

IN THE HIGH COURT OF JUSTICE

Claim No. HQ17M01386

QUEEN'S BENCH DIVISION

MEDIA AND COMMUNICATIONS LIST

BETWEEN

HONOURABLE ABDUL HADI AWANG MP

Claimant

and

CLARE REWCASTLE BROWN

Defendant

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**AMENDED** DEFENCE AND COUNTERCLAIM

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*Except where otherwise stated, references in this Defence and Counterclaim to paragraph numbers are references to the numbered paragraphs in the Particulars of Claim.*

**The parties and the claim**

1. The number of members of PAS is not admitted and the Claimant is put to proof of the same. Otherwise paragraph 1 is admitted.
2. The Claimant's claim to have suffered serious harm to his reputation whether in England and Wales or Singapore or Malaysia is denied. Otherwise the Defendant makes no admissions as to paragraph 2.
3. Paragraph 3 is admitted.
4. Paragraph 4 and the contention that the Website is widely read in Malaysia is admitted.

5. Paragraph 5 is admitted.
6. Paragraph 6 is admitted.
7. Paragraph 7 is admitted. The Defendant will rely on the entirety of the Article as the context of the words that the Claimant has selected for complaint.
8. Paragraph 8 is admitted.
9. Paragraph 9 is admitted.
10. Paragraph 10 is admitted. The email sent on 7 August 2016 was opened by 4,161 recipients in Malaysia, by 1,435 recipients in Singapore and by 447 recipients in England and Wales.
11. Except that no admissions are made as to what the fact there had been 82 reader comments made on the Article indicates regarding the “popularity” of the Article, paragraph 11 is admitted. As at August 2017 the webpage carrying the Article had had 1,306 unique page views from the UK, 6,816 from Singapore and 9,835 from Malaysia, almost all of these occurring in the days immediately following first publication and negligible views from any source since September 2016.
12. The highest office bearers in PAS have at all material times been its spiritual leader and deputy spiritual leader. The Claimant has been the President of the party. Except as aforesaid the Defendant makes no admissions as to paragraph 12 and puts the Claimant to proof thereof, particularly whether and how well known as “the leader” of PAS the Claimant was in Malaysia or in Singapore or in England and Wales.
13. Except that no admissions are made as to whether or when any reader of the Article had read the article dated 24 August 2015, paragraph 13 is admitted.
14. Paragraph 14 is denied. In contrast to the clear reference to identified individuals in the account of events in the Article preceding the words complained of, the words complained of do not, and would be understood not to intend to, identify or point to the Claimant as

being involved in the receipt of money from Najib Razak or UMNO. On the contrary, the said words refer only to a very large class or group of people, being not only the “top echelon” of the PAS party, but the “top echelons” (plural) of the PAS party, and to the involvement of some in that class or group in receiving money. This class or group at least included:

- 14.1 Members of the Spiritual Council of PAS, including its Leader, Deputy Leader, Secretary and Council Members;
- 14.2 The Central Working Committee of the Party (having over 20 members) and their senior staff;
- 14.3 Senior Office Bearers in the party, including the President, the Deputy President, the three Vice Presidents, the Dewan Ulamak Chief, the Dewan Pemuda Chief, the Dewan Muslimat Chief, the Secretary-General, the two Deputy-Secretary Generals, the Treasurer, the Information Chief and the Election Director.
- 14.4 Members of Dewan Ulamak PAS Pusat (DUPP), including its Speaker, Deputy Speaker, Auditors, Chief, Deputy Chief, Vice Chief and Central Working Committee.
- 14.5 Members of Dewan Pemuda PAS Pusat (DPPP) (the Youth Council), its Speakers, Chiefs, Secretary, Auditor, Treasurer, Election Director, Information Chief and Central Working Committee members.
- 14.6 Dewan Muslimat PAS Pusat (DMPP), its Speakers, Chiefs, Secretary, Auditor, Treasurer, Election Director, Information Chief and Central Working Committee members.
- 14.7 The two PAS Senators (members of the Dewan Negara) and their senior staff.
- 14.8 The 14 PAS Members of Parliament (members of the Dewan Rakyat) and their senior staff.
- 14.9 The 80 PAS members of state legislative assemblies, including those holding the majority in the Kelantan State Legislative Assembly and their senior staff.
- 14.10 The Executive Council and Menteri Besar (leader) of Kelantan State, including their senior staff.

The Defendant will contend that the Claimant could not reasonably be understood to be referred to by the words complained of and that affording the Claimant a cause of action as a person referred to by the said words would be a disproportionate, unnecessary and unjustified interference and inhibition of the Defendant’s and the public’s rights to freedom of expression pursuant to Article 10 and particularly the exercise of those rights in the free discussion of political matters.