

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

BETWEEN:

MARTYN SMITH

Claimant

- and -

THE PRESS ASSOCIATION LIMITED

Defendant

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STATEMENT IN OPEN COURT

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Solicitor for the Claimant

1. In this libel action, I appear for the Claimant. My friend, Justine Wilkie, appears for the Defendant.
2. The Claimant is a Bafta-nominated TV director, producer and writer, whose achievements include the BBC programmes Dragons' Den, Mary Queen of Shops and The Apprentice. The Defendant is the UK's leading multimedia news agency.
3. At 17:23pm, on 21 December 2009, the Defendant released a story on its main news wire service headlined "*Dragons' Den creator escapes child porn jail term*", which was sent to all of its media subscribers and other organisations, which are mainly in this jurisdiction but also throughout the world. This was followed by a shorter version of the article, which was sent at 17:27pm, on a regional news wire service.
4. The article stated that former BBC producer, Martyn Smith, had "*narrowly escaped jail*" after pleading guilty to "*downloading 'quite unspeakable' child porn*" during a trial at Southwark Crown Court. The article also identified the person who had been found guilty as "*the creator of the hit TV series Dragons' Den*".
5. Later that evening, on 21 December, the Claimant contacted the Defendant's night editor to inform the Defendant that the Claimant was not the individual who had been on trial and that the story related to a different Martyn Smith.

6. The Defendant realised that an honest mistake had been made and took immediate steps to rectify the error. A corrected version of the story was sent on its main news wire and shortly thereafter on its regional wire.
7. However, in the intervening period, some national and local newspapers, as well as websites, had published the false and defamatory version of the story on their websites and databases, and some newspapers had also gone to print for the next day's hardcopy editions. These included The Daily Mail online, The Brighton Argus both online and in its first hardcopy edition, The Huddersfield Daily Examiner, The Scotsman, the Belfast Telegraph. Accordingly, each publication had also made the defamatory allegation that the Claimant had been found guilty of downloading child pornography.
8. On 22 December, the Claimant immediately instructed his solicitors and, following urgent discussions, the Defendant released on its newswire service an apology to the Claimant.
9. Subsequently, all newspapers including The Daily Mail online, the Brighton Argus, the Huddersfield Daily Examiner, the Scotsman and the Belfast Telegraph withdrew the offending allegations and promptly apologised to the Claimant for their publishing the defamatory story.
10. The Defendant as well as the above newspapers that published the defamatory story following the Defendant's publication have all acknowledged and recognised that the case at Southwark Crown Court involved a former BBC television producer called Martyn Smith who has no professional or personal relationship with the Claimant. They also accepted that the Martyn Smith who created Dragon's Den was entirely unconnected with the criminal prosecution and has never been associated with any allegations of downloading child porn. The Claimant continues to work with the BBC.
11. Despite the action taken by the Defendant, and other newspapers, the dissemination of the article by newswire, and on the internet, means that it has been picked up and repeated online by blogs, forums and news aggregators in both this jurisdiction and abroad. The Claimant and Defendant have acted to remove as many of these repeat publications as possible.
12. As well as accepting that there is absolutely no truth in the allegation whatsoever and that the article was both false and defamatory of the Claimant, the Defendant has also agreed that it will pay the Claimant substantial damages, will reimburse him for the legal costs he has incurred in this claim and that the Defendant would join in this Statement in Open Court.
13. In these circumstances, and particularly since the Claimant has now achieved his principal aim of obtaining vindication for this allegation and undertakings that it will not be repeated, he has agreed not to pursue legal claims against the Defendant.

**Solicitor for the Defendant**

14. My Lord, on behalf of the Defendant, I confirm everything my Friend, Mr Thomson, has said.

15. The Defendant is here today through me to offer its sincere apologies to the Claimant for the damage, as well as the distress and embarrassment, caused to him by the widespread publication of the allegations. The Defendant accepts that the Martyn Smith who created Dragon's Den, who is the Claimant in this action, was entirely unconnected with the criminal prosecution and has never been associated with any allegations of downloading child porn. It acknowledges that this false and defamatory allegation should never have been published.

**Solicitor for the Claimant**

16. In the circumstances, my Lord, the Claimant considers that he has now achieved the vindication of his good name. It only remains for me to ask that the record be withdrawn.



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**Mark Thomson**  
Solicitor Advocate  
Atkins Thomson  
Solicitors for the Claimant

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**Justine Wilkie**  
Solicitor  
Taylor Wessing  
Solicitors for the Defendant

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