

David McKie <DMcKie@lemac.co.uk>
To: "d.balding@ucl.ac.uk" <d.balding@ucl.ac.uk>,
"m.thomas@ucl.ac.uk" <m.thomas@ucl.ac.uk>
Cc: Lisa Lindsay <LLindsay@lemac.co.uk>
BritainsDNA - Alistair Moffat OUR REF: DMcK/LL/MOF012/1

3 September 2012 11:39

8 Attachments, 30 KB



LEVY & McRAE
SOLICITORS AND NOTARIES PUBLIC

In association with
GOODMAN DERRICK LLP

STRICTLY PRIVATE AND CONFIDENTIAL – NOT FOR PUBLICATION

Dear Professor Balding & Professor Thomas

We are instructed by the Moffat Partnership Limited T/A BritainsDNA and also by Alistair Moffat, in relation to a series of emails and a letter which you have written to him and his colleagues, Drs Cavalleri and Wilson.

In the first instance, you sent an email dated 9th July 2012, which was copied to Michael Weale and Francois Balloux, which indicated that the interview on the 'Today' programme on Radio 4 on 9th July 2012 was "complete nonsense", "almost nothing true in it" and was described as "a shameless duping of the BBC into promoting a fraudulent commercial enterprise that peddles genetic nonsense for profit".

Your email went on to ask Drs Wilson and Cavalleri to persuade Mr Moffat to "make a retraction and to tell the truth" and, furthermore that Drs Wilson and Cavalleri should "disassociate yourselves from this business".

This email in particular was grossly defamatory of Mr Moffat and of the business.

In the first instance, the business is not a "fraudulent commercial enterprise". It does not "peddle genetic nonsense".

Our clients understand that you are entitled to an opinion on our client's business and also on the matters discussed in the interview on the 'Today' programme. However, your expression in written form, and copied to third parties, that the business is engaged in criminal activity, is fundamentally dishonest and is financially questionable, which is the natural and ordinary meaning of the allegations which you made against our clients, is highly defamatory and actionable.

Our clients have noted from your email of 28th August 2012 that you intend to continue what appears now to be a campaign of unjustified and defamatory assault on our clients' business and on their reputation.

You have stated that you propose to circulate widely amongst academic colleagues your view of why Mr Moffat was wrong in the Today interview.

While, for the avoidance of doubt, our clients again do not object to you having what may be a legitimate scientific opinion on the matters expressed, they are very concerned that there will be a repeat of the intemperate and libellous language previously adopted in your correspondence and previously copied to third parties beyond Mr Moffat and Drs Wilson and Cavalleri.

Our clients therefore seek an undertaking from you on the following matters: -

1. That any statement, written or otherwise, which you make in relation to our client's organisation will not suggest that their work, or the statements and opinions of Mr Moffat, are in any way fraudulent, dishonest or disingenuous.
2. That you will not report or state as a matter of undisputed fact that our clients' science is 'wrong' or untrue. Clearly you disagree with their approach but the basis of that disagreement is a matter of interpretation. Our clients accept that change and reinterpretation are part of the nature of scientific enquiry. But the issues of which you complain are currently issues of opinion and not matters of absolute fact, correct or incorrect.
3. That you will not report anything inaccurate or misleading in relation to the funding of our client's business, when you have no basis or knowledge of how the business was started or has been funded historically.

You will no doubt wish to take legal advice on this matter, but please note that any letter which you write to any third party may well have damaging consequences to both Mr Moffat and to the Moffat Partnership Limited. Any defamatory article which leads to any loss, whether financial or in terms of damage to reputation would be actionable. Our clients will not hesitate to raise court proceedings for recovery of any losses sustained as a result of any damaging allegations which either directly or indirectly refer to our client's business. Your letter of 28th August 2012 suggests that any further letter you write will clearly lead to the identification of our client, by virtue of reference to the interview of Mr Moffat on the Today programme.

Please take legal advice and thereafter revert to us on the question of the undertakings as set out above.

These undertakings will serve, in our clients' view, to limit the damage already done by your original email of 9th July 2012 and the further damage your letter suggests you are going to cause by writing to a wide range of third parties.

If you fail to offer an undertaking in agreeable terms, we have advised our clients that they would be entitled to seek an Interdict to prevent any further dissemination of defamatory meanings which are outlined above and which are covered by your email of 9th July. Any legal action would inevitably involve considerable legal costs, which our clients would seek to recover from you in the event of success.

Our clients are under no obligation whatsoever to engage with you in your debate. However their view is that the issues you raise are scientific ones which, as with many areas of science, involve differences of view and opinion. We understand that Drs Cavalleri and Wilson will write to you separately, as a matter of courtesy, on the scientific areas raised in your e-mail.

However, on the above issues, we look forward to hearing from you or your legal advisers in early course.

Yours sincerely,

David McKie
Partner
Direct Line: 0141 307 2323

What is LegalNetLink? - <http://www.legalnetlink.net/animation/>
ASSOCIATED OFFICES: UNITED KINGDOM . EUROPE . UNITED STATES

Levy & McRae, 266 St Vincent Street, Glasgow, G2 5RL
280 St Vincent Street, Glasgow, G2 5RL

Tel: 0141 307 2311

Fax: Litigation 0141 307 6857 & 0141 307 6858

Commercial Property: 0141 248 9262

Media: 0141 307 1005

DX GW 149

Web: www.lemac.co.uk

Follow Us



IMPORTANT NOTICE: The information in this email is strictly confidential and is for the use of the addressee only. Some or all of the information may be legally privileged and/or price sensitive. Any disclosure, use or copying of the information in this email or any of the information contained within it or in any material attached to it, other than by the intended recipient, is prohibited and would be a breach of confidentiality which may be illegal and give rise to legal consequences. If you have received this email in error, please notify the author by replying to this email or telephoning 0141 307 2311. Levy & McRae has taken all reasonable precautions to ensure that any email attachments have been swept for viruses. Accordingly, no liability is accepted for any damage caused as a result of a virus. Please ensure that you carry out appropriate virus checks before opening any attachments. Unless related to the business of the firm, the opinions expressed within this email are the opinions of the sender and do not necessarily constitute those of Levy & McRae. Levy & McRae is a firm of Scottish solicitors which is regulated by the Law Society of Scotland. A list of the firm's Partners is maintained and may be inspected at 266 St Vincent Street, Glasgow, G2 5RL. Our email system is subject to random recording and monitoring by us.