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Number of reported defamation cases involving celebrities against newspapers doubles in one year

- ∞ Growing numbers of Hollywood stars choosing to sue in UK courts could be key factor behind jump
- ∞ Ironically, increase may not be sign that newspapers taking more robust stance in defending claims

The number of reported defamation cases involving claims by celebrities against newspapers has more than doubled in the last year, reveal statistics from Sweet & Maxwell's online legal information services.

According to the figures drawn from Sweet & Maxwell's Lawtel & Westlaw UK services, there were 20 celebrity versus newspapers court cases reported in the year to the end of May 2006, compared to just 9 in the previous 12 months.

Westlaw UK & Lawtel have an archive of over 250,000 law reports and transcripts online. In total, there were 74 reported defamation cases between May 2005 and May 2006, against 66 in the same period the year before.

Gideon Benaim, Partner at media law specialists Schillings says that one reason for the dramatic increase could be the growing number of foreign-based celebrities such as Hollywood stars choosing to sue in the English courts in the last couple of years.

He explains: "It is easier for US-based celebrities to sue for defamation in the English courts than in their own country, as our libel laws are much more favourable to claimants. For instance, in the UK you do not have to prove malice, as you do in America. Also, the right to freedom of expression is enshrined in the US constitution under the First Amendment, whereas here the right is more evenly balanced with the individual's right to their reputation. As Hollywood stars see others successfully taking this approach to protect their reputations, more are following suit."

For example, in 2003 when rumours were reported worldwide of an affair between Nicole Kidman and her Cold Mountain co-star Jude Law, Kidman successfully sued the Sun and the Daily Mail in the English courts. American actress Kate Hudson has just won her High Court libel action against the UK Enquirer, the British edition of America's National Enquirer magazine, over a story about her weight.

Gideon Benaim says that, in general, more people are now suing newspapers because newspapers are publishing more details about celebrities' lives and actions than ever before. "There is so much competition among the British press to get a celebrity scoop these days. For the majority of famous people, the old adage that all publicity is good publicity is simply not true: they cannot afford to have their reputations tarnished since it could materially damage their careers and cause problems in their personal lives."

Increase may not be sign that newspapers taking more robust stance in defending celebrity claims

Korieh Duodu, a barrister at David Price Solicitors & Advocates*, says: "It might be tempting to interpret the jump in the number of reported celebrity cases as a sign of newspapers' increasing bravery in defending these kinds of claims in the Courts. However, in fact the reverse is more likely to be true."

He explains: "Since there have been so many cases in which celebrities have successfully sued the press in the recent past, it may well be that newspapers' tactics are now more cautious when a libel case is launched. Instances of newspapers seeking to head off a costly and protracted full court hearing, while limiting the potential damage to their reputation that an adverse judgment might incur, by making an "offer of amends", appear to be on the increase."

Korieh Duodu says that because an offer of amends is not necessarily a finding by the courts that published allegations are false, and since apologies are often not prominently published, claimants often also seek a statement in open court about the case, including details about any apology and compensation - thereby pushing up the number of reported cases.

An offer of amends allows a defendant to apologise and offer compensation without necessarily having to admit full liability. Defendants who have made an early offer of amends can be given discounts of up to 50% on compensation payments by the High Court if the parties cannot agree the level. Legal costs are also likely to be far less than for a fully contested case.

According to the research by Sweet & Maxwell, a Thomson business, (NYSE: TOC; TSX: TOC), 38% of all reported defamation cases (28 out of 74) involved an offer of amends and/or a statement made in open court last year, compared to 21% the year before (14 out of 66).

Korieh Duodu adds that newspapers may be less inclined to fight claims where celebrities are concerned as the Reynolds defence is unlikely to apply. The Reynolds/ "qualified privilege" defence means that the media may not have to prove the truth of the allegation in order to successfully defend a claim, if an allegation is made in the public interest and the journalist or publication has acted responsibly and ethically in relation to publication.

"Cases brought by celebrities, for example involving drink or drug abuse, rarely qualify for public interest protection under Reynolds because the subject matter, whilst of interest to readers, is not a matter of legitimate public concern," says Duodu. "The result is that if there is any concern about being able to prove the truth of the allegations, the newspaper is more likely to settle."

**Korieh Duodu co-authored "Defamation Law, Procedure and Practice" with his colleague David Price, which is published by Sweet & Maxwell. He is also a co-editor of "Clerk & Lindsell on Torts", the definitive work on the law of torts, also published by Sweet & Maxwell. ENDS*

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