this statement**

4. This statement accompanies the Defendant's application for a stay of the proceedings on the basis that there is no longer any prospect of the Claimant's claim being disposed of fairly or justly; for strike out of the Claimant's claim under CPR 3.4 on the basis that the Claimant has no case on reference, and for a determination of meaning (as more fully set out in the application notice and draft order). This statement is specifically directed at the first part of the Defendant's application: that there is no longer any prospect of the claim being disposed of fairly or justly.
5. In summary, the evidence in this witness statement demonstrates that the Claimant's claim in defamation cannot be fairly and justly disposed of because:
  - 5.1 The Defendant is facing continual, persistent and sustained harassment and intimidation for her involvement in this claim, including threats to life and racial abuse.
  - 5.2 The one prospective witness the Claimant has named in these proceedings also faces persistent and sustained harassment and intimidation for her prospective involvement in this claim, including threats to life and racial abuse.
  - 5.3 The one prospective witness the Claimant has named in these proceedings is now under criminal investigation in Malaysia under threat of prosecution and imprisonment arising solely out of the fact she is named as a source of the Defendant's journalism in the Defence.
  - 5.4 The Defendant's other prospective (and necessarily unnamed) witnesses face the prospect of intimidation, harassment, criminal investigation and threats to their safety if they were to participate and/or resume participation in the proceedings.

- 5.5 There is a strong basis for linking the Claimant to the harassment of the Defendant during the course of these proceedings, including co-operation with those who are intimidating the Defendant and the Defendant's prospective witness. For example, one of the main perpetrators of the harassment, abuse, defamation and threats which are interfering with these proceedings is one of the Claimant's own prospective witnesses in these proceedings.
- 5.6 Despite many requests made to the Claimant's solicitors to take steps to help bring the harassment and intimidation of the Defendant and her prospective witness to an end, the Claimant has refused all such requests and suggested that they are an attempt to distract from the litigation and are "melodramatic".
- 5.7 The harassment and intimidation of the Defendant and her prospective witness continue, as does the criminal investigation of the prospective witness, deterring the witness from further involvement and impeding the Defendant from speaking freely without the risk of causing serious prejudice to others. Notably, the Defendant's other prospective witnesses continue to fear the consequences should they give evidence in this claim.
- 5.8 During the course of these proceedings, it has become apparent that information relating to the proceedings has been passed to the Malaysian authorities (which continues to seek to arrest the Defendant) and to the perpetrators of much of the harassment, threats and abuse directed at the Defendant. The Claimant denies responsibility for sharing information with the perpetrators of the harassment, but accepts that it is a possibility the information may have reached the perpetrators as a result of a relationship with or connection to the Claimant and/or his political party PAS (Defence to Counterclaim paragraph 4). In the circumstances, any measures the court could take in an attempt to protect the integrity of these proceedings (for example, sealing the court file or holding proceedings *in camera*) will be of little or no comfort to the Defendant and her prospective witnesses.
6. In the circumstances set out above, there is in my view no prospect of this claim being disposed of justly or fairly.

## **Introduction**

7. The Defendant is a freelance investigative journalist and editor of the website 'Sarawak Report'. Sarawak Report is a news website set up originally to focus

on deforestation and environmental issues in Sarawak, Malaysia, but it now focusses largely on issues relating to political corruption in Malaysia as a whole. The Defendant resides in London and is married to Andrew Brown, a former journalist and the brother of former UK Prime Minister Gordon Brown.

8. In 2015, Sarawak Report and the Defendant gained considerable attention in Malaysia as the news publication and journalist who broke the story of what is widely known as the '1MDB scandal'. At its highest level, the 1MDB scandal relates to the defrauding of billions of US dollars from the '1MDB' development fund and the laundering of these funds around the world by a close friend of the Prime Minister of Malaysia Najib Razak's son, Jho Low, including laundering on art, luxury property, production of the well-known film 'The Wolf of Wall Street' and gambling in Las Vegas casinos. Notably, the Defendant, in a joint exposé with the Wall Street Journal, also revealed the fact that the Malaysian Prime Minister Najib Razak is implicated in and a beneficiary of the fraud, demonstrating a payment of over US\$600 million of funds embezzled from 1MDB into Najib Razak's personal bank account.
9. The response of the Najib Razak government following the Defendant's revelation of Najib Razak's direct involvement in the scandal on 2 July 2015 was to: (i) on 20 July 2015 block access to Sarawak Report in Malaysia; and (ii) on 4 August 2015 issue a warrant for the Defendant's arrest for the alleged crimes of undermining democracy and causing public alarm (see page 1). On obtaining the arrest warrant, the Malaysian authorities issued a 'Red Notice' to Interpol seeking the extradition of the Defendant by Interpol member states. The Interpol Secretary General took the rare step of publicly rejecting this Red Notice and asking all member states to disregard the request (see page 2).
10. Following the Defendant's exposé of the 1MDB scandal, the Defendant was interviewed by the US Federal Bureau of Investigation (FBI) and subsequently, in July 2016, the US Department of Justice lodged a civil filing under its kleptocracy initiative to freeze and recover assets stolen from the 1MDB fund. The civil filing, the largest of its type in US history, has since been updated and added to by the Department of Justice in a series of further civil filings as the attempt to freeze and recover assets stolen from 1MDB continues. The substance of the Department of Justice's repeated filings endorse and expand upon the Defendant's description of political corruption in Malaysia, including Najib Razak's involvement.

11. The Claimant is the President of the Pan-Malaysian Islamic Party in Malaysia (**PAS**). The article he complains of in defamation was published by the Defendant on the Sarawak Report website on 6 August 2016, with the heading '*As Najib Denies All Over 1MDB, Let's Not Forget His Many Other Criminal Connections – COMMENT*' (pages 3 to 10). The Claimant is not named in the article, which instead is addressed principally at summarising wide ranging allegations of political corruption and crime that have been levelled against Najib Razak in Malaysia and across the globe.
12. PAS is referred to in the closing paragraphs of article complained of, with the article alleging, broadly, that significant payments from Najib Razak have been made to the 'top echelons' of PAS. After publication of the article, public statements from the Claimant in August 2016 indicated that PAS itself was planning to sue the Defendant and not the Claimant himself (see pages 11 and 12). PAS did not sue the Defendant, presumably because a political party would not have standing to bring an action in this jurisdiction. Instead a Letter of Claim was sent in the name of PAS and the Claimant (pages 13 to 15), and subsequently proceedings were issued and served only in the Claimant's name. At the time of sending the Letter of Claim, PAS Secretary-General Takiyuddin Hassan was reported in the Malaysian media as characterising the Letter of Claim as having been sent by PAS alone (see page 16).
13. Notwithstanding the above, there is strong evidence that: i) PAS is funding the Claimant's claim (see paras 24, 29, 34, 38, 42 and 50 below); ii) the Claimant is sharing information and legal advice widely within PAS (see paras 12 and 28 and para 4 of the Defence to Counterclaim); iii) PAS is managing the Claimant's public relations in relation to this claim, issuing a press release on his behalf (see para 28 below); and iv) senior members of PAS have attacked a prospective witness in this claim (see paras 67 and 71 below).

### **Counterclaim**

14. The Defendant brings a Counterclaim against the Claimant, served with the Defence, under s.3 of the Protection from Harassment Act 1997 (**PHA 1997**). This Counterclaim relates to the Claimant's conduct during the proceedings in aiding, abetting, counselling or procuring the harassment of the Defendant in contravention of s.1(1) of the PHA 1997.

15. For the context of the events set out below in this witness statement, I also refer the Court to the following:
- 15.1 the detail of the Defendant's investigation and knowledge of Najib Razak and PAS before publication of the article at paras 25.1 to 25.100 of the Defence; and
- 15.2 the course of conduct pursued by Raja Petra Kamaruddin (**RPK**) towards the Defendant since she exposed the 1MDB scandal and Najib Razak's corrupt involvement in it since July 2015, with examples of the harassment set out in the schedule at the front of Exhibit KM2. RPK claims to be an old associate of the Claimant and has evidenced this, for example, by previously publishing a photograph of him and the Claimant sharing a meal together in Manchester on Boxing Day 2013 (see page 216).

### **Commencement of proceedings**

16. On 13 December 2016, the Defendant received a Letter of Claim from Carter-Ruck written on behalf of their two clients, PAS and the Claimant (pages 13 to 15). The second paragraph of the letter references PAS's claim to political success in Malaysia, stating: *'As you are aware, PAS is one of the major political parties in Malaysia, having 14 Parliamentary seats and 85 state seats, in addition to controlling the State Government of Kelantan, continuously from 1990 to date. Similarly, Mr Awang is well-known as being the party's President, a position he has held continuously since 2005'*. The letter goes on to set out their clients' non-monetary demands, failing which the letter threatens to commence proceedings and seek damages and legal costs from the Defendant.
17. On 5 January 2017, Carter-Ruck sent an email to the Defendant chasing for a response to the Letter of Claim (page 17).
18. On 21 April 2017, Carter-Ruck issued a Claim Form on behalf of the Claimant (but not PAS). The Claim Form and Particulars of Claim were served on the Defendant shortly thereafter.

### **The Defendant's unsuccessful security for costs application**

19. On 4 May 2017, the Defendant's then solicitors, Seddons, wrote to Carter-Ruck informing them that the Defendant would be defending the claim, and seeking the Claimant's agreement to pay the Defendant security for costs *'given that any*

*future costs awarded to Ms Rewcastle will be impossible to enforce, more so given Ms Rewcastle's status as someone who has been vociferous about the states' corruption ' (page 18). Also on 4 May 2017, Seddons filed an Acknowledgment of Service at Court.*

20. On 5 June 2017, Seddons issued an Application Notice seeking security for the Defendant's costs from the Defendant, which was listed for 16 June 2017. On the same day, Master Davidson ordered that time for filing the Defence be extended until 16 June 2017, when the security for costs application would be heard. In support of this application, Mark Lewis, the partner with conduct of the claim for the Defendant at that time, filed and served his first witness statement exhibiting his firm's estimated costs of £795,748 for Seddons' conduct of the claim to trial.
21. On 16 June 2017, Master Davidson heard the application which had been listed for 30 minutes only. The Claimant's position, set out in a skeleton argument, was: (i) that a full day hearing was needed for the application to be determined; (ii) such a hearing was premature given the Defendant had not pleaded a Defence or even responded to the Letter of Claim indicating the facts on which she intended to rely in support of her defence; (iii) a sustainable defence was relevant to the merits of the application; and (iv) that expert evidence was required to test Mr Lewis's statement that no reciprocal treaty between the UK and Malaysia existed to enable the Defendant to enforce any costs judgment. Master Davidson appears to have accepted the Claimant's submissions, in that a return hearing was listed on 2 August 2017, before which it was suggested that a statement be given on behalf of the Defendant outlining what her case would be in defence of the claim.
22. On 14 July 2017, Mark Lewis of Seddons filed and served on Carter-Ruck a second witness statement outlining what the Defendant's case would be in defence of the claim.
23. On or shortly before 14 July 2017, Manchester Police visited RPK and issued him with a Prevention from Harassment Letter the Metropolitan Police notifying him of a complaint which had been lodged by the Defendant with the Metropolitan Police about RPK's sustained course of conduct in publishing harassing and defamatory articles about her ever since 2015 and intensely so since the commencement of proceedings. RPK's response was to accept the

letter (see page 22) and then publish an article on his website Malaysia Today (see pages 19 to 21) written in the third person under the heading '*Clare Rewcastle Brown Sends London Police to RPK's House*'. This article states that: i) RPK was told by the Police that if he wrote any further articles about Clare or mentioned her name he would be arrested and charged in court; ii) from 14 July RPK would never mention the Defendant's name, even if, as he asserts, the Defendant harasses Najib Razak; iii) records that the Police had stated that the Defendant was suffering from stress because of what RPK wrote; iv) readers would from that day need to read about Clare on a website called "The Third Force"; and v) stating that RPK '*might just defy the police order and continue writing [about the Defendant] even if that means he will be arrested and will be sent to jail*'. Notably, despite the contention in the Claimant's Defence to Counterclaim that RPK's course of conduct towards the Defendant was 'tit-for-tat' speech motivated by the Defendant's limited references to RPK on Sarawak Report, RPK makes clear he believed his conduct was justified only by the Defendant's 'harassment' of Najib Razak in writing about the 1MDB scandal, and was not motivated by any conduct towards him or any publications on Sarawak Report.

24. RPK's article is published on Malaysia Today alongside an advert appealing for donations to be made to PAS to fund the Claimant's claim against the Defendant (see page 23). During August 2017, this advert was on the side of the website and when clicked on would bring a reader through to a website in which such a donation could be made. However, as at the date of this witness statement the advert has been expanded and included in the main body of the article. From this advert it is evident that: 1) PAS is funding the Claimant's claim; and 2) the Claimant and/or his agents have chosen to advertise on RPK's Malaysia Today website being aware of the site's harassing and defamatory coverage of the Defendant.
25. On 26 July 2017, Adam Tudor, the partner with conduct of the claim for the Claimant, filed and served a witness statement addressing certain aspects of the Defendant's application for security for costs, which:
  - 25.1 claimed that Mr Lewis's second witness statement was inconsistent with his first witness statement in relation to the nature and scope of the Defence;



- 25.2 challenged Mr Lewis's assertion that there was no reciprocal treaty in existence which would enable the Defendant to be able to enforce a costs order;
- 25.3 stated that the Claimant accepted that there would be additional costs involved in registering any English Judgment in Malaysia and that these should be paid as security, such payable costs being only approximately £14,350 as compared to Mr Lewis's stated costs to trial of £795,748; and
- 25.4 drew the court's attention to a successful crowd-funding campaign the Defendant had run, raising over £33,513 for the purpose of paying the legal costs of filing a Defence.
26. On 2 August, a hearing of the Defendant's security for costs application took place before Master Davidson. Master Davidson ordered: (i) security for costs of £14,350 as proposed by Adam Tudor's witness statement; (ii) that no further application for security for costs should be made prior to the Costs and Case Management Conference; (iii) that the Defendant file and serve her Defence by 4pm on 30 August 2017, and (iv) that the Defendant pay two-thirds of the Claimant's costs of the application.

#### **The Claimant shares information with the Malaysian authorities**

27. As reported in detail in an article published by the Defendant on Sarawak Report on 2 August 2017 (see page 24 to 30), the 2 August security for costs hearing before Master Davidson was attended by six members of the Malaysian High Commission in London, including two members of the Commission's Political and Security Department and the Commission's Media Officer.
28. On 5 August, a press statement authored by the PAS President's Political Secretary, Dr Ahmad Samsuri Mokhtar, was issued on behalf of the Claimant and PAS and reported the same day by two English language websites that had a long history of defaming, abusing and harassing the Defendant: RPK's Malaysia Today (see pages 31 to 35) and, in identical terms, The Third Force. A copy of the original press statement as sent to Malaysia Today and The Third Force has been sought from the Claimant by the Defendant under CPR 31.14. The second paragraph of the press statement alleges that the article complained of '*would clearly have been understood to allege, falsely, that [the Claimant] had received bribes from Prime Minister Najib to the tune of RM90 million.*' Notably, the final paragraph of the press statement states: '*[The*

*Claimant] was also informed by Carter-Ruck that the Malaysian High Commission in London sent representatives to attend who informed Carter-Ruck that they are there to observe proceedings as many political allegations were made against the Prime Minister of Malaysia, the government of Malaysia and the judiciary in Malaysia by CRB in documents that she is filing into court.'*

29. The press statement was published on RPK's Malaysia Today alongside an advert appealing for donations to be made to PAS to fund the Claimant's claim against the Defendant (see page 23). During August 2017, this advert was on the side of the website and when clicked on would bring a reader through to a website through which such a donation could be made. However, as at the date of this witness statement the advert has been expanded and included in the main body of the article. From this advert it is evident that: 1) PAS is funding the Claimant's claim; and 2) the Claimant and/or his agents have chosen to advertise on RPK's Malaysia Today website being aware of the site's harassing and defamatory coverage of the Defendant.
  
30. The final paragraph of the Claimant's press statement gives the impression that the Malaysian High Commission's attendance at the security for costs hearing came about independently of the Claimant and out of a wish to observe proceedings which they had apparently independently ascertained might criticise Najib Razak amongst others (presumably from Mark Lewis's second witness statement which was the only document in the proceedings which explained the scope of the Defendant's prospective defence). This impression is misleading, and the Claimant knew or ought to have known it was misleading as he or his agents must have shared with the Malaysian authorities both the scope of the Defendant's defence and in all likelihood the listing information for the hearing to enable six members of the Malaysian High Commission to attend the second security for costs hearing. Only the parties and the court had copies of Mark Lewis' second witness statement at that stage.
  
31. On 20 December 2017, RPC's court clerk, Alex Pollock, confirmed to RPC's media team that he had attended on the Queen's Bench Division court staff who confirmed that only two non-party requests for access to court documents have been made in these proceedings: the first in June 2017 and the second in October 2017. As Mark Lewis's second witness statement was served and filed at court on or around 14 July 2017, the Malaysian High Commission could therefore only have been aware of the contents of Mark Lewis's second witness

statement if the information in the statement or its contents had been shared by the Claimant. The Malaysian High Commission were also aware of the time, date and location of the appointment before Master Davidson despite the extremely limited public availability of that information (in so far as the appointment listing was public at all, which is not clear to me). In the circumstances, it is my belief that the Claimant and PAS were: i) communicating information about these proceedings to the Malaysian authorities, including details of the Defendant's proposed defence and details of the second security for costs hearing; and ii) publishing a press statement which attempted to distance themselves from the attendance of six Malaysian High Commission officials at the security for costs hearing, by giving the false impression their attendance at the hearing occurred without the collaboration and support of the Claimant. This misleading impression wrongly served to undermine the Defendant's 2 August article.

32. Carter-Ruck will be able to give evidence as to i) whether or not they were aware before the hearing that six members of the Malaysian High Commission would be attending the hearing; ii) whether those attendees approached Carter-Ruck at the hearing to inform Carter-Ruck that *'they are there to observe proceedings as many political allegations were made against the Prime Minister of Malaysia, the government of Malaysia and the judiciary in Malaysia by CRB in documents that she is filing into court'*; and iii) whether Carter-Ruck informed the Claimant of this conversation in these terms and whether in doing so the Claimant questioned how the Malaysian authorities had come to have knowledge of both the contents of Mark Lewis's second witness statement and the date and venue of the second security for costs hearing.

**The Claimant shares court information with RPK and Malaysian government propagandists and/or "The Third Force" facilitating harassment**

33. On 6 August, RPK's Malaysia Today and The Third Force websites published an article with the headline *'UK Court rules no evidence that Najib and Malaysian judiciary are corrupt'* (see page 36 to 41). The article begins by explaining events at the second security for costs hearing before going on to assert that the hearing demonstrated that the Defendant was a liar and that she had fabricated the 1MDB scandal. The article states (see page 40): *'So dumb is this Ms Rewcastle, she probably doesn't realise that her failure to submit evidence to the London court prompted its judge to deliver a priori judgment*

*against the idea that Najib or the Malaysian judiciary were corrupt. In other words, it has now been established that the claims Ms. Rewcastle made all this while were nothing but works of fiction. And that means, Malaysians can rest assured that Sarawak Report is nothing but a fake news portal that fabricated email transcripts, shopping receipts, banking documents, money trails and what have you, none of which were authentic, none of which would hold in the court of law'. Accompanying the article were images including a picture of the Defendant under the heading Sarawak Report, accompanied by the words 'It's a FAKE!' and 'LIES, LIES, AND OMG, MORE LIES'.*

34. The 6 August article was published on RPK's Malaysia Today website alongside an advert identical to that mentioned at para 29 (see page 23) appealing for donations to PAS to fund the Claimant's claim against the Defendant. From this advert it is evident that: 1) PAS is funding the Claimant's claim; 2) the Claimant and/or his agents chose to advertise on RPK's Malaysia Today website aware of the history and nature of its coverage of the Defendant and the 1MDB scandal; and 3) the Claimant was, in part, funding these proceedings by procuring donations from those who would read the libels about the Defendant in the 6 August 2017 article.
35. On 10 August 2017 the Defendant instructed RPC in place of Seddons. On the same day I emailed Adam Tudor of Carter-Ruck copying Mark Lewis of Seddons to inform them that RPC had been retained by the Defendant to act on the matter going forward and would be filing a Notice of Change shortly (see page 42).
36. On 11 August 2017, RPC filed a Notice of Change of Legal Representative at court.
37. On 23 August 2017, RPK's Malaysia Today and The Third Force websites published an article with the headline '*Clare Rewcastle desperately changing horses midstream*' (see page 43 to 48). The article: 1) annexes the court order of Master Davidson dated 2 August 2017, which it is to be inferred must have been provided to the author by the Claimant (given no non-party accessed the court file since the order had been made); 2) refers to the fact of RPC replacing Seddons as her lawyer, information which was only known to the Court and the Claimant; 3) repeatedly abuses the Defendant calling her '*an egotistical retard of a con-woman*', '*a habitual delinquent*' and '*quite the nutcase*'; 4) as was

wholly foreseeable given RPK's course of conduct over the previous two years set out in KM2, repeatedly defames the Defendant alleging that she had been paid to run a smear campaign against Najib Razak by his political opponent and former Malaysian Prime Minister Dr Mahathir Mohamad and the Defendant had therefore fabricated the evidence demonstrating the 1MDB scandal and Prime Minister Najib's involvement; and 5) taunts the Defendant, suggesting she needed to put aside 9 to 10 million Malaysian Ringgit (£1.65 to £1.8 million) to pay the Claimant and her own lawyers when her defence fails.

38. The 23 August 2017 article was published on RPK's Malaysia Today website alongside an advert identical to that mentioned at para 29 (see page 23) appealing for donations to PAS to fund the Claimant's claim against the Defendant. From this advert it is evident that: 1) PAS was funding the Claimant's claim; 2) the Claimant and/or his agents had chosen to advertise on RPK's Malaysia Today website and were aware of the history and nature of its coverage of the Defendant and the 1MDB scandal; 3) the Claimant was in part funding these proceedings by procuring donations from those who would read the defamatory allegations, taunts and abuse directed at the Defendant in the 23 August 2017 article.
39. Soon after publication of the 23 August 2017 article, the Defendant drew it to my firm's attention. The Defendant was notably distressed by the Claimant's collaboration with RPK's Malaysia Today and/or The Third Force to facilitate the publication of abusive and defamatory allegations about her, to encourage her to settle and to discredit well-documented evidence of the 1MDB scandal and the involvement of Najib Razak in the scandal.
40. On 24 August 2017, RPC wrote to Carter-Ruck stating that we would not be in a position to finalise the Defence by the deadline for filing the Defence of 30 August and seeking Carter-Ruck's agreement to a 28 day extension (see page 49).
41. The next day, 25 August 2017, RPK's Malaysia Today and The Third Force websites published an article with the headline '*Clare, let's wait and see what happens on 30th August*' (see pages 50 to 53). The article: 1) quoted a statement made by the Defendant in response to the 23 August 2017 article asking RPK not to mis-represent the issues in the proceedings; 2) abused the Defendant (albeit obscurely) calling her '*an incondite of a yoke!*'; 3) repeatedly

defamed the Defendant alleging that she fabricated evidence of the 1MDB scandal and Najib Razak's involvement; and 4) stressed three times (including in the headline) the importance of the Defendant filing her defence by 4pm on 30 August 2017 (when the Claimant had been informed the day before that the Defendant could not meet this deadline).

42. The 25 August 2017 article was published on RPK's Malaysia Today website alongside an advert identical to that referred to at para 29 (see page 23) appealing for donations to PAS to fund the Claimant's claim against the Defendant. From this advert it is apparent that: 1) PAS was funding the Claimant's claim; 2) the Claimant and/or his agents had chosen to advertise on RPK's Malaysia Today website aware of the history and ongoing coverage of the Defendant and the 1MDB scandal on Malaysia Today; 3) the Claimant was continuing to fund these proceedings by procuring donations to PAS from those who would read defamatory allegations and abuse directed at the Defendant in the 25 August 2017 article.
43. Soon after publication of the 25 August 2017 article, the Defendant drew the article to this firm's attention. The Defendant was distressed by the Claimant's continuing collaboration with RPK's Malaysia Today and/or The Third Force, which was further evidence of the close collaboration of the Claimant with RPK's Malaysia Today and The Third Force websites in using the proceedings to undermine her credibility and the credibility of what she had published about the 1MDB scandal. She saw the coverage as an attempt to compel her to settle this libel claim. I also believe that the repeated references to the importance of the Defendant responding by 30 August were prompted by RPC's letter the day before explaining that the Defendant would not be able to meet the 30 August deadline for filing the Defence: it is too much of a coincidence that the article is written the day after RPC had written to Carter-Ruck.
44. On 25 August 2017, Carter-Ruck wrote to RPC refusing to agree a further 28 day extension for filing the Defence but offering to agree a 7 day extension instead (see pages 54 to 55). In response to this letter, RPC emailed Carter-Ruck reiterating that, as their Counsel was on leave, the 7 day extension was of little benefit, that RPC would therefore be applying to the Practice Master for an extension of time that afternoon, inviting Carter-Ruck to attend the hearing and confirming that RPC would in any event put the party-party correspondence before the Practice Master (see page 56). Carter-Ruck responded before the

hearing stating that they would not attend the hearing but would be seeking the costs of the application (see page 57).

45. RPC's court clerk appeared before Master McCloud at approximately 2pm on the afternoon of 25 August 2017. Master McCloud declined to decide the Defendant's substantive application for an extension of time but instead directed that the extension of time application be listed and heard before the Assigned Master, Master Davidson in due course. RPC's court clerk then attended the Masters Support Unit where he was informed that Master Davidson was away until the end of September, and would not be able to hear the substantive application until 13 October 2017. The court clerk then briefly returned before Master McCloud in chambers to ask whether her direction was sufficient to suspend time for filing the Defence until the substantive hearing of the application for an extension of time in October before Master Davidson. Master McCloud indicated that it was.
46. After the court clerk's return from court on the evening of 25 August 2017 RPC wrote to Carter-Ruck informing them of the outcome of the hearing before Master McCloud and providing an attendance note of that hearing, noting that the Master had refused to consider the substance of the Defendant's application, but had released the application be heard by the Assigned Master, to be heard on 13 October (see pages 58 to 62).
47. On 31 August 2017, RPK's Malaysia Today and The Third Force websites published an article with the headline '*Sarawak Report fails to meet 4pm deadline*' (see pages 63 to 66). The article contains a biased account of RPC court clerk's hearing before Master McCloud and what it meant, stating:
  - 47.1 that the Defendant had to file and serve her Defence by 30 August 2017;
  - 47.2 that Defendant had '*asked the judge to grant her an extension of time to submit her case against Hadi but it had been refused*';
  - 47.3 that the Defendant has been attempting '*to drag the trial past the 14th general election by seeking an extension from the judge*';
  - 47.4 that the judge '*more or less told her to fly kites*';
  - 47.5 that the Defendant '*will now have to return to court in October, where it is likely that her counsel will make another attempt to seek an extension*'.

48. The article makes clear that RPK's Malaysia Today and The Third Force websites had been informed of RPC's account of the hearing before Master McCloud, as sent to Carter-Ruck on the evening of 25 August 2017. Notably, this account included information only available to RPC, the Defendant, Carter-Ruck and the Claimant, so that the only remotely likely source for the contents of Malaysia Today and The Third Force's article was the Claimant.
49. Notably, the 31 August 2017 article also: 1) wrongly accused the Defendant of violating Master Davidson's order of 2 August 2017 by failing to file her Defence; 2) defamed the Defendant by stating her failure to file a defence demonstrated that the documents she possessed implicating Najib Razak in the 1MDB scandal were nothing but fabrications; 3) defamed the Defendant by stating that she had a *'malicious intent to depose...a democratically elected leader of a sovereign nation'*; 4) defamed the Defendant by stating that she had been paid *'millions'* by former Malaysian Prime Minister Dr Mahathir Mohamad to depose Najib Razak by fabricating evidence of the 1MDB scandal and Najib Razak's involvement; 5) defamed the Defendant by stating that she had herself been *'conspiring to sabotage 1MDB and to turn the Chinese government against the administration of Najib Razak'*.
50. The 31 August 2017 article was again published on RPK's Malaysia Today website alongside an advert identical to that referred to at para 29 (see page 23) appealing for donations to PAS to fund the Claimant's claim against the Defendant. From this advert it is evident that: 1) PAS was funding the Claimant's claim; 2) the Claimant and/or his agents had chosen to advertise on RPK's Malaysia Today website aware of the history and ongoing coverage of the Defendant, Najib Razak and the 1MDB scandal on Malaysia Today; and 3) the Claimant was continuing to fund his claim by procuring donations to PAS from those who would read defamatory allegations and abuse directed at the Defendant in the 31 August 2017 article.
51. Soon after publication of the 31 August 2017 article, the Defendant drew the article to this firm's attention. The Defendant was distressed by the Claimant's continuing collaboration with RPK's Malaysia Today and/or The Third Force, which was further evidence of the close collaboration of the Claimant with RPK's Malaysia Today and The Third Force websites in using the proceedings to undermine her credibility and the credibility of the 1MDB scandal, to harass her and to compel her to settle their claim.



52. On 1 September 2017, Carter-Ruck wrote to RPC expressing concern that Master McCloud had made an order that effectively gave the Defendant a de facto extension until 13 October 2017 for filing her Defence (being the date of the substantive hearing of the Defendant's application for an extension of time) and asking RPC to return before Master McCloud to inform him of Master Davidson's unavailability until October and seeking an explanation as to why this did not occur originally (see page 67).
53. On 2 September, RPK's Malaysia Today and The Third Force websites published an article with the headline '*Clare Rewcastle's Donors Actually Giving Hadi Money*' (see page 68 to 72). The article: 1) discloses information previously only available to the parties about the proceedings including a further description of RPC's attendance before Master McCloud and enclosing Master Davidson's order of 2 August; 2) defames the Defendant by again suggesting she has fabricated evidence of the 1MDB scandal; 3) sought to discourage financial support of the Defendant by suggesting that funds raised by the Defendant to help her fight the case had been paid to the Claimant in satisfaction of the costs order dated 2 August 2017.
54. On 4 September, RPK's Malaysia Today and The Third Force websites published an article with the headline '*Evidence surfaces that Clare Brown and hubby stole taxpayers' money*' (see pages 73 to 81). The article 1) defames the Defendant by stating that she, her husband Andrew Brown and former British Prime Minister Gordon Brown had been found by the House of Commons to have defrauded the UK Revenue in that Gordon Brown had claimed for his share of the costs of a shared cleaner with the Defendant and her husband (in fact, as was widely reported in the public domain, following careful scrutiny by Sir Thomas Legg on behalf of Parliament the opposite conclusion had been reached: that Gordon Brown had complied with Parliamentary expense rules at all times); 2) racially abuses the Defendant by stating '*Tell me, who is this white piece of trash to dictate terms to the Malaysian mainstream media?*' and describing her as '*white trash*'; and 3) suggests that the Defendant fabricated the 1MDB scandal implicating the administration of Najib Razak. As above, this article was published alongside an advert identical to that referred to at para 29 (see page 23) appealing for donations to PAS to fund the Claimant's claim against the Defendant. The same conclusions are evident from this article as described above.