

Heather Rogers QC



Call: 1983

Silk: 2006

Email: h.rogers@doughtystreet.co.uk

Profile

Heather Rogers is a leading specialist in media and information law. She has appeared in many significant and high-profile defamation and privacy cases, from the ‘Spycatcher’ breach of confidence litigation, through to major libel actions (including *David Irving v Penguin Books*, *Elton John v MGN*, *Hamilton v Al Fayed*, *Galloway v Telegraph*, *Roman Polanski v Condé Nast*, *Flood v Times Newspapers*, *Peter Cruddas v Times Newspapers*) and privacy / data protection appeals (including *Hutcheson*, *Ntuli* and *Prince Moulay Hicham v Elaph Publishing*). Recent trials include *Hourani v Thomson and others* (harassment and libel) and *Copthall Ltd v Scorched Earth* (deceit claim arising out of film-financing arrangements).

Heather has a wealth of experience and regularly advises claimants and defendants. She is a director of the Campaign for Freedom of Information, and was a trustee of Article 19, the freedom of expression NGO, from 2004 to 2012. She has worked with the Media Legal Defence Initiative on free speech issues, including on 'amicus' briefs in *Axel Springer v Germany* (No 2) (restrictions on political speech in the European Court of Human Rights) and *Raynor v Richardson* (criminal defamation in Bermuda). She is co-author of *Duncan and Neill on Defamation and other media and communications claims* (5th edition, 2020), a leading practitioner textbook.

What the directories say:

Heather has been recommended in defamation/privacy for many years by both Chambers and Partners and The Legal 500.

"Exceptionally forensic, she has a clear understanding of the client's objectives and their needs." Legal 500 2020

Superb media silk who maintains a busy libel, data protection and privacy practice. She acts for both claimants and defendants and is considered a go-to for defamation claims and film-related litigation. "Fiercely intellectual and a pleasure to work with. Heather always gives good advice." "Very considered and bright, and always tries to make herself available" Chambers and Partners 2020. "One of the most formidable silks in the area. She is superb and brilliant on paper." "Unbelievably clever." Chambers and Partners 2019

"Tenacious in court." The Legal 500 2018

"She has good strategic insight and can add value to difficult situations." "Articulate and sharp, she is a real pleasure to work with." Chambers and Partners 2018

"A libel guru with a human touch." The Legal 500 2017

Prominent silk for defamation and privacy matters who advises both claimants and defendants "She has formidable forensic skills, provides cogent advice and is a pleasure to work with." "She is a really awesome intellect." "She is very thorough, very knowledgeable and very bright." Chambers and Partners 2016

"She is wonderfully down to earth, and works with her instructing solicitors as a real collaborative team." The Legal 500 2015 (Media and Entertainment)

"Tremendously supportive and pragmatic." The Legal 500 2015 (Defamation and Privacy)

"She has great tactical nous and is a strong lateral thinker." Heather Rogers QC is "Lauded by clients and solicitors for her detailed knowledge of the field and her affable and professional approach to client service. She continues to appear in some of the most

contentious and high-profile cases of the day.” “Intellectual acumen personified, she is a barrister with superb legal ability.” “She has formidable forensic skills, and provides cogent advice.” Chambers and Partners 2015

Heather is “seriously knowledgeable, supremely practical and terrifically hardworking.” The Legal 500 2014

Education

LLB (Hons) (First Class), London School of Economics and Political Science (University of London)

Inns of Court School of Law (first in year)

Related practice areas

Media, Defamation and Freedom of Expression

International Media Defence

Data Protection and Information Law

Mediation

Defamation, Malicious Falsehood and Harassment

Serafin v Malkiewicz [2020] UKSC 23, [2020] 1 WLR 2455 – For the intervener (Media Lawyers Association) (with Jonathan Price) in the Supreme Court appeal on the scope of the defence for “publication on matter of public interest” under section 4 of the Defamation Act 2013.

Tinkler v Ferguson & Others [2018] EWHC 3563 – For claimant in libel and malicious falsehood claim (preliminary trial on meaning).

Hourani v Thomson and others (2016-2017) – For claimant in harassment and libel claim over an organised and expensive campaign that included online publication of serious, false allegations about the claimant. Trial Judgment [2017] EWHC 432 (QB); preliminary issue [2017] EWHC 173 (QB), [2017] 1 WLR 933.

Cruddas v Calvert & Others (2013-2015) – For defendants in libel/ malicious falsehood claim against *The Sunday Times* and two of its journalists brought by former Treasurer of the Conservative Party. Series of interim rulings, including successful appeal on meaning [2014] EMLR 5 (CA), with action concluding with Court of Appeal decision following trial [2015] EWCA Civ 171.

Flood v Times Newspapers Limited [2012] UKSC 11; [2012] 2 AC 273 – For defendant in the Supreme Court on the landmark decision in relation to the scope of the *Reynolds* defence (reporting on matter of public interest).

Adelson v Anderson [2011] EWHC 2497 (QB) – For defendants in successful application to strike out defamation claim (abuse of process and delay).

Khader v Aziz & oth [2010] EWCA Civ 716; [2011] EMLR 2 – For one defendant in successful application for summary judgment/strike out of defamation claim.

British Chiropractic Association v Singh [2010] EWCA Civ 350; [2011] 1 WLR 133 – For claimant / respondent in appeal relating to meaning and the line between “fact” and “comment”.

Seaga v Harper [2008] UKPC 9, [2009] 1 AC 1 (Privy Council) – For claimant in relation to appeal from Jamaica on the scope of the *Reynolds* defence.

Lance Armstrong v Times Newspapers Limited – Representing defendants in libel claim, including on meaning application [2006] 1 WLR 2462 (CA) and appeal against strike out of qualified privilege defence [2005] EMLR 33.

George Galloway MP v Telegraph Limited [2006] EMLR 11 CA – Represented claimant (at trial and appeal) in libel claim.

Gleaner v Abrahams [2003] UKPC 55, [2004] 1 AC 628 – Privy Council appeal on the assessment of damages in a libel claim (Jamaica) (for claimant).

Cleese v Clark [2004] EMLR 3 – Important decision on approach to the assessment of compensation in offer to make amends procedure (ss.2-4, Defamation Act 1996).

Irving v Penguin Books Limited [2001] EWCA Civ 1197 – For a defendant, including on refusal of permission to appeal against trial judgment (distortion of history). A feature film based on Professor Deborah Lipstadt’s book about the litigation (she was sued as author), “Denial” directed by Mick Jackson, was released in 2016.

Branson v Bower [2001] EWCA Civ 791, [2001] EMLR 32 – Important decision on the fact/comment distinction in libel.

Hamilton v Al-Fayed [2001] 1 AC 395 HL – Parliamentary privilege in context of libel claim.

Loveless v Earl [1999] EMLR 530 CA – The subjective test for “malice” in libel cases.

Hinduja v Asia TV [1998] EMLR 516 – Meaning appeal in libel case.

John v MGN Limited [1997] QB 586 CA – Successful appeal against damages claim after jury trial of libel claim brought by Elton John (relevance of personal injury awards).

Bennett v Guardian Newspapers Limited [1997] EMLR 625 – Attempt to introduce public interest defence (pre-*Reynolds*).

Allason v Campell (2 May 1996, Drake J) – Malicious falsehood claim by Rupert Allason MP against Alastair Campbell.

Rantzen v Mirror Group Newspapers (1986) Limited [1994] QB 670 – Jury awards of damages in libel cases (relevance of Article 10).

Derbyshire County Council v Times Newspapers Limited [1993] AC 534 – House of Lords appeal determining that local authorities cannot sue for libel.

Roache v News Group [1998] EMLR 161 – For defendants in appeal from costs ordered at trial (the “Boring Ken Barlow” libel claim).

Jackson v MGN Limited (1994) – Appeal relating to disclosure of medical records (plastic surgery) in libel case by Michael Jackson.

Joyce v Sengupta [1993] 1 WLR 337 CA – Junior Counsel in libel/ malicious falsehood claim.

Privacy / Confidence

Barclay & Barclay v Barclay & Others (2020) – For defendants (with Jonathan Price) in claim for misuse of private information/breach of confidence, data protection, various economic torts. [2020] EWHC 1180 (QB), [2020] EWHC 1179 (QB), [2020] EWHC 1154 (QB), [2020] EWHC 424 (QB).

Price v Powell & Ors (2013 & 2015) – For claimant in privacy/ data protection claim.

Hutcheson (previously “KGM”) v News Group Newspapers Ltd [2011] EWCA Civ 808, [2012] EMLR 2 – Appeared for media defendant in appeal (privacy injunction refused).

Ntuli v Donald [2010] EWCA Civ 1276; [2011] 1 WLR 294 – Appeared for Guardian News

and Media (intervener) in appeal in relation to practice concerning privacy injunctions.

Napier v Pressdram Ltd [2009] EWCA Civ 443, [2010] 1 WLR 934 – Appeared for *Private Eye* in resisting application for injunction to prevent publication of information relating to disciplinary proceedings against solicitors.

BKM Limited v BBC [2009] EWHC 3151 (Ch) – Appeared for the BBC, resisting application to restrain broadcast of a documentary including secret filming inside a residential care home.

Harrods Limited v Times Newspapers Limited [2006] EWCA Civ 294 & [2006] EMLR 13 – Scope of disclosure from claimant when bringing claim for breach of confidence.

Campbell v Frisbee [2002] EMLR 31 CA – Contractual obligation in relation to confidential information (repudiation of contract) (for claimant).

Times Newspapers Ltd v MGN Limited [1993] EMLR 443 – Junior Counsel for newspaper resisting application for interim injunction to prevent publication of material from *The Thatcher Diaries*.

Attorney-General v The Observer Ltd [1990] 1 AC 109 – Junior Counsel for *The Observer* in the *Spycatcher* litigation in this jurisdiction (trial and appeals).

Freedom of Information

Since 2014, Heather has been a director of the Campaign for Freedom of Information.

Bryce v Information Commissioner (Information Tribunal EA/2009/0083) (8 June 2010) – Representing applicant for information relating to criminal proceedings (following murder of her daughter).

Data Protection

Barclay & Barclay v Barclay & Others – For defendants (with Jonathan Price). See under Privacy/Confidence above.

Prince Moulay Hicham Ben Abdullah Al Alaoui of Morocco v Elaph Publishing Ltd [2017] EWCA Civ 29; [2017] 4 WLR 28; [2017] EMLR 13 – For defendant (with David Glen)

on appeal: data protection claim added to libel claim.

Price v Can Associates Ltd – For Katie Price (with Aidan Eardley) in claim against her former management company concerning compliance with DPA s7 (settled).

Open justice / reporting restrictions

Newman v Southampton City Council & others – For Respondent, on application by freelance journalist for access to all documents in family proceedings concerning a child: [2020] EWHC 2103 (Fam), [2020] 4 WLR 108.

R (Guardian News & Media) v City of Westminster Magistrates Court [2013] QB 618 CA – Appeared for Article 19 (intervener) in the Court of Appeal case, which established the importance of media access to documents used in open court (in this case, in the context of extradition proceedings).

Re ITN (and others) [2013] EWCA Crim 773; [2014] 1 WLR 199 – Appeared for media appellants, challenging a novel reporting restriction made under section 46 of the Youth Justice and Criminal Evidence Act 1999.

Inner West London Deputy Coroner v Channel 4 Television Limited [2007] EWHC 2513 (QB), [2008] 1 WLR 945 – Appeared for Channel 4 in relation to witness summons, requiring production of documents from the programme “*Diana: the witnesses in the tunnel*” for the Inquest into the deaths of the late Diana, Princess of Wales and Dodi Al Fayed.

R (Hirst) v Secretary of State for the Home Department [2002] 1 WLR 2929 – Challenge to lawfulness of Home Office Policy restricting contact by prisoners with the media.

Re C (A Minor) (Wardship: Medical Treatment) [1990] Fam 39 – Junior Counsel for media in relation to reporting restrictions imposed by Family Division in wardship case.

R v Bow Street Metropolitan Stipendiary Magistrate [1992] 1 WLR 412 – For MGN Limited on appeal on costs, following successful challenge to reporting restriction.

X v Morgan Grampian Limited [1991] 1 AC 1 – For publishing company, resisting application to identify source of confidential information.

Contractual and other claims

Copthall Ltd v Scorched Earth Services Ltd [2017] EWHC 1341 (QB) – For defendant, in claim for alleged deceit and procuring breach of contract (arising out of film-financing arrangements).

Kaplan (and others) v Suber PCS LLP (and others) [2017] EWHC 1165 (Ch) – For number of defendants in claim for alleged deceit (arising out of arrangements for financing the production and distribution of films); resisting attempt to amend to include claim under Financial Services and Markets Act 2000.

Smith v Headline Publishing Limited [2011] EWHC 2106 (Ch) – Represented defendant in claims for breach of publishing contract and other associated claims in tort.

R (BBC) v Broadcasting Complaints Commission [1995] EMLR 241 – Judicial review in relation to complaint to broadcast regulator (standing of complainant).

Human Rights

R (Nicklinson) v Minister of Justice [2014] UKSC 38; [2014] 3 WLR 200 – Appeared for the British Humanist Association (intervener) in the Supreme Court in the related appeals raising important legal issues in relation to assisted dying, including Article 8 of the ECHR.

Axel Springer v Germany (No 2) [2014] ECHR 745 – Represented intervener (Media Legal Defence Initiative) in case involving Article 10 and restrictions on political speech.

Raynor v Richardson [2011] SC (Bda) 39 Civ – Provided ‘amicus brief’ for Media Legal Defence Initiative in case concerning criminal defamation in Bermuda.