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1 2 (2.00 pm) 3 LORD JUSTICE LEVESON: Yes, Mr Jay. MR JAY: Mr Rowland, we're on the issue of impact now and 5 you pick this up at paragraph 22 of your witness 6 statement. 7 A. Yes. 8 Q. In your own words, how would you characterise it? A. Well, it's an intrusion, firstly. They have no right to 10 do that. It's appalling that it should happen. I had 11 a large number of really quite sensitive business 12 contacts that -- where it would be both embarrassing and 13 potentially awful for my business if this information 14 leaked out and it was traced back to me, and I felt that 15 there was also an element that -- I mean, I've never 16 worked for the News of the World, at that time I didn't 17 know any News of the World journalists, but if they 18 wanted to come and ask me something, then why was it 19 that they routinely got someone to hack my phone instead 20 of coming to me and asking? 21 Q. Press regulation. You've obviously thought about this 22 carefully and deeply. You give us the benefit of your 23 views in paragraph 23 in your witness statement and 24 following. You've, I think, heard a lot of the evidence 25 over the last few days. You've been taking a keen Page 1

the sources, you need to make sure that you have proper witness statements when you need it, you need to decide all of the things that Alan Rusbridger was talking about in the sort of lists of things that people do these days. They were making sure I did.

It occurred to me that the mantra that exists at the moment, the orthodoxy that more regulation or tighter regulation of the press will inhibit press freedom because journalists will have a lawyer standing at their elbow at the time, actually is completely wrong. Having a lawyer standing at your elbow improves the quality of what you do because the lawyer is the only person in the office, the defamation lawyer, who acts as a proper quality control mechanism.

Everybody in a newspaper room think they know what a good story is. There's very few regulatory mechanisms there to say, well, is it fair? Is it accurate? And has it been put to the people properly before you run it? And because I went through that mechanism, I look back at them now and I think actually they were very good stories and part of the reason was I had all of this great advice that was being given to me.

So when things did go to some extent wrong and people complained and I was taken to the Press Complaints Commission on three occasions -- I checked Page 3

1 interest in this Inquiry. What are your 2

recommendations, please?

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A. Well, I mean, when I was at the Daily Telegraph, I did a large number of investigative stories in a slightly odd climate, because if you'll recall, the Telegraph at the time was owned by Conrad Black, Lord Black, current 6 address Cell Block H somewhere in Florida. He was forever, if you recall, buying and selling the newspaper or shares in the newspaper. He was either privatising it or floating it and that meant there was a constant regime of due diligence going on and he was frightened that having unresolved defamation actions on the book would damage the potential valuation of the paper.

So there was a lot of moaning at the Telegraph among the journalists that what they saw as innocuous pieces that were routinely being put into other newspapers were being held out of the Telegraph by the in-house defamation lawyers. So it was a quite repressive, they said, regime.

Now I wanted to get more investigative stories in, if I possibly could, so I adopted a different approach, which was to go along to the in-house defamation lawyers and ask one simple question, which is what do I have to do to this story in order for you to be happy to run it? And they said, well, you know, you need to check all of Page 2

with the PCC actually before this Inquiry started, and I was the very first national newspaper journalist to be exonerated in a PCC inquiry. And the reason I was exonerated is because I'd had the stories lawyered backwards, forwards, up and down, and they were as tight as we could possibly make them.

I would argue that is an entirely beneficial process.

I'd also say that I think there's been a disastrous deterioration in the last ten years in a lot of ways because more and more stories are written by freelance journalists and they do not have the same access to the same legal resources.

I'll give you an example. I worked for a long time -- well, quite a long time, when they set up the supplement I was talking about at the Mail on Sunday, so I was a Mail on Sunday freelance journalist, and I was put in the position of running stories where I thought corners were being cut and I didn't have access to proper legal advice before they were run, and there was one particular occasion when -- it was a very high profile -- I won't refer to the actual details of the story, but it was as very high-profile couple who were involved in some rather esoteric house purchases and there was a whistle-blower and I was unsure about the Page 4

1	whistle-blower and I thought we needed to go back and do	1	minutes, Mr Jay.
2	some more checks, but they ran the story anyway. And	2	MR JAY: The next witnesses are Dr And Dr McCann, please.
3	I and Mr Caplan down here, the barrister for the Mail on	3	DR GERALD PATRICK McCANN and DR KATE MARIE McCANN (sworn
4	Sunday, had to actually dig them out of the hole	4	MR JAY: Thank you very much. First of all, I'm going to
5	afterwards, and I would argue that the freelance	5	invite each of you to provide us with your full names,
6	journalists should have been talking to the lawyers	6	please.
7	before it was published, not afterwards.	7	MR McCANN: Gerald Patrick McCann.
8	LORD JUSTICE LEVESON: All right.	8	MRS McCANN: Kate Marie McCann.
9	MR JAY: Thank you very much, Mr Rowland. You've given your	. 9	LORD JUSTICE LEVESON: Before we start, you've probably
10	evidence very clearly, thank you very much. May I just	10	heard me thank others before you for coming along,
11	check, is there anything you would wish to add?	11	voluntarily, to speak of matters which I have no doubt
12	A. Yes, there is one thing.	12	are intensely personal and extremely sensitive, and I am
13	Q. Yes, okay.	13	very, very grateful to you for doing so.
14	A. When you had the seminars, sir, there was talk there	14	In your case, of course, nobody, and in particular
15	about press practices in the 1970s and how they've	15	nobody with children, could fail to appreciate the
16	improved greatly because of the regime that's been put	16	terrible impact of your daughter's abduction on you and
17	into place by the PCC. One of the examples that was	17	your family, so words of sympathy for these appalling
18	given was the theft of photographs, and I think it was	18	circumstances are utterly inadequate, but I am very
19	Mr Dacre, the editor of the Daily Mail, who said that	19	grateful to you for coming.
20	such a practice was outrageous and that it no longer	20	MR JAY: I know each of you would like your counsel to ask
21	took place.	21	a few preliminary questions. Before he does so,
22	Well, I would disagree. I think that there are	22	formally can I invite you to confirm the contents of
23	many, many more photographs that are stolen these days,	23	your respective witness statements. You, Dr Gerald
24	but they're stolen electronically. It's not in my	24	McCann, there's a statement dated 30 October, and
25	evidence or my witness statement, but I had examples of	25	there's a statement of truth at the end of it. Is that
	Page 5		Page 7
1	photographs that have been quite blatantly and	1	correct?
2	shamelessly stolen by national newspapers, not in the	2	MR McCANN: It is.
3	1970s but almost within the last seven months.	3	Q. And then Dr Kate McCann, a far more recent statement
4	The example I'm thinking about, I actually have an	4	referring to your husband's statement and again with
5	audit trail, because I was involved in it, that I've	5	a statement of truth dated 22 November; is that right?
6	pieced together so you can see what was done and when,	6	MRS McCANN: That's right.
7	or rather what wasn't done and when, and they just	7	MR JAY: Just a few questions from Mr Sherborne and then
8	sliced off the watermark on the bottom with the	8	I will proceed.
9	copyright notice of the photographer, and then refused	9	Questions by MR SHERBORNE
10	to pay him. And that, in Mr Dacre's word, is actually	10	MR SHERBORNE: Thank you. As Mr Jay said, I'm going to jus
11	outrageous and it's an abuse that could be stopped by	11	ask you a few preliminary questions.
12	a regime of punitive fines and that, I hope, is	12	Everybody is well aware, particularly following the
13	something that the Inquiry will think about putting into	13	submissions last week, that you've been forced to take
14	place.	14	a number of legal complaints or actions as a result of
15	I can make that photograph available to you, if you	15	some of the coverage that you received following the
16	think it might help, and put it into the record. I'm	16	abduction of your daughter. Not just articles that were
17	prepared to do that.	17	published, but also to stop articles being published,
18	LORD JUSTICE LEVESON: We'll decide whether we should put i		often on weekends, and I know that Mr Jay is going to
19	formally into the material that is read into the record.	19	talk to you about that in due course.
20	Thank you very much indeed.	20	Can I just ask you, though, have you ever had to
21	A. Okay.	21	give evidence before?
22	LORD JUSTICE LEVESON: Thank you.	22	MR McCANN: No.
23	MR JAY: Thank you. I don't think we need a break. Shall	23	Q. So this is the first and, I hope, the last time. Given
24	we move on to the next person?	24	that you've had a lifetime of lawyers, nice ones, of
25	LORD JUSTICE LEVESON: We don't need a break after seven	25	course, can you just explain to the Inquiry why you've
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- 1 agreed to give evidence?
- 2 MR McCANN: I think it's for one simple reason, in that we
- 3 feel that a system has to be put in place to protect
- 4 ordinary people from the damage that the media can cause
- 5 by their activity, which falls well below the standards
- 6 that I would deem acceptable.
- 7 Q. Of course, we all here understand that your overriding
- 8 objective is the continuing search for your daughter.
- 9 We've seen from your statements, or we will see, once
- 10 the statements are publicly made available, that in
- 11 terms of reporting, you've experienced what I might call
- 12 the good, the bad and the particularly ugly side of the
- 13 press. One might ask this: is it helpful to have
- 14 Madeleine permanently in the public eye?
- 15 MR McCANN: I've talked about this on several occasions in
- 16 the past, and I do not feel it's helpful, and
- 17 particularly at the time when there were daily stories
- 18 running throughout 2007 and 2008. It became very
- 19 apparent to us early on there was an incredible amount
- 20 of speculation and misinformation. It led to confusion
- 21 amongst people. All we need to do is periodically
- 22 remind the public who have supported us so much that
- 23 Madeleine is still missing, there's an ongoing search
- 24 and those responsible for taking her are still at large
- 25 and have to be brought to justice.

Page 9

- just outline in very general headline terms what your
- 2 concerns are about the culture, practices and ethics of
- 3 the press.
- 4 MR McCANN: I think there are four main areas I would be
- 5 keen to give evidence on that we have direct experience
- 6 of. One is obviously libel, which has been very well
- 7 publicised, but then also the lasting damage it causes.
- 8 Secondly, the privacy laws and current, I would say,
- 9 gaps in legislation at the minute where companies can
- 10 use photographs, can hound you, without your consent,
- 11 for commercial gain.
- 12 I think there has been contempt demonstrated by the
- 13 media, primarily the press but to some extent
- 14 broadcasters as well, both for the judicial process and
- 15 also at times Madeleine's safety. And the fourth thing,
- 16 which probably is not regulated by law and I hope this
- 17 Inquiry will deal with, is about what are acceptable
- 18 standards and how individual journalists and corporate
- 19 entities, editors and subeditors, are held to account.
- 20 MR SHERBORNE: I'm very grateful. If you wait there, Mr Jay
- 21 has more questions for you.
 - Questions from MR JAY
- 23 MR JAY: Dr McCann, I have an eye on those four themes and
- 24 if you don't mind, I'll come back to them at the end of
- 25 your evidence. Your witness statement is publicly

Page 11

- MRS McCANN: I was just going to say obviously there was a 1
- 2 period when Madeleine was on the front page of a paper
- 3 every day, and I know occasionally people would say to
- 4 me "That has to be a good thing, hasn't it? She's in
- 5 the public eye", and that isn't the case because when
- 6 the story is so negative about her, and we'll come into
- 7 that, obviously then that is not helpful. As Gerry
- 8 said, I think it's a reminder that's important, that's
- 9
- 10 Q. That's Madeleine. What about you both being in the
- public eye? Is that helpful? 11
- 12 MR McCANN: I don't think it is helpful. Obviously we
- 13 realise that as Madeleine's parents, and particularly
- 14 given what's happened to us, that if we are delivering
- 15 the message, then it offers more appeal and is more
- 16 likely to get coverage. And of course we have also
- 17 acknowledged that the media have been very helpful on 18 occasion particularly when we have launched appeals, and
- 19
- huge amounts of information have come into the inquiry
- 20 as a direct result of our appeals, and we'd like to
- 21 thank everyone in the public who have come forward.
- 22 Q. Finally can I ask you this: there are a number of
- 23 specific things you'll be asked about and Mr Jay is
- 24 going to take you through your statement, but it might
- 25 help Lord Justice Leveson and the Inquiry if you could Page 10

- available and I can see it out of the corner of my eye
- 2 on a screen, but if you could have it in front of you in
- 3 print, you tell us in terms of your career you're
- 4 a consultant cardiologist.
 - 5 MR McCANN: That's correct.
 - 6 Q. And in terms of fixing ourselves back into the dates,
- 7 the abduction of your daughter, I think was it 3 May
- 8 2007?
- 9 A. That's correct.
- 10 Q. You tell us in your witness statement that a photograph
- 11 was made immediately available, provided to the
- 12 broadcast media and to the press, and was, as it were,
- 13 displayed everywhere. Is that correct?
- 14 A. There's two elements to that. The first element was
- 15 what we were doing on the night and obviously we had
- 16 digital cameras and we were trying to get photographs
- 17 printed of Madeleine from the holiday.
- 18 Q. Yes.
- 19 A. To give to the police, but secondly, a very good friend
- 20 of ours who we spoke to in the early hours of 4 May took
- 21 upon himself to issue photographs of Madeleine to all
- 22 the major media outlets in the UK.
- 23 Q. Within a very short space of time, the British press and
- 24 perhaps the international press had descended on
- 25 Praia da Luz: is that correct?

- 1 A. It is.
- 2 O. And you had to make a decision as to whether to interact
- 3 with them and, if so, on what basis?
- 4 A. Yes.
- 5 Q. And what decision did you make and why?
- A. The first thing to say is it was incredibly daunting. 6
- 7 We had been away all day. It was also apparent to us
- 8 whilst we were in the police station of Porto Mario(?)
- 9 in the Algarve that there was already extensive
- 10 coverage, particularly on Sky News, which was running in
- 11 the police station, somewhat bizarrely, and when we were
- 12 driving back towards the apartment, it was in the
- 13 evening and we could literally see tens, if not hundreds
- 14 of journalists outside the apartment and satellite vans,
- 15 et cetera, a large number of cameras.

16 There were two things going through my head: what 17 are they going to be saying? And we've seen, I think, 18 over many years our privacy being invaded and what

- 19 stories could be published, but ultimately, possibly
- 20 because we've seen the same thing being done in the UK,
- 21 I thought it was an opportunity to issue an appeal.
- 22 I was given no guidance one way or the other whether to
- 23 do that. I knew there could be a very heavy downside to
- 24 interacting, but I made the decision at the time with
- 25 the information I had that it would probably be in the Page 13
- best interests of the search for our daughter, and 1
- 2 decided to interact.
- 3 Q. Yes. You say in your statement, paragraph 15, that in
- 4 the initial stages, your engagement with the press
- 5 worked well. Are you able to amplify that just a little
- 6 bit for us, please?
- A. I think for those people who can remember, it was a very 7
- 8 unusual scenario, and we got a distinct impression that
- 9 there was a genuine want to help attitude from the
- 10 journalists there, and I think also many of the
- 11 executives who perhaps saw what had happened to us and
- 12 there was a huge amount of empathy. So I really did
- 13 feel early on there was a desire to help.
- 14 Q. As you explain, the position changed, but the segue
- 15 perhaps into that change is some evidence you give in
- 16 relation to the Portuguese criminal system. Now each
- 17 culture, each nation has a slightly different criminal
- 18 system, and obviously there can be no criticism about
- 19 that, but what you say in Portugal is that there is no
- 20 permitted interaction between the law enforcement
- 21 agencies and the press; is that correct?
- 22 A. That's correct.
- 23 Q. Do you have a view as to the possible drawbacks of that,
- 24 without necessarily being critical, but it's pretty
- 25 obvious it gives rise to the possibility of leaks,

Page 14

- doesn't it? 1
- 2 A. Sure. I think the system is open to abuse is the first
- 3 thing, and clearly there was a ferocious appetite and
- 4 perhaps in the United Kingdom with the SIO and the press
- 5 office for the constabulary leading the investigation
- 6 would have had a very clear agenda on how to work with
- 7 the media, what information could be disclosed, what
- 8 might be helpful, and steering journalists away from
- 9 certain areas.

10 Obviously there was none of that happening, and

- 11 there was tremendous pressure on the Portuguese
- 12 authorities to interact with the media, and some of you
- 13 may remember the very first time that happened, the
- 14 spokesperson gave a short statement that didn't really
- 15 say anything, was asked a number of questions and
- 16 followed every single one of them with, "I can't give
- 17 you any details because of judicial secrecy".
- 18 Q. Yes.
- 19 A. So there was a huge appetite, and we quickly realised
- 20 that there was a tremendous amount of speculation in the
- 21 coverage both in the newspapers and also you had 24-hour
- 22 news channels there constantly, and we found that to be
- 23 unhelpful.
- 24 Q. In terms of the conduit type of information, is this
- 25 correct, that whatever the strict legal position in

Page 15

- 1 Portugal, information was being leaked by the Portuguese
- 2 police to the Portuguese press, that's stage one, and
- 3 having been leaked to the Portuguese press, the British
- 4 press then picked up on that self-same information,
- 5 that's stage two? Is that an accurate description?
- 6 A. I cannot tell you for certain that it was the Portuguese
- 7 police who were leaking information, but for anyone who
- 8 followed the headlines in July, August and September
- 9 2007, I think it would be a perfectly reasonable
- 10 assumption to make that elements of the inquiry were
- 11 speaking to the Portuguese police -- sorry, Portuguese
- 12 press. I do not know whether they were speaking
- 13 directly to the British media, but what we clearly saw
- 14 were snippets of information which as far as I was
- 15 concerned the British media could not tell whether it
- 16 was true or not, which was then reported, often
- 17 exaggerated and blown up into many tens, in fact
- 18 hundreds of front page headlines.
- 19 Q. The British press did not have the means of verifying
- 20 the information, but your complaint is that the
- 21 information was distorted and magnified; do I have it 22 right?
- 23 A. I think I'm complaining on all of the grounds, that they
- didn't know the source, didn't know whether it was 25 accurate, it was exaggerated and often downright

Page 16

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- 1 untruthful and often I believe, on occasions, made up.
- 2 Q. We're going to cover the detail of that in a moment,
- 3 Dr McCann. Throughout the summer of 2007, the interest 3
- 4 of the British press was retained in the story, wasn't
- 5 it? They were constantly there in Praia da Luz; is that
- 6 right?
- 7 A. Yes. It did surprise us. Obviously after the initial
- 8 period, and I can understand that what we ended up doing
- 9 by having an international campaign was unprecedented,
- but we did send a very clear signal, as the attention
- focused more and more on Kate and myself, that the focus 11
- should be on Madeleine and we fully expected, around
- mid-June, for the British media to leave. We decided we
- had to stay in Portugal to be close to Madeleine, to be
- close to the investigation, and certainly didn't feel
- capable of leaving at that point, so it did surprise us
- that there was so much ongoing interest when there
- really wasn't very much happening.
- 19 Q. In terms of the advice you were getting or not getting,
- 20 I'm going to put to one side the issue of the PCC into
- a later sequence in your evidence, but you tell us in
- your witness statement that there were two resources
- 23 available to you. Paragraph 21, first of all, someone
- from Bell Pottinger who gave you assistance. Tell us
- 25 a little bit about that please and the value that person Page 17
- 1 was able to provide to you.
- 2 A. Yes, so Alex Woolfall who works for Bell Pottinger was
- 3 brought out really to deal with the media crisis
- 4 management specialist on behalf of Mark Warner, and at
- 5 that point he was leading the engagement with the media
- 6 who were present in Praia da Luz, and he was very
- 7 helpful. He just gave us some simple tips, which we've
- 8 tried to stick to, and that was: if you interact, what's
- 9 your objective, should be the question you ask yourself.
- And how is it going to help? And obviously our
- objective is to find Madeleine, and that's something
 - that we have tried to apply when we interact with the
- 13 media. Today is one of the exceptions, where it's not
- the primary purpose of our engagement.
- 15 Q. Thank you. And you also mentioned someone called
- 16 Clarence Mitchell, who was seconded to the FCO as part
- of the media liaison in Praia da Luz.?
- 18 A. Yes.

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- 19 Q. And you fairly say that person's help was invaluable.
- 20 Is there anything you would wish to add in relation to
- 21 the assistance that person gave you?
- 22 A. I think at times we've been criticised for having
- somebody to deal with the media, but the volume of
- 24 requests was incredible, both nationally and
- 25 internationally, and it was almost -- well, I don't know Page 18

- how Clarence managed it in May and early June 2007, but
- 2 it was a full-time job just dealing with those requests
 - and it's been very important. As I said, we had no
- 4 prior media experience, but in terms of just shielding
- 5 us from the inquiries which were constant.
- 6 MRS McCANN: Gave us a little bit of protection, really.
- 7 MR McCANN: And obviously we were working very hard behind
- 8 the scenes, and let us spend some time with our family,
- 9 as well
- 10 Q. In paragraph 24 of your statement, Dr McCann, you deal
- with the suggestion, well, here you are dealing with the
- press and then in parentheses, on your own terms, that
- piess and then in parentheses, on your own terms, that
- 13 almost allows the press open season to deal with you on
- 14 their terms. Maybe I'm slightly over-exaggerating the
- point, but in your own words, please, what is your view
- 16 about that suggestion?
- 17 A. Well, it has been argued on many occasions that by
- 18 engaging then it was more or less open season, and
- 19 I think it's crass and insensitive to suggest that by
- engaging with a view to trying to find your daughter,
- 21 that the press can write whatever they want about you
- 22 without punishment.
- 23 Q. The next section of your statement deals with accuracy
- of reporting and you point out that after a period of
- 25 time, there was little new news to report.
 - Page 19
- 1 A. Yes.
- 2 Q. It may be at that point that the agenda started to morph
- and in paragraph 27 you state "clearly it didn't take
- 4 long before innuendo started to creep in". Are you able
- 5 to elaborate on that, if you were to wish to?
- A. Yeah, I mean I think there were two elements. The
- 7 reporting quickly became highly speculative, and often
- 8 stories -- for example, there must have been "McCann
- 9 fury" on the front page of many newspapers over that
- summer that would quote an unnamed source or friends,
- and unless our phones were hacked, which I don't think
- they were, then these were made up because they were
- simply not true.
- 14 So there was clearly pressure to produce a story.
- 15 The reporters who were based in Praia da Luz, first
- thing they did each day was get the Portuguese press,
- get it translated, and decide what they were going to
- write about, and I don't think any of it was helpful.
- 19 Q. The date you give for the shift of the emphasis of the
- 20 media reporting is about June 2007, is it, but then you
- 21 feel the mood may have been moving or turning a bit in
- the British press? Or perhaps a bit later than that?
- A. Yeah, I mean obviously I think we've realised that if you're in the spotlight for anything, then not
- everything that's going to be written about you is Page 20

5 (Pages 17 to 20)

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- 1 either going to be sympathetic or supportive, so we 2 quickly saw that what we thought may be a good thing to 3 do would be criticised. Whether it would be our 4 decision to go to Rome or not was criticised in certain 5 quarters. Even at the time for us it was very important 6 to us. So there was that element, and then there were 7 more sinister elements were starting to creep into the 8 reporting.
 - Firstly, the first really bad thing was an article that was written in a Portuguese paper which was entitled, "Pact of silence", and it was starting to refer that there was some sort of sinister agreement between us and our friends to cover up what had happened, and I thought that was rather ludicrous, considering that we were all acting under judicial secrecy and couldn't speak about the details of the event. But that -- it was probably towards the end of June 2007, and slowly deteriorated through July, culminating in September 2007.
- 20 Q. The real spate of offensive and objectionable material, 21 if I can be forgiven for using those epithets, starts in 22 September 2007 and runs on to January 2008, and we'll be 22 23
- 24 In paragraph 32, you make the general point that UK 25 press articles were often based on bits and pieces

looking at those in a moment.

1 picked up from Portuguese articles, transmuted from

Page 21

- 2 supposition into fact; is that right? 3 A. Yeah, absolutely. And I think one of the articles that
- 4 springs to mind actually was a piece in a Portuguese
- 5 newspaper where somebody was talking to the prosecutor
- 6 and was asking what he thought had happened and there
- 7 was a quote saying he didn't know whether Madeleine was
- 8 alive or dead, and I think the following line was
- 9 "probably dead", and that translated into the front page
- 10 of the Daily Mirror with a photograph of Madeleine with
- 11 a headline, "She's dead", which we saw at 11 o'clock at
- 12 night, we were trying to go to bed. Obviously that was
- 13 one of the most distressing headlines, it was presented
- 14 as if it's factual, and it was just taken from that
- 15 supposition, I don't know, probability. It's
- 16 incredible.

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- 17 Q. One key event in this narrative is you becoming, if
- 18 I pronounce it right, arguido, under Portuguese law,
- 19 which occurred on 7 September 2007, and this is
- 20 paragraph 34 of your witness statement. To be clear
- 21 about it, and you'll correct me if I'm wrong because you
- 22 know more about this than me, arguido does not mean
- 23 "suspect", it means "person of interest"; is that
- 24 correct?
- 25 A. That's what we were advised was the closest correlation Page 22

- or translation within UK law at the time, and I think it
- 2 is probably important to emphasise that as a witness in
 - Portugal at that time you were not entitled to any legal
- 4 representation. So if the police wanted to ask any
- 5 question, which your answer may give incriminating
- 6 evidence, then they must declare you arguido, then you
- 7 were entitled to have a lawyer there. And in many ways
- 8 you could argue that all parents of a missing child,
- 9 certainly those who would have been the last to see
- 10 them, could have to answer questions like that. So
- 11 being labelled arguido was not necessarily such a bad
- 12
- 13 However, I will acknowledge that there were leaks by 14 elements of the investigation team which clearly were
- 15 trying to portray that there was strong evidence that
- 16 Madeleine was dead and that we were involved.
- Q. Maybe there are two points here. The first point is the 17
- 18 obvious one that needs to be stated. There isn't an
- 19 equivalent concept of arguido in English law?
 - A. No. And I think the aspect on that is we've never been
- 21 arrested, we've never been charged with anything. We've
- never stood trial.
- 23 Q. Do you happen to know whether under Portuguese law they
- 24 have a category of suspect?
- 25 A. I think it is loosely used, but you could have multiple Page 23
 - arguidos within any investigation, and at that time, the
- 2 title "arguido" stayed with those involved until the
- 3 file was closed.

1

- 4 Q. Do you think, rightly or wrongly, the British press
- 5 somehow interpreted "arguido" as equivalent to
- 6 "suspect", which carried with it, therefore, its own
- 7 connotations?
- 8 A. Yes. I mean clearly the word was used that way almost 9
 - exclusively.
- 10 Q. At this point we are in the late summer, obviously, or
- 11 early autumn of 2007. If I can move you forward to
- 12 paragraph 39 of your statement. You're making the point
- 13 that the story in terms of objective fact is beginning
- 14
- to run dry and reporters now are thrashing around for
- 15 something new.
- 16 A. I think it's probably worth just clarifying that within
- 17 ten days of being made arguidos, the prosecutor made an
- 18 announcement that all lines of inquiry, including the
- 19 abduction of Madeleine, were open and no charges were
- 20 being brought at that time, but that didn't stop the
- 21 continued reporting of inaccurate, untruthful and
- 22 incredibly damaging reports.
- 23 Q. From the perspective of the newspaper and the sort of
- 24 economic calculation they may wish to conduct -- you
- 25 deal with this in paragraph 39 -- but you have evidence Page 24

6 (Pages 21 to 24)

3

14

20

- 1 that this story was, at least in the opinion of those
- 2 running one of the newspapers, boosting their
- 3 circulation figures. Is that right?
- 4 A. I think that's clear, and Peter Ellis testified that to
- 5 the Parliamentary Select Committee.
- Q. The specific tone of the articles changes in September 6
- 7 2007. We're going to look at that particularly in
- 8 a moment. In paragraph 40, however, you refer to one
- 9 piece in the Evening Standard, which is I think the very
- 10 day you were declared arguidos, 7 September 2007:
- 11 "Police believe mother killed Maddie."
- 12 A. Mm.
- Q. Was that the first time that point was made so baldly 13
- 14 and so falsely?
- 15 A. There's been so many headlines of similar gravity that
- 16 I can't tell you honestly whether that was the first
- 17
- MRS McCANN: I think that may have been the first time it 18 18
- 19 was in a headline. In August 2007, we were told by
- 20 a BBC journalist, in fact he stopped us and said, "Have
- 21 you seen what's getting reported? They're saying
- 22 there's blood in the apartment, they're saying that you
- 23 were involved. Madeleine's been killed and you were
- 24 involved." So actually it was stirring up in August
- 25 2007, but I think the headlines like that became very Page 25

- was one of the most terrifying experiences, I think,
- 2 anyone could have, where cars were coming across,
 - cutting in front, cameras, people hanging out of
- 4 windows, motorbike riders. It was just dangerous,
- 5 frankly dangerous.
- 6 When we got back to our home in Rothley, again there
- 7 were tens of journalists -- we live in a cul de sac, at
- 8 the end of it -- camped outside our house, cameras,
- 9 helicopter crews following us. We were hemmed in the
- 10 house for a couple of days before the police moved them
- 11 to the end of our drive.
- 12 Q. Then you tell us that photographers were still banging
- 13 on car windows, even with one or more children in the
 - car; is that right?
- 15 MRS McCANN: And they stayed there until December 2007.
- 16 That was only after we had help to get them removed, but
- 17 they were there every day, and they'd wait for Gerry to
- go and they knew I'd have to come out of the house at
- 19 some point with the children. It would be the same
 - photograph every day, we'd be in the car, myself and two
- 21 children, the photographers would either spring out from
- 22 behind a hedge to get a startled look that they could
- 23 attach "fragile", "furious", whatever they wanted to put
- 24 with the headline, but there were several occasions
- 25 where they would bang on the windows, sometimes with the Page 27
- 1 prominent once we were made arguidos.
- 2 Q. Then you refer to two articles in the Daily Mail which,
- 3 unless I've missed something, we don't have available
- 4 today, but the first one published in September 2007 you
- 5 summarise in paragraph 41, the subheading:
 - "I pray the Portuguese police are careering down the wrong track, but from the start a terrible nagging doubt
- 8 has refused to leave me."
- 9 That, for what it's worth, was corrected by another
- 10 piece as late as 4 May 2009, which you deal with in 11 paragraph 43; is that correct?
- 12 MR McCANN: It is. I should probably clarify that
- 13 paragraph 41 refers to Kate rather than myself, but yes,
- 14 that's correct.

6

7

- Q. In paragraph 46, you deal with a theme which you're not 15
- 16 the first to address, namely presence of photographers.
- 17 We know, of course, that you came home at a certain
- 18 point, I can't remember precisely when it was, but once 19
- you're home, you then have photographers outside your
- 20 home. Can you just tell us a little bit about that, and
- 21 in particular the impact that had on you?
- 22 A. I think the first thing probably to say is it started
- 23 when we said we were leaving Portugal, which we'd
- 24 already told the police we were going to leave before we
- 25 were declared arguidos, and the journey to the airport Page 26

- camera lenses, and Amelie said to me several times. 1
- 2 "Mummy, I'm scared."
- 3 MR McCANN: I'd like to point out the twins at that time
- 4 were still only two and a half years old. Very
- 5 frightened.
- 6 Q. You deal with two further matters, perhaps less serious
- than this, because what you've told us of course is 7
- 8 a plain breach of the code, that we may come to in due

9

15

- 10 There was a photograph of you, Dr Gerald McCann, on
- 11 the golf course, which obviously is a private place, and
- 12 then the distortion of photographs of you, Dr Kate
- 13 McCann, to present, no doubt, a certain image. Often
- 14 coupled with the adjectives "frail" or "fragile", which
 - you've told us about.
- 16 In terms of the effect on you, you described it, and
- 17 of course it will be obvious to us, but looking more
- 18 broadly, the effect on the continuing investigation,
- 19 which after all is your primary focus then, as it is 20 now, are you able to quantify that for us and describe
- 21
- 22 A. Well, I think from -- reputational aspects aside, the
- 23 distress that was caused to us was the clear message
- 24 that was going out nationally throughout Europe and
- 25 internationally was that there was very strong evidence Page 28

7 (Pages 25 to 28)

1 that our daughter was dead and that we were somehow 1 In fact, I think Kingsley Napley then pressurised 2 2 implicated in her disappearance, and we knew that if Leicestershire police to write to the broadcasters and 3 3 people believed that, then there couldn't be editors, and there's a letter from Matt Baggott, who was 4 a meaningful search, and it was incredible. And any 4 Chief Constable at that time, urging restraint and 5 aspects of campaigning for a search with what happened 5 saying there was very inaccurate reporting. 6 to us and how it was portrayed in the media meant we 6 We organised another round of meetings with Angus 7 7 were completely hamstrung in our ability to counter and Clarence, who then came back to work for us later on 8 anything. 8 in September 2007, and that was followed up with another 9 MRS McCANN: These were desperate times. You know, we were 9 letter from the Chief Constable, I think on 17 October, 10 10 having to try and find our daughter ourselves. We if my memory --11 needed all the help we could get, and we were faced 11 LORD JUSTICE LEVESON: 8 October. 12 with -- I know we'll come on to headlines, but "Corpse 12 A. Thank you. Failed. 13 in the car"; I don't know how many times I read "Body 13 MR JAY: 17 September, 8 October. 14 fluids in the car". And it gets repeated that often, it 14 A. And obviously these things were done because the 15 becomes fact. There were no body fluids. We 15 coverage was continuing such a bad way. 16 desperately wanted to shout out "It's not true, it's not 16 Q. You identify the worst offenders, and we'll be looking 17 true", but when it's your voice against the powerful 17 at this quite carefully in a moment, amongst the 18 media, it just doesn't have a weight. We were 18 Express Group newspapers, which included the Daily Star 19 desperately shouting out internally "Please stop, what 19 and the Daily Express, the Sunday Express and the 20 are you doing? We're trying to find our daughter and 20 Sunday Star? 21 you're stopping our chances of finding her". 21 A. Yes. 22 MR McCANN: The point being, which I alluded to earlier, is 22 Q. Did there come a point when warnings were given by your 23 that we were told in no uncertain terms that if we 23 lawyers in the context of possible claims in defamation, 24 24 disclosed anything publicly which we knew to be in the by which I mean libel? 25 A. Yes. Kingsley Napley had written to the Express Group judicial file, ie the results which had been shown to 25 Page 29 Page 31 twice, explicitly, telling them that they were on 1 us, which we knew were not what was being reported about 1 2 2 notice, that we felt that the content of the articles DNA, then we were threatened with a two-year 3 imprisonment for breaking judicial secrecy, so we were 3 was libellous, and we reserved the right to take action. 4 being tried by the media and unable to defend ourselves 4 Then I think what you see in paragraph 66 is 5 5 a series of articles produced in January 2008 over adequately. 6 6 Q. You tell us in your statement a series of steps which a very short period of time, rehashing largely, but with 7 7 other things come on, and I think it's important to were taken to try and abate this flood. Can I try and 8 summarise it in this way? First of all, a meeting is 8 emphasise we had met with Adam Tudor from Carter Ruck, 9 9 organised with the editors of the major UK tabloid who is as you know a libel specialist, and we had talked 10 10 newspapers. That's in September 2007, when a clear about legal action, which for us was always a last resort. We felt we had a more important battle to 11 message was put out to them, and you tell us that had a 11 12 transient effect. It's paragraph 53 of your witness 12 fight, which was finding our daughter, but we felt that 13 statement. 13 it was our only course of action open to us at that 14 A. Sure. I think there's two elements. Within the first 14 point that would stop it. 15 week of being back, we had appointed solicitors, 15 MRS McCANN: And I think it's important to emphasise, again 16 Kingsley Napley, and Angus McBride, who is one of the 16 some of the headlines that we faced. They were 17 17 solicitors who represented us at that time, he thought incessant. And they're not just slight inaccuracies. 18 it was very important that he would -- we should try and 18 I mean, "It was her blood in parents' hire car". 19 19 modify the content of the press articles, and he went Totally untrue. 20 with Justine McGuinness, who was campaign manager at 20 Q. Let's look at some of these articles, please. What I'm 21 that point, and met with all the editors from the major 21 going to do is invite your attention first of all to 22 newspapers and emphasised to them that it was his strong 22 GM2, which is a schedule you have prepared, with 23 belief that there was no evidence to support what they 23 directly underneath it articles in the Daily Express, 24 were reporting. But it seemed to have very little 24 specifically. These run from 27 September 2007 to 25 25 effect. 22 January 2008. The ones you have specifically Page 30 Page 32

1 identified in paragraph 66 of your witness statement we 1 you have a lot to say about it, but in a nutshell --2 can look at, but first of all, we can get the flavour of A. The first thing to say is it's simply untrue. 3 some of the headlines. 3 Madeleine's DNA was not uncovered from the hire car, that's the first thing. 4 9 October 2007: "DNA puts parents in frame. 4 5 British experts insist their tests are valid". 5 Q. Yes. 6 17 October 2007: "Parents' hire car hid a corpse. A. The inference from this is, and I think the public who 6 7 7 It was under carpet in boot, say police". think that DNA is a very strong evidence in cases would 8 Then "Priest: I was deceived". 8 take this to mean, absolutely, that Madeleine was in the 9 9 hire car that we hired more than three weeks after she I haven't counted them up, but there are probably 10 10 disappeared. It's incredible. about 25 similar pieces running over a three or 11 11 LORD JUSTICE LEVESON: Interestingly enough, what they're four-month period. 12 Let's just look at some of them, if you don't mind. 12 doing is reporting a newspaper as saying that, so that's 13 MR McCANN: Sure. 13 how it comes out. A Portuguese newspaper. 14 Q. We're in GM2, and the first of them --14 A. Well, often you'll find that there would be something LORD JUSTICE LEVESON: We're not intending to put these or 15 15 down in the article. They weren't published in the 16 the website, are we, Mr Jay? 16 prominence that they were in these papers. And no way 17 17 MR JAY: Well, if there's a problem, we won't. I didn't of checking the source, which is a recurring theme. 18 understand there to be, but at the moment these are not 18 These are all sources, unnamed sources in the original 19 19 on any website, no. 20 LORD JUSTICE LEVESON: No. I just don't particularly want 20 MR JAY: If we move, please, to page 15, the headline reads: 21 21 "Madeleine: McCanns are main suspects, say police." to give greater prominence or currency to articles that 22 have caused enough distress in their time. 22 Was that correct? 23 MR JAY: Yes. 23 A. Well, the police weren't speaking to the media under 24 LORD JUSTICE LEVESON: By all means refer to them and that 24 judicial law, and we haven't had any of the police 25 can be part of the evidence, but it seems to me that's 25 identified who have given these statements. I would Page 33 Page 35 1 sufficient. 1 like to know who they are. Perhaps they could face 2 2 Are you content with that approach? contempt of court proceedings. 3 3 Q. Okay. Page 17, this is another headline you refer to in A. Obviously the articles themselves have been pulled, but 4 they are -- their contents have been widely disseminated 4 paragraph 66: 5 through many blogs, as you're probably well aware, but 5 "Priest 'bans' Madeleine. He takes down posters as 6 we have no issue with discussing the content. 6 Praia da Luz" and then I think this should be open 7 7 inverted commas "wipes her from its memory." MR JAY: Yes. I think the best thing to do, unless someone 8 says I should adopt a different course, is I'm not going 8 What's the innuendo there? It's pretty obvious. 9 9 to ask for the articles to be put on the screen, but I'm A. It is, and I think the key thing here is obviously that 10 10 just going to refer to the articles and we can bring out the Church community in Praia da Luz were incredibly 11 maybe one or two points. If at any point you tell me 11 supportive to Kate and I spiritually. 12 no, you don't want me to proceed down a particular 12 MRS McCANN: And still are. 13 road --13 MR McCANN: And at that point they continued to hold 14 A. Sure. 14 a weekly vigil for Madeleine, so obviously saying that Q. -- of course I won't. So I'll do this as quickly and as 15 the town and the Portuguese locals had turned their back 15 16 on us was a clear innuendo from this article, which 16 lightly as I can, Dr McCann, just to give the flavour. 17 17 If you look, please, at the internal numbering, it's again was not true. 18 page 10 of GM2. 18 Q. In GM3, if we can quickly navigate our way through that, 19 A. Yes. 19 this is another schedule of articles; this time, 20 20 however, we're looking at the Daily Star and the Q. There's an article: 21 "It was her blood in parents' hire car, new DNA 21 Daily Star Sunday. There's a similar number of 22 22 tests report". articles, really. No, it's more. Maybe about 50 of 23 The overall flavour or thrust of this article was 23 them. What is similar is the broad dates, from 24 that there was DNA evidence which linked your daughter 24 27 September 2007 to 22 January 2008. 25 with a hire car. What do you say about that? I'm sure 25 Two of the articles you specifically referred to in Page 34 Page 36

1 your evidence, we can just quickly alight on them. Look 1 Express by now had taken expert advice and they now 2 2 at page 117, please, Dr McCann. An article in the indicated that their articles were defamatory; is that 3 Daily Star on 26 November 2007: 3 right? 4 "Maddie 'sold' by hard-up McCanns." 4 A. Yes. 5 This is the article you do refer to, the selling 5 Q. Could you give us a sense of the timescale here? The into white slavery allegation. Probably you don't want 6 first offer from the Express was 7 February, this was 6 7 7 to dignify that with a comment? the Hello magazine offer, but when did the admission of 8 A. That's nothing short of disgusting. 8 wrongdoing, as it were, come in? 9 MRS McCANN: I think this same journalist, if memory serves 9 A. It did drag out a bit. I can't give you the exact 10 right, also said we stored her body in a freezer. 10 dates. I do have it on file. But there was an 11 11 I mean, we just ... acknowledgment that they might be prepared to make an 12 Q. The final one, I've read all of these, Dr McCann, last 12 apology and also consider damages. We wanted to make 13 night. We could look at all of them. These are 13 sure that those damages reflected the seriousness of 14 representative. 14 what they had published and it was -- to be honest, the 15 LORD JUSTICE LEVESON: Just to make the comment, there's 15 damages for us were a secondary consideration. It was 16 absolutely no source for that assertion in that article. 16 more about getting a front page apology to send a clear 17 MR McCANN: No. 17 message that we wouldn't tolerate these ongoing 18 MR JAY: There's a generic reference to a bombshell new 18 allegations in other newspapers either. police theory, but completely non-attributed. 19 19 Q. The statement in open court was read out on 19 March 20 LORD JUSTICE LEVESON: Yes. Sorry. 20 2008. 21 MR JAY: Probably entirely made up. 21 A. Mm. 22 Page 132. In capitals: 22 Q. £550,000 was paid to Madeleine's Fund, and there was 23 "She did die in hol [short for holiday probably] 23 also an apology on the front page, is this right, both 24 24 flat; blood traces [in capitals] are Maddie's, car of the Express and of the Star? Or is it just the 25 fluids [again in capitals] are from corpse" and then 25 Express? Page 37 Page 39 A. No. both. 1 "-- cops: body had been moved." 2 LORD JUSTICE LEVESON: Express Newspapers, and given that And then there's a reference to a possible grilling 3 3 by the British police, they have sensational new we've gone into it, it's probably sensible just to read 4 evidence. Are you going to dignify this with a comment 4 5 5 or not? "In addition to the allegations referred to above, 6 the Daily Star published further articles under the 6 A. I mean, you can, I hope, understand why we felt we had to take proceedings from the severity and consistency of 7 7 headlines which sought to allege that Mr and Mrs McCann 8 the allegations being made. 8 had sold their daughter in order to ease their financial 9 9 burdens. A further article alleged that Mr and Q. Can we deal now with the proceedings? If you want me to 10 10 Mrs McCann were involved in swinging or wife swapping. go further through the schedule, through the articles, 11 As the defendant now acknowledges, all of these 11 please let me know. I detect you probably don't. We 12 have enough of a flavour; is that right, Dr McCann? 12 allegations were and remain entirely untrue. In 13 13 particular, there is no evidence whatsoever to suggest A. Mm. 14 14 Q. But what happened next, your solicitors have become that Mr and Mrs McCann were responsible for the death of 15 involved, letters before action had been sent. To pick 15 their daughter, they were involved in any sort of 16 up the story at paragraph 68, you say that on 7 February 16 cover-up and there was no basis for Express Newspapers 17 17 to allege otherwise. your solicitors were contacted by the Express, and they 18 proposed some sort of deal with you. Can you tell us 18 "Equally, the allegations that Mr and Mrs McCann may 19 19 have sold Madeleine or were involved in swinging or wife about their proposal? 20 A. It was pretty much said because we were arguidos, they 20 swapping were entirely baseless. Naturally the repeated 21 publication of these utterly false and defamatory 21 couldn't agree to our complaint, but they did suggest 22 22 that we did an interview with OK magazine, which we allegations have caused untold distress to Mr and 23 23 found rather breath-taking. Mrs McCann. Indeed, it is difficult to conceive of 24 Q. Right. It goes without saying that that offer was not 24 a more serious allegation." 25 25 accepted and matters proceeded. Paragraph 69, the That just provides some context.

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- 1 A. Thank you.
- 2 MR JAY: What may be worthy of consideration though is the
- 3 possible rapidity of change of stance. On the one hand,
- 4 they were maintaining their articles, they get leading
- 5 counsel's advice, then all of a sudden they say it's all
- 6 entirely wrong and maybe it's worth a consideration how
- 7 and why that volte face occurs.
- 8 LORD JUSTICE LEVESON: Could you tell me this. They
- 9 presumably published something as well. Where was it
- 10 published?
- 11 A. The apologies?
- 12 LORD JUSTICE LEVESON: Yes.
- 13 A. They were on the front page. We insisted. And we would 13
- have gone to court to get that.
- 15 LORD JUSTICE LEVESON: Do we have that?
- 16 MR JAY: I don't think we have the text of the apologies on
- the front page, do we?
- 18 A. Not the full apology.
- 19 LORD JUSTICE LEVESON: All right.
- 20 MR JAY: We can look at those, if necessary.
- You deal with the issue of exemplary damages,
- punitive damages in paragraph 71.
- 23 A. Yes.
- 24 Q. But you decided in the end not to pursue those; is that
- 25 correct?

Page 41

- 1 A. It is. We were told that we had, after taking counsel's
- advice, that we would be very likely to be successful in
- 3 such a claim, and my understanding of that was that
- 4 there would be a very strong argument that Express Group
- 5 Newspapers knew that the allegations, or many of them,
- 6 were unfounded or certainly couldn't prove any of them,
- 7 and despite the steps we had taken from September 2007
- 8 through to issuing proceedings made it very clear there
- 9 was no evidence to back it up, that we could only assume
- they were acting for profit.
- 11 Q. After these matters -- we're now in March of 2008 -- the
- answer to the question may be fairly obvious, but were
- there any further objectionable articles in the British
- 14 press?
- 15 A. There was certainly a dramatic sea change within Express
- 16 Group Newspapers and I think largely the coverage has
- been much more responsible and balanced. It doesn't
- mean that there hasn't been articles published which are
- 19 untruthful. They may not be libellous or defamatory,
- some of them, and we've had to have certain articles
- 21 pulled, but there was a clear change. With hindsight,
- I wish we'd taken action earlier.
- 23 Q. In paragraph 76, you deal with related litigation
- 24 involving your friends, I believe, who were with you on
- 25 holiday. Can I take this point quite shortly, that they

Page 42

- 1 too recovered damages?
- 2 A. Yes.
- 3 O. I think in total the amount was £375,000.
- 4 A. That's correct.
- 5 Q. But so it's clear, I've been asked to draw this from
 - you, that the defendant to the proceedings brought by
- 7 your friends was again Express Newspapers?
- 8 A. That's correcting.
- 9 Q. Or their publishers. The Sun reported it, although the
- 10 Sun themselves, to be absolutely clear, were not the
- defendants, they hadn't defamed you. They reported
- those settlements, I'm told, at page 25, and there were
- similar reports in the Daily Mirror. But so there's no
- doubt about it, the Sun and the Daily Mirror are not the
- defamers. They are reporting what's happened in
- relation to proceedings brought by other organs of the
- 17 press.

20

- Paragraph 78 to 80, Associated Newspapers, please.
- 19 You made a further libel complaint in July of 2008 in
 - relation to coverage in the Daily Mail and the Evening
- 21 Standard. Can we be clear which articles these relate
- 22 to, since you don't specify it in paragraph 79? Do
- 23 I have this right? Are you referring back to the
- 24 article at paragraph 40 of your witness statement,
- 25 Dr McCann?

Page 43

- 1 A. There had been a large number of articles, similar tone
- 2 to the ones that we had complained of previously, so it
- 3 was more again about DNA, blood, suspects, Madeleine
- 4 being killed, et cetera, rather than anything else.
- 5 Paragraph 40 --
- 6 Q. You identify one article in the Evening Standard
- 7 published on 7 September 2007.
- 8 A. Sure. There were many similar articles like that,
- 9 particularly in the Evening Standard at that time.
- 10 MRS McCANN: The corpse in the car was the Evening Standard11 I think.
- 12 Q. In a nutshell, what was the outcome of these libel
- 13 proceedings?
- 14 MR McCANN: We did settle. They paid damages and there was
- an apology published in the Evening Standard. The
- 16 Daily Mail did not publish an apology.
- 17 Q. One point you make, these libel proceedings were brought
- with the benefit of conditional fee agreements; is that
- 19 correct?
- 20 A. Yes. I think it's very important, given the scale of
- 21 the task that faced us, and we were given -- we made our
- 22 decisions after being fully informed of the pathway, and
- 23 I think that's very important. It was a last resort.
- And at the time, given our circumstances, I do not
- 25 believe we would have had the resource to go down that

1	path if it wasn't for a CFA being in place.	1	arguidos at the time, a new call number for people to
2	LORD JUSTICE LEVESON: This is going to be your choice. It	2	come forward so we could continue the search for our
3	won't happen to anybody else, but it will be your	3	daughter, and we were interacting with the media to get
4	choice. If you'd like a break for five minutes, we'll	4	that message out.
5	have it. If you prefer to carry on, we'll carry on.	5	He basically beat us into submission, verbally, and
6	A. I'm happy to carry on.	6	we agreed to do an interview the day after.
7	LORD JUSTICE LEVESON: Right. I ought to say, I've	7	MRS McCANN: Can I just emphasise, this is at an extremely
8	confirmed it with the shorthand writer.	8	stressful time. It was the run-up to one year of not
9	MR JAY: There's a fair bit more, I don't want to rush this,	9	having our daughter with us. Emotionally as well as
10	but we'll see how we get on.	10	logistically, everything we were trying to do, it was
11	Paragraph 82, the first anniversary. You explain	11	incredibly hard. So to get a call like this, and you
12	that you agreed to an interview with Hello magazine.	12	actually almost feel guilty, you know, because they're
13	Just tell us a bit, please, about why you did that?	13	saying, "We helped you, we got a reward", and you almost
14	A. I think the first thing to say, it was very specific and	14	say, "I'm sorry", and it's almost like somebody won't
15	we had clearly we've talked about our prime	15	help you unless you give something back.
16	objective, which is finding Madeleine, and what we've	16	MR McCANN: And of course we were trying to make the
17	hoped is that some good would come out of what happened	17	distinction between interacting with the media for what
18	to us. And one of the things, through our own research	18	we thought was something helpful for the search, and
19	and having been to the National Centre for Missing and	19	simply doing an interview, which we knew would focus on
20	Exploited Children in the USA, was to talk about	20	the human interest aspects and not necessarily the
21	AMBER Alert, and we decided that we would start	21	search for Madeleine.
22	campaigning for a joined-up alert system for missing	22	Q. The News of the World come into the narrative a few
23	children within Europe, particularly on the continent of	23	months later, as you rightly say at paragraph 86. It
24	Europe.	24	may be that Dr Kate McCann would like to deal with this,
25	For that very specific reason, because Hello is	25	but I'm in your hands. Out of the blue, 14 September
	Page 45		Page 47
1	distributed I think in 14 European countries they did	1	2008 transcripts from your personal diary appear or
1 2	distributed, I think, in 14 European countries, they did	1	2008, transcripts from your personal diary appear or
2	approach us and said that they would promote the	2	purport to appear in the News of the World. Can you
2 3	approach us and said that they would promote the campaign, and at the time we were lobbying MEPs to sign	2 3	purport to appear in the News of the World. Can you tell us a bit about that, please?
2 3 4	approach us and said that they would promote the campaign, and at the time we were lobbying MEPs to sign declarations supporting an alert system, so we agreed to	2 3 4	purport to appear in the News of the World. Can you tell us a bit about that, please? MRS McCANN: You're right, this was totally out of the blue.
2 3 4 5	approach us and said that they would promote the campaign, and at the time we were lobbying MEPs to sign declarations supporting an alert system, so we agreed to do an interview on that basis, which, just for clarity,	2 3 4 5	purport to appear in the News of the World. Can you tell us a bit about that, please? MRS McCANN: You're right, this was totally out of the blue. It was Sunday lunchtime, we'd just got back from church
2 3 4 5 6	approach us and said that they would promote the campaign, and at the time we were lobbying MEPs to sign declarations supporting an alert system, so we agreed to do an interview on that basis, which, just for clarity, of course, we were not paid for.	2 3 4 5 6	purport to appear in the News of the World. Can you tell us a bit about that, please? MRS McCANN: You're right, this was totally out of the blue. It was Sunday lunchtime, we'd just got back from church and I got the text message from Gail, who works in the
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	approach us and said that they would promote the campaign, and at the time we were lobbying MEPs to sign declarations supporting an alert system, so we agreed to do an interview on that basis, which, just for clarity, of course, we were not paid for. MRS McCANN: Many of the media outlets didn't really want to run with the work we were doing for the child rescue alert, which in itself is disappointing because it is important but obviously it's not as exciting, or whatever the word is, when it comes to headlines and stories. So we saw this as an opportunity of improving things for the greater good really. Q. One rival however wasn't best pleased and you touch on this in paragraph 84. Maybe this is quite understandable, but tell us a little bit about the call you received from the then editor of the News of the World. MR McCANN: I think it would be fair to say that Mr Myler was irate when he learned of the publication which happened and was berating us for not doing an interview with the News of the World and told us how supportive the newspaper had been, the news and rewards, and a time of stress for us on the first anniversary, where we were	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	purport to appear in the News of the World. Can you tell us a bit about that, please? MRS McCANN: You're right, this was totally out of the blue. It was Sunday lunchtime, we'd just got back from church and I got the text message from Gail, who works in the nursery where Madeleine, Sean and Amelie went, and it just said, "Saw your diary in the newspapers. Heartbreaking. I hope you're all right." And it was totally out of the blue, and I had that horrible panicky feeling, confusion and, you know, what's she on about? I didn't have a clue. We rapidly found out, it was the News of the World. I went and looked at it online, which was five pages, including the front page. I got my original handwritten copy of my diary out and sat there, and it was lifted in its entirety and put in the newspaper without my knowledge. Apart from the odd word, which was I think it was a translational error, that had obviously been taken translated into Portuguese, and then a Portuguese copy had then been translated back to English, which was slightly different from the original, but pretty verbatim and it had been put there. I felt totally violated. I'd written these words
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1 people won't have to experience that, and it was my only 1 word "violation". 2 2 MRS McCANN: He used the word "violation". He said use of way of communicating with Madeleine, and for me, you 3 know, there was absolutely no respect shown for me as 3 which would be a violation of its author. 4 4 MR McCANN: And ordered that any copies be destroyed. a grieving mother or as a human being or for my 5 daughter, and it made me feel very vulnerable and small 5 LORD JUSTICE LEVESON: And further investigation of that has 6 and I just couldn't believe it. 6 revealed, if anything? To unpick where this came from? 7 7 MR McCANN: I would like further investigation as to where It didn't stop there. It's not just a one-day 8 thing. That whole week was incredibly traumatic and 8 it came from. 9 every time I thought about it, I just couldn't believe MRS McCANN: An investigation. 10 the injustice. I actually just recently read through my 10 MR McCANN: Because clearly it was an illegal copy. MR JAY: I think what it relevant, and I think this has 11 diary entries at that point at that week and I talk 11 12 already come out from Dr Kate McCann's evidence, is that about climbing into a hole and not coming out because 12 13 13 I just felt so worthless that we'd been treated like one or two things were lost in the translation, or 14 14 this. changed, which indicates that the piece in the 15 Q. Can we be clear as to the provenance of the diary. You 15 News of the World was a translation from the Portuguese. 16 mentioned a Portuguese translation, which may be a clear 16 MR McCANN: Yes. 17 17 indication of provenance but perhaps I can take this Q. Because had it been precisely verbatim, it might have 18 quite shortly, that the judicial or police authorities 18 led us --19 in Portugal had obtained or had seized a copy of your 19 MRS McCANN: Very subtle changes but things like where 20 diary, or perhaps it was the original, in August 2007; 20 I said I was "really upset", it says I was "fed up". It 21 21 does change the meaning slightly. is that right? 22 MRS McCANN: Yes, it was --22 O. It may be we can investigate that or it may be that we 23 23 Q. We're talking about a hard copy, manuscript document? will receive an admission as to --MRS McCANN: It was just handwritten. They'd come and said 24 LORD JUSTICE LEVESON: I'd like to know whether there is a 24 25 they had taken clothes from the villa and we had to 25 byline. Page 49 Page 51 1 MRS McCANN: It would be nice to know the source. 1 leave, and when we got back later that day, they said 2 LORD JUSTICE LEVESON: Is there a byline on the article? they'd also taken my diaries as well, which I have to 3 3 MR JAY: It says "in her own words". say was a little bit of a shock, but it did come back to LORD JUSTICE LEVESON: Yes, yes, yes, I understand that, but 4 me about 24, 48 hours later, so I obtained the original 5 5 is there a reporter's name associated with it? copy. Obviously, photocopies were taken during that 6 MR JAY: Pardon me, yes, there is. 6 period. 7 7 LORD JUSTICE LEVESON: There you are, there's a potential Q. Yes. It wasn't clear from your statement, but it now 8 is. It was within quite a short space of time that the 8 line of inquiry. 9 9 MR JAY: It's a point I'd like to think can be dealt with original was returned to you, you believe by order of 10 10 very quickly by someone. It can be confirmed, because a Portuguese judge, so it sounds as if the initial 11 seizure had been a step too far, or whatever. But 11 it's pointless denying it really. There's only one 12 a copy of the original must have been taken by someone, 12 reasonable inference here. 13 13 You do refer in paragraph 93 to a conversation which presumably someone within the Portuguese police or 14 14 judicial authorities; is that correct? was reported to you from Clarence with the deputy editor 15 of the News of the World as he then was, Mr Ian 15 MR McCANN: I think it's clear that the police had copied 16 Edmondson. Can you tell us a little bit about that? 16 the journal and had it translated, and of course at the 17 17 MR McCANN: I think the first thing to say is that Clarence time we didn't understand why the journal could have 18 18 would speak to Ian Edmondson, who was deputy editor and been relevant because Kate only started keeping it 19 19 was probably responsible for most of the stories about a couple of weeks after Madeleine was taken, so we 20 20 Madeleine at that time. So Clarence spoke to Ian on didn't know there was a copy until the file was released 21 21 the following summer, but within the file, the a regular basis and one or two of the News of the World 22 22 Portuguese judicial file, there is an order from the reporters. Clarence had mentioned it to me, just saying

judge, who's read the translation and says, "This is of

no interest to the investigation, it's Kate's personal

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thoughts and should not ..." and he actually used the

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that the News of the World had indicated that they would

do a supportive story, mainly attacking the Portuguese

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police, but generally supportive. That was it. There

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apologetic.

copyright of the picture and they were not in the least

3 So as Kate has already said, it was a complete shock 3 MRS McCANN: They were fighting it, actually, saying, "We've 4 4 got the picture". It was like, "It's our daughter." when we heard that it was printed. 5 5 Q. Yes. They have breached a number of tortious Incredible. 6 obligations which it's not necessary to spell out. It 6 MR McCANN: The impact that these things have in what should 7 7 be a little bit of respite, but there have been several culminated in a complaint, the possibility of 8 8 litigation, but that was avoided by an apology from the occasions where we've gone behind the scenes at the 9 News of the World and the payment of a further donation 9 eleventh hour. 10 10 Q. Thank you. Then paragraph 100, you deal with a piece in to the fund for the search for Madeleine; is that 11 11 correct? the Daily Mail, quite recently, July of this year, about 12 12 A. Mm. an alleged reported sighting in India. What are your Q. I'm just going to touch upon the section continuing the 13 feelings about that, please? 13 14 14 A. It's probably one of the most recent examples of what relationship with the press. I am not going to cover 15 15 I would say is the contempt for Madeleine and her paragraph 97 unless I'm asked to specifically. If you 16 wish me to I will, but I wasn't minded to. I was going 16 safety. There was no check. This sighting had been 17 reported to the police, I think we were actually on 17 to ask you though about paragraph 100. 18 18 holiday. They emailed us a photograph and we quickly A. I mean, I think 97's probably important. 19 indicated that it was not Madeleine, and as far as we 19 Q. Okay, well tell us about it in your own words. 20 A. For one of the stories that was not published and isn't 20 were concerned, it was dealt with. And then a day or 21 21 two later, it's published and the newspaper on that libellous, not defamatory, but we were alerted to it and 22 22 occasion have chosen to publish it and they may want to it was done by a freelance journalist who has written 23 23 many inaccurate stories, and had submitted it, I think justify why, but from our point of view, they don't know 24 24 it was to the People, if I'm right, the People on whether it's true, they haven't contacted us, and 25 25 additionally we have the issue that if this really was Sunday, and the editor or the deputy editor called Page 53 Page 55 Clarence just to say they were running this, this was on 1 1 a genuine sighting of Madeleine, then her captors may be 2 the evening of the Saturday, and Clarence phoned us and 2 alerted and move her. 3 3 it was complete nonsense, but it was basically saying So the story has precedence over the safety of our 4 that we were undergoing IVF treatment with a view to 4 child. And that's clear. And that has been done by, 5 getting a new baby to replace Madeleine. 5 I think, every single newspaper, as well as similar 6 MRS McCANN: I think the important thing, this demonstrates 6 instances of amateur sleuthing and details about the 7 it's not just the articles that have been published that 7 investigation which should only be known to the 8 have been a problem. We've had many weekends destroyed 8 witnesses and the potential to contaminate evidence by 9 9 because we've had to try and stop articles like this having read something that you shouldn't really know 10 10 from actually ending up in the press. And weekends are about, and all of the newspapers and broadcasters have 11 important for Gerry, that's our only family time. We've 11 been guilty of it. 12 had to involve lawyers on --12 Q. Thank you. Out of sequence, I'm then going to come back 13 MR McCANN: Friday nights. Another example there which 13 to the PCC because it's a more general point, I think, 14 I don't think is in our evidence, but again it 14 under the heading "Kate's book", paragraph 111. It may 15 transpired on a Friday evening, is journalists had gone 15 be in your hands as to which of you would like to deal 16 to speak to my mum, I think they said even -- you know, 16 with this piece of evidence. 17 17 A. Sure. Clarence said it was okay and my mum let them in and 18 a lady journalist took a copy of an unpublished Q. Book published in May of 2011, so we're at the fourth 18 19 19 photograph of Kate, myself and Madeleine when we lived anniversary, it was to mark that, to coincide with that. 20 in Amsterdam that was very special to us and they were 20 Obviously a difficult decision. Do you want to tell us 21 going to publish it in a Scottish newspaper on the 21 a little bit about that? 22 Sunday and we had to involve Adam and Isabel from 22 MRS McCANN: You're right, it was a very difficult decision 23 Carter Ruck to get that stopped. 23 for obvious reasons, for all the reasons we've been 24 I think the only way we managed to get a very 24 discussing. But ultimately we are responsible for 25 stroppy interaction with the editor was that we own the 25 conducting and funding the search to find our daughter.

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was no mention of having a copy of Kate's diary, no

mention that they were intending to publish it verbatim.

- Q. Yes. 1
- 2 MRS McCANN: And ultimately I had to make the decision, we
- 3 needed to raise money, I knew this was something that
- 4 I could do that could maintain the search and possibly
- 5 help us find our daughter, and that's why I took the
- 6 decision then to do it. Obviously in the ideal world,
- 7 you wouldn't choose to do anything like that.
- 8 Q. There was serialisation of your book in two
- News International titles, the Sun and the Sunday Times?
- 10 MR McCANN: Yes.
- 11 Q. You talk about a meeting with Rebekah Brooks, which led
- 12 to a review of your case, a formal review. Just to
- 13 assist us a little bit with that, can you recall when
- 14 that was?
- 15 A. I think it's probably worth just elaborating a little
- 16 bit because it's quite a complex decision-making process
- 17 in terms of agreeing to serialise the book.
- 18 News International actually bid for the rights to
- 19 the book, along with Harper Collins, and one of their
- 20 pitches was the fact that they would serialise the book
- 21 across all of their titles, and we were somewhat
- 22 horrified at the prospect of that, given the way we'd
- 23 been treated in the past, and the deal was actually done
- 24 with the publishers, Transworld, that excluded
- 25 serialisation.

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- 1 launching the book, and asking her to update us on where 2
- they had got, and we got one letter which really didn't 3
 - say very much, and then we did the open letter to the
- 4 Prime Minister, which was published on the front page of
- 5 the Sun.
- 6 Q. Turn back to the issue of the involvement of the PCC.
- 7 This is covered both in your witness statement and
- 8 in evidence you gave, Dr Gerald McCann, to the Culture,
- 9 Media and Sports Select Committee in 2009, and then it
- 10 was picked up in the second report, I think, of that
- 11 committee. There's a whole section of the report that 12
 - goes to that issue.
- 13 The position I think is -- I'm back in your
- 14 statement, paragraph 101 -- the PCC's position is that
- 15 at an early stage they put a message out that they were
- 16 ready, willing and able to assist you. This was in May
- 17 2007. Do you follow me?
- 18 A. Yes.

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- 19 Q. I think your evidence is, well, you never got that
 - message. Was that right?
- 21 A. If I did, it was lost in the time when we were obviously
- 22 dealing with lots of things, and I would say probably
- 23 similar to Mrs Gascoigne who gave evidence earlier this
- 24 morning, that I was only vaguely aware of the PCC at
- 25 that time.

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- 1 Now, we were subsequently approached by
- 2 News International and Associated to serialise the book,
- 3 and after much deliberation, we had a couple of meetings
- 4 with the general manager and -- Will Lewis and
- 5 Rebekah Brooks and others, and what swung the decision
- 6 to serialise was News International committed to backing

lobbying behind the scenes for two and a half years,

- 7 the campaign and the search for Madeleine. And that
- 8 passed our test of how it could help, and we had been 9
- 10 with successive Home Secretaries, to try and get
- 11 a review of Madeleine's case, and we felt that having
- 12 News International helping in that, and ultimately where
- 13 I think the media have helped in this situation, of
- 14 galvanising the public, having them reengaged with us
- 15 and Madeleine, is what tipped the balance.
- 16 Q. Her intervention was successful?
- 17 A. It was.
- 18 Q. There may not be a module three issue.
- 19 LORD JUSTICE LEVESON: Yes.
- 20 MR JAY: It's right to say in terms of the sequence of
- 21 events, I think the Prime Minister was involved just
- 22 a bit before, and then the Home Office the day after?
- 23 A. Yes, I think --
- 24 Q. The same day announced --
- A. We had written to the Home Secretary saying that we'd be 25 Page 58

- 1 Q. In paragraph 103 you say:
- 2 "We have on a number of occasions had cause to
- 3 contact the PCC. The PCC was extremely helpful in
 - dealing with the unwanted intrusion into the privacy of
- 5 our twins."
- 6 Are you referring there to the business with the
- 7 paparazzi taking photographs when you're back in the
- 8 United Kingdom?
- 9 A. Yes.
- 10 MRS McCANN: That's right.
- 11 MR McCANN: I think we had also indicated earlier in the
- 12 summer of 2007 that although we tacitly agreed to having
- 13 photographs of us taken in Praia da Luz, largely because
- 14 we felt that we couldn't stop it, particularly with
- 15 international media being there, that as the situation
- 16 dragged on over months, we didn't want continued
- 17 photographs of Sean and Amelie to be published, and we
- 18 were obviously concerned at the time, they were just 2,
- 19 but as they got older, they could be recognised. So
- 20 there was an agreement -- and I can't remember exactly 21
- if the PCC were involved in that, but we asked the media
- 22 not to publish photographs of Sean and Amelie, and that

was adhered to with pixelation up until we arrived back

- 24 in the UK and then it went out the window again.
 - Q. In terms of the PCC assisting you in relation to the Page 60

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- 1 wider issue of inaccurate, unfair and sensationalist
- 2 reporting, it may well be that there isn't a factual
- 3 dispute between you and the PCC at that time, of course,
- 4 speaking through Sir Christopher Meyer. If you kindly
- 5 look under tab 9, Dr McCann, you'll see relevant
- 6 extracts from the report of the Culture, Media and
- 7 Sports Select Committee published on 9 February 2010.
- 8 I invite your attention -- the pagination is working --
- 9 on the top right-hand side of each page, to page 87.
- 10 A. Yes.
- 11 Q. You should find a heading, "The role of the PCC",
- I hope, and then paragraph 354. There we deal with the 12
- 13 message which they say they gave to you and you've told 13
- 14 us really, well, you don't recollect it, and of course
- 15 a lot was going on, but there was a meeting, and this is
- 16 355, on 13 July 2007 --
- 17 LORD JUSTICE LEVESON: That was just accidental.
- MR JAY: Yes. 18
- 19 The general thrust of what you were told by
- 20 Sir Christopher Meyer during the course of an informal
- 21 conversation, is this correct, is that if you wanted to
- 22 deal with the issue of libel, well, then the route was
- 23 legal recourse, legal action. But if you wanted to deal
- 24 with it in some other way, then the PCC might be able to
- 25 help?

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- action and our advice, which was given in no uncertain
- 2 terms, this is legal advice, was that the PCC were not
 - fit to deal with the accusations, the nature of them,
- 4 the number of them and the severity.
- 5 Q. The Inquiry will note, but it's not necessary for me to
- 6 read it out, the conclusions of the Select Committee on
- 7 these issues. They start at paragraph 364 and 365 in
- 8 bold. And the direct criticism is made by the Select
- 9 Committee of the PCC that the press were beginning to
- 10 ignore the requirement of the code and the PCC remained
- 11 silent.

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- 12 Then under the heading "Lessons learnt", they review
- your case. They rightly point out that this was a very
- 14 unusual case. They state that the coverage was
- 15 "freakish", and then their conclusions are set out at
- 16 paragraphs 373 and 375.
 - Perhaps I should read those out?
- 18 LORD JUSTICE LEVESON: The word "freakish" is the committee
- 19 saying it's far from clear that the McCann coverage was
- 20 really so freakish.
- 21 MR JAY: Paragraph 373:
- 22 "The newspaper industry's assertion that the McCann
- 23 case is a one-off event shows that it is in denial about
- 24 the scale and gravity of what went wrong and about the
- 25 need to learn from those mistakes. In any other

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1 A. Yes.

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- 2 Q. Does that capture the sense of that meeting?
- 3 A. It's probably fair to put in there that I had a number
- 4 of conversations with Sir Christopher, primarily because
- 5 we became friendly with his wife, Lady Catherine,
- 6 through her work with PACT, so on that first occasion
- 7 I met Sir Christopher and he broadly asked, "How are the
- 8 media treating you?" and we were very open and at that
- 9 point we said, "Considering the interest, not too bad",
- 10 and we didn't really have too much in the way of 11 specific complaints.
- 12
 - I did have further informal conversations and they also dealt with correspondence from Kingsley Napley over
- 14 the period, but the gist of the conversations, and most
- 15 of my dialogue with him, informal rather than written,
- 16 was that we agreed with our legal advice and we took the
- 17 best legal advice we could get, that the way to stop
- 18 this was to take legal action and not to go to the PCC,
- 19 and I think Sir Christopher agreed with that.
- 20 Q. That's a fair summary, Dr McCann. It's what the
- 21 committee think as well, although Paul Dacre expressed
- 22 disappointment that you didn't make a formal complaint
- 23 to the PCC, although Sir Christopher disagreed with
- 24 Paul Dacre so we have two views --
- A. I think the ultimate thing was we discussed a course of Page 62

- 1 industry suffering such a collective breakdown, as for
- 2 example in the banking sector now, any regulator worth
- 3 its salt would have instigated an inquiry. The press
- 4 indeed would have been clamouring for it to do so. It's
- 5 an indictment on the PCC's record that it signally
- 6 failed to do so.
- 7 "The industry's words and actions suggest a desire
- 8 to bury the affair without confronting its serious
- 9 implications, the kind of avoidance which newspapers
- 10 would criticise mercilessly and rightly if it occurred
- 11 in any other part of society. The PCC, by failing to
- 12 take firm action, let slip an opportunity to prevent or
- 13 at least mitigate some of the most damaging aspects of
- 14 this episode and in so doing lent credence to the view
- 15 that it lacks teeth and is slow to challenge the
- 16 newspaper industry."
- 17 Is there anything you wish to add or subtract from 18
- 19 A. I think I would agree with it, and it's probably for
- 20 others to decide whether the PCC could have changed it. 21 I think that's a moot point.
- 22 Q. Can I deal now with some general points, including the
- 23 four general points you made at the start? But before
- 24 I deal with those four points, I'm back to your witness
- 25 statement at paragraph 116.

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3 own words, both to identify the existing culture and 4 then the change which you think is required? 5 A. I think we can speak with experience about how powerful 6 the media are, and how much damage they can do. We've 7 already said how many good things that they have done as 8 well, so there is power, there is no doubt about it. 9 But what we see on a daily basis are front page tabloid 10 headlines in particular, sometimes followed by a clamour 11 with 24-hour news channels and Internet and a blurring 12 of the media, of stories which appear to have no factual

basis, or exaggerated, or distorted.

You refer to the or a culture change which is

required. May I invite you, please, to put that in your

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You've heard about several of hundreds that were written about us, but we see them, I walk into the shop in the hospital every day and I see front page headlines, whether it's about Chris Jefferies who is going to give evidence, or contestants on the X Factor, and I think information has been written and lives are being harmed by these stories, and something has to change. A commercial imperative is not acceptable.

Q. Thank you. The four specific headings you've given us, in one sense you've largely covered these but it's helpful if we can bring the strands together.

The first is libel. Might it be said, and can

I just invite you to deal with this, well, this in fact is an example, your case, of the system working to the extent that you decide at a certain point that enough is enough. Obviously as professional people you're not going to put your house on the line to fund legal action, but conditional fee arrangements were available, you took advantage of that.

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Within a reasonably swift timeframe, and it's for others to decide whether it was quick enough or whatever, the position of Express Newspapers changes, they admit liability, they make a statement in open court, they pay £550,000, which in the scale of things is a significant amount of money with modern libel awards, and there's a front-page apology. Is that an example of the system working or do you have a different take on what I've just said?

15 16 A. I think it is an example of the system working in part, 17 18 however we would much rather we weren't awarded any 19 damages and the stories had not been published, and 20 I think it's very important to emphasise that we have 21 experienced long-lasting damage as a result of the 22 headlines and the media coverage, including recent trips 23 to Holland and Spain where our taxi driver said, "Oh, 24 you're the parents who are accused of killing your own 25 daughter, what happened?" and secondly in Spain where

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they showed a film that supposedly had us showing tablets that were tranquillisers that we'd supposedly given to children, stated as virtually fact.

So although we've worked incredibly hard to change things in the UK, the damage is more widespread.

So the money is only for me -- and I understand that the costs may be more of a deterrent than the damages, per se, but it's only a partial compensation, and once it's there, yes, the apology goes part of the way, but as we've seen, often the reporting is much wider than the original offending outlet, and the damage is long-lasting.

And if you go on the Internet now, which our nearly 7-year-old twins will be doing, most of these allegations are still there and we will have to continue dealing with them going forward.

Q. You make two points there, I think, Dr McCann. The first is the point damages are never proper recompense, and it's right, the judges recognise that, whether it's a reputation case or personal injuries case, the money can never provide reparation.

The particular point in your case is there's an international dimension and whatever happens in the United Kingdom in terms of statements in open court, they're not going to carry any mileage or impact outside Page 67

- 1 this jurisdiction.
- 2 A. No.
- 3 Q. Hence your experiences in Spain and the Netherlands.
- 4 A. Correct.
- Q. That's a helpful observation. What about your second
 heading, which was privacy laws? Could you help us
 a bit more with that, please?
- 8 A. Yeah. I think it's something obviously we probably hadn't thought too much about before we found ourselves
- 10 in the situation that we are. You take your anonymity
- for granted. What I find disturbing, clearly, when
- 11 for granted. What I find disturbing, electry, when
- 12 you're being followed, you're being put in danger by
- either reporters' or photographers' behaviour and
- 15 cities reporters of photographers behaviour and
- secondly I think it is probably an anomaly within the
- legal system that a commercial organisation can take
- a photograph of you, use it in their product, which they
- a photograph of you, use it in their product, which the
- sell and make a profit without your consent, and I think
- that should be remedied.

I think if I'm here, I know I'm in public, I'm
 giving evidence, I understand that images will be used,

- 21 I fully understand that and I'm implicitly consenting to
- it, but whether it's us going for a run or driving out
- of our front drive, and particularly with children,
- I don't think it should be allowed. I think you should
 - not be allowed to publish photographs of private

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- 1 individuals going about their private business without
- 2 their explicit consent, signed.
- 3 O. The existing PCC Editors' Code speaks of either
- 4 a private place or a public place where there's
- 5 a reasonable expectation of privacy. I think your
- 6 evidence is suggesting that that latter concept is quite
- 7 a difficult one to understand and in particular to
- 8 apply.
- 9 A. Mm-hm.
- 10 Q. So that indeed further thought need be given to that.
- The third issue we may or may not have brought out
- 12 adequately but please expand it if you wish to.
- 13 Contempt for the judicial process, namely the secrecy
- 14 implications of the Portuguese law, I think, and for
- 15 your child's safety.
- 16 A. Yes.
- 17 Q. You have addressed that issue, but is there anything you
- would like to expand, bring any strands together?
- 19 A. Yes, it wouldn't be explicit to judicial secrecy in
- 20 Portugal, and by judicial I meant the whole process
- which in Portugal is obviously overseen by a judge. So
- you have information. We were told we were under
- 23 judicial secrecy not to give details of events. What
- became very apparent was, you know, the media were
- 25 trying to create a timeline of what happened, and we had Page 69
- 1 obviously created a timeline and given it to the police
- 2 and tried to narrow down to the closest minutes when we
- think Madeleine was taken to help the investigation.
 But when that information goes into the public
 - But when that information goes into the public domain and the abductor shouldn't know it, or the only person who should know it were the people who were
 - there, then that's a concern. It can contaminate evidence. You could incriminate yourself by knowing
- 9 something that you shouldn't have known.
- So that's the first process, and I think clearly, as again I'm not a lawyer and I may be speaking out of
- turn, but it's probably clear when there is a court case
- on in the United Kingdom, about what's to be reported and what not, and the police are very careful about
- which information they give to the media in this
- 16 country, but for me there was contempt about that whole
- 17 investigative process. There was no regard for the
- 18 outcome. It was much more important for the media
- outlets to have the detail or perhaps to have the
- 20 contradictions, and the salacious aspects that followed
- 21 it.

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- And then the point about Madeleine has never been raised, I think, before, and clearly every outlet,
- I think, has been guilty of this, about reporting
- 25 sightings, suspicious people, without giving it to the Page 70

- 1 proper authorities. And that is of grave concern, and
- 2 obviously our concern and focus is Madeleine, but it
- 3 applies to other cases as well.
- 4 Q. Your fourth heading is quite a broad one: acceptable
- 5 standards.
- 6 A. Yes. I did have a quick look at the National Union of
- 7 Journalist's submission and there are standards, but
- 8 there are no penalties for not sticking to them, and
- 9 whatever your profession is, particularly in this
- 10 country, then there is fairly strong regulation which we
- 11 have to abide to, and I have seen no individual
- iournalist or editor brought to account over the
- stories, be it within Express Newspapers Group or
- 14 Associated or any of the other groups and I think if
- there are repeated offenders, then they should lose
- their privilege of practising as a journalist.
- 17 LORD JUSTICE LEVESON: Quite difficult, that. I understand
- 18 exactly why you're saying that, but just let me share
- 19 with you the difficulty, that what journalists do is
- 20 exercise the right of free speech, and whereas you as
- 21 doctors require licence to practise medicine, and if you
- are taken to the GMC then the GMC have all sorts of
- sanctions available, it's quite difficult in relation to
- 24 the exercise of free speech.
- That's not to say that there shouldn't be penalties,

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- 1 there shouldn't be some mechanism whereby there's
- a holding to account for what you've done.
- 3 A. Sure.
- 4 LORD JUSTICE LEVESON: But --
- 5 A. Thank you, sir. I would like to emphasise that
- 6 I strongly believe in freedom of speech, but where you
- 7 have people who are repeatedly carrying out inaccuracies
- 8 and have been shown to do so, then they should be held
- 9 to account. That is the issue. I don't have a problem
- with somebody purporting a theory, writing fiction,
- suggestions, but clearly we've got to a stage where
- substandard reporting and sources, unnamed, made-up,
- 13 non-verifiable, are a daily occurrence.
- 14 LORD JUSTICE LEVESON: Yes. I wasn't criticising you at
- all, but I was simply seeking to explain why that
- particular remedy may be very difficult to apply in this
- 17 context. But it's not to say there shouldn't be
- something. Now, I'm not saying what, because that's
- part of what I'm here for, if anything, I say
- immediately, but you've doubtless read that different
- 21 people have been suggesting different models.
- 22 A. Sure.
- 23 LORD JUSTICE LEVESON: And it's actually that question which
- is the burning part of the job that I have to do, which
- 25 only underlines how extremely valuable your experience

1	has been, and how very grateful I am for you sharing it	1	MD McCANNI, Thoule you
1 2	with us.	$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	MR McCANN: Thank you. MRS McCANN: Thank you.
3	A. Sure.	3	LORD JUSTICE LEVESON: Thank you.
4	MR JAY: I have no more questions, Dr McCann, Dr McCann. Is	4	MR JAY: Sir, I've been handed something I'm not sure I can
5	there anything you want to add? Maybe Mr Sherborne has	5	ingest immediately. It's probably something that can be
6	a point, but that concludes all I have to ask.	6	dealt with as between two of the core participants in
7	A. No, I think we've covered all our points, thank you.	7	the first instance, rather than troubling you, and if it
8	LORD JUSTICE LEVESON: Thank you very much. Mr Sherborne		can't, we'll come back to it tomorrow morning.
9	did you want to ask something?	9	LORD JUSTICE LEVESON: All right. Is there anything else
10	MR SHERBORNE: Sir, I realise that we all need time properly	10	that I can deal with now?
11	to digest the very uncomfortable evidence that the	11	Discussion re procedure
12	McCanns have given. As I mentioned last week, we say	12	MR JAY: There are two issues. First of all, there's HJK
13	it's nothing short of a national scandal, but there's	13	for tomorrow, and I'm going to leave Mr Barr to deal
14	one point I do formally want to raise. It was touched	14	with that.
15	on earlier.	15	LORD JUSTICE LEVESON: Yes.
16	We've seen representatives of the media	16	MR JAY: Secondly, over lunch I've heard various proposed
17	organisations stand up very quickly to respond to the	17	additional redactions from Mr Garnham in relation,
18	criticism of their newspapers	18	I think, to at least two witnesses' evidence tomorrow.
19	LORD JUSTICE LEVESON: Is there going to be a question,	19	To be clear, the core participants have seen witness
20	Mr Sherborne?	20	statements in unredacted form, so they know what the
21	MR SHERBORNE: There is.	21	maximum scope of the evidence is going to be and they
22	LORD JUSTICE LEVESON: Then I'd like to hear the question.	22	can provide lines of questioning to us.
23	MR SHERBORNE: It's not a question. I raise this. It was	23	Mr Garnham has various concerns, which I hadn't been
24	mentioned by the McCanns and you mentioned it as well,	24	able to apply my mind to in any detail since I was
25	and that is in relation to News International, and what	25	thinking about other things over the short adjournment,
	Page 73		Page 75
1	we do ask is they provide a response, sir, as you	1	in particular the evidence we have just heard.
2	mentioned, in relation to the publication of Kate	2	I imagine his concern is what is the final version of
3	McCann's diary	3	the witness statement which is going to be placed in the
4	LORD JUSTICE LEVESON: Mr Sherborne, I think that is	4	public domain and on the screens here tomorrow morning?
5	a speech. We can discuss what we should do, and of	5	If we spend time discussing it or negotiating the
6	course I'm in a position to do something about it,	6	contents of the proposed redactions, we are likely to
/ 0	because if there's a name, then I can issue a request,	7	run into a cul de sac, but on the other hand this is
8	and I put the word "request" in inverted commas, under Section 21 of the 2005 Act, and I can find out.	8	a public Inquiry and I don't wish to stifle the
		9	presentation and production of evidence which should be
10 11	MR SHERBORNE: Sir, I understand that. It's not just the byline, if I may say, with respect, because that's the	10	provided.
12		11	I think what I would propose on this occasion,
13	person who wrote the story. There is also the question, which I'm sure the McCanns would like to be dealt with,	12 13	because I don't really want to spend time debating this, there is really quite a lot else to do overnight, is
14	if possible, which is who obtained and in what	14	that if the other core participants agree, and they
15	circumstances they obtained the diary from the	15	don't even know what the proposed redactions are, we
16	Portuguese police.	16	live with the redactions Mr Garnham has proposed.
17	LORD JUSTICE LEVESON: I understand.	17	Those, therefore, or rather the witness statement
18	MR SHERBORNE: That's a decision at a higher level.	18	goes on the screen in line with those redactions, but
19	LORD JUSTICE LEVESON: That's a thread, and I'm absolutely		then if there's an objection by anyone tomorrow morning
20	alert to the point. I really am.	20	that the proposed redactions go too far or are not
21	MR SHERBORNE: I'm very grateful.	21	substantiated, we then address the objections on that
22	LORD JUSTICE LEVESON: Thank you.	22	basis.
23	Dr McCann, Dr McCann, thank you very much indeed.	23	LORD JUSTICE LEVESON: Yes.
24	I can only wish you everything well in your continuing	24	MR JAY: That, in my submission, will be quicker. However,
25	search for Madeleine.	25	what I'm not suggesting is some sort of procedure which
	Page 74		Page 76
			19 (Pages 73 to 76)

1	ordinarily applies, namely the default position is that	1	the position, know what I've said, they know that
2	which the MPS would desire, because that is not right,	2	I don't wish to prejudice any continuing investigation
3	without further submission.	3	or potential prosecution if there is to be one, and
4	LORD JUSTICE LEVESON: It's not what I've said. Indeed,	4	therefore they should be prepared on that basis and I'll
5	quite the reverse.	5	require some convincing that sensible lines haven't been
6	MR JAY: Yes.	6	drawn.
7	LORD JUSTICE LEVESON: I've said the opposite.	7	MR JAY: Yes. We may need to come back to that which we
8	MR JAY: Precisely.	8	were discussing this morning. However, in the first
9	I am proposing with a degree of reluctance	9	instance may I invite Mr Barr to deal with HJK who is
10	a pragmatic solution which will speed things up, but I'm	10	giving evidence first thing tomorrow morning?
11	not endorsing a procedure which is going to apply more	11	LORD JUSTICE LEVESON: Right. Mr Barr, I've seen the
12	generally. Anybody can turn up tomorrow morning and say	12	application made on behalf of HJK. I'm conscious that
13	no, that redaction is inappropriate, we should lift it,	13	the protocol in relation to anonymity by witnesses has
14	or indeed, the more effective way of dealing with it is	14	not yet been promulgated. That's in part, as I said,
15	that we'll just hear the evidence and then the witness	15	because each time I've thought I've done it, there's
16	statement can be put in a different form online a little	16	been another set of submissions and I've had to go back
17	bit later.	17	to it merely to make sure that I've considered
18	It's not as if the public nature of the Inquiry is going to be disrupted save for a short period of time,	18	everybody's submissions, but it seems to me, and I'll
19 20	but I really don't want to spend time now involving	19 20	hear anybody who wants to suggest to the contrary, that
21	other core participants and discussing the precise text	20	the position of HJK is very different to the position of journalists and others who wish to give evidence
22	of redactions. I will live with what Mr Garnham has	22	anonymously.
23	proposed, with reluctance, and then we'll have to think	23	This is a person whose privacy is presently
24	of a way forward for the future.	24	protected. In other words, he's not seeking to say of
25	LORD JUSTICE LEVESON: I think it's very important that one		any outlet, "They are about to do something outrageous
	Page 77		Page 79
1	goes back to thinking about what truly would potentially	1	or breach my privacy", because he has protection in
2	prejudice a criminal investigation or prosecution.	2	
2	prejudice a criminal investigation or prosecution. MR JAY: Yes.		relation to that. He is, however, going to talk about, as I read his draft statement, the impact upon him in
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1	I have no doubt there are some people in the room today	1	feel it's necessary, then they can do so, but they'd
2	who will understand that, that he will say something	2	better have a pretty good reason.
3	that he didn't mean to say and that would therefore	3	Has the position that was being discussed just
4	compromise the privacy that he is seeking to protect.	4	before lunch been resolved?
5	But the idea is that the core participants, their	5	MR JAY: I'm not sure. I think it depended a bit on
6	lawyers should be here, and they will actually see HJK	6	Mr Caplan, but
7	and hear him, but that it will have no wider	7	MR CAPLAN: Can I say this, we're not pursuing that matter
8	promulgation, although immediately after his evidence is	8	at the moment.
9	concluded, and I emphasise that word, his transcript	9	LORD JUSTICE LEVESON: Right, thank you very much indeed.
10	will be made available.	10	Thank you very much indeed.
11	MR BARR: That's right, sir. The final matter is that he's	11	(4.10 pm)
12	submitted a confidential annex and unsurprisingly the	12	(The hearing adjourned until 10 o'clock the following day)
13	application is that that confidential annex will not be	13	
14	referred to during evidence.	14	
15	LORD JUSTICE LEVESON: He explains why he seeks the relief		
16	that he seeks.	16	
17	MR BARR: The information in the confidential annex combined		
18	with the closed application does precisely that, sir.	18	
19	And could I submit that these are appropriate measures	19	
20	which are a proportionate way of safeguarding this	20	
21	witness's privacy.	21	
22	LORD JUSTICE LEVESON: All right. Thank you very much.	22	
23	I make it clear that I do not intend to use HJK as	23	
24	a template. I don't think it's got any relevance at all	24	
25	to the issues of anonymity that are raised in relation	25	
23	Page 81	23	Page 83
	1 450 01		1 age 03
1	to journalists. I don't believe he will be giving any		
2	evidence specifically touching a named person or taking		
3	any further that which we already know in relation to		
4	interception.		
5	Does anybody have any observations to make about the		
6	application that's been made?		
7	Right, thank you. I make orders accordingly, and		
8	possibly they could be drawn up in appropriate form so		
9	that I have complied with the terms of the legislation.		
10	MR BARR: Sir, I'm sure that that could be done.		
11	LORD JUSTICE LEVESON: Thank you very much. So it's		
12	important to underline that first thing tomorrow morning		
13	we will be closed. I don't apprehend it will take very		
14	long, but for the public and the press, save for those		
15	who are core participants and attending as core		
16	participants, they will have the unenviable problem of		
17	just having to wait for us.		
18	Right. Is there anything else?		
19	MR JAY: I have now ingested this correspondence and I'm		
20	going to be quite short about it. One core participant		
21	is complaining about another core participant's media		
22	blog regarding evidence we heard this morning. They can		
23	sort it out between themselves.		
24	LORD JUSTICE LEVESON: Thank you very much. If anybody		
25	wants to bring anything to my attention because they		
23	Page 82		
	1 450 02		

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