

## Supreme Court Victory for Phone hacking Victims

*Frost v MGN Ltd; Flood v Times Newspapers Ltd; Miller v Associated Newspapers Limited*

The historic and vital right to Access to Justice (regardless of means) has been confirmed by the Supreme Court. Lord Neuberger, the President of the Supreme Court, Lord Mance, Lord Sumption, Lord Hughes and Lord Hodge delivered a significant [judgment](#), on Tuesday, 11<sup>th</sup> April 2017, in a Supreme Court appeal brought by 5 national newspapers.

In conjoined appeals before the Supreme Court, the MGN appeal arose from the first set of 28 phone hacking cases brought against *The Daily Mirror*, *The Sunday Mirror* and *The Peoplesnewspapers* published by MGN Ltd. The managed litigation against MGN commenced in 2013, with most of the interim hearings heard in 2014 and the trial of 8 representative actions being heard in March 2015. The [trial judgment](#) was handed down in May 2015, with the highest award of £260,250 being awarded to Sadie Frost. Although MGN sought to appeal the trial decisions to the Court of Appeal and Supreme Court, these were [dismissed](#).

In the costs proceedings, MGN sought to challenge the conditional fee agreements as infringements of their rights of freedom of expression guaranteed under article 10 of the European Convention of Human Rights. Similar challenges were made by media Defendants in two defamation cases involving *The Times* and *The Daily Mail*. The 5 newspapers, sought to argue before the Supreme Court that conditional fee agreements, (a method of funding which is generally the only method available for parties of modest means to defend themselves against the Press) and After the Event Insurance contravened their article 10 rights of freedom of expression.

The Supreme Court declined to decide the point but held that in any event it would not be applied in any of the cases because of accrued property rights under article 1 of the First Protocol and because the rule of law preventing retrospective removal of rights. In respect of the phone hacking cases, the Supreme Court went further and held that there were no genuine article 10 rights in play in phone hacking cases.

In a statement released following the hearing, the James Heath of Atkins Thomson, lead solicitor in both Wave 1 and Wave 2 the managed litigation against MGN said:

*“This is a welcome the judgment and a sound decision. It shows that where newspapers engage in unjustifiable, unlawful acts of intrusion, the courts will not come to their aid. These national newspapers, published by MGN Ltd, were involved in longstanding acts of serious and widespread criminal behaviour and the courts have made it clear that they cannot use the Human Rights Act or the European Convention to get themselves out of the hole they have dug for themselves.”*

Mark Thomson, Nicky McCann and Emily Jenkins of Atkins Thomson acted for Sadie Frost.

James Heath of Atkins Thomson acted as Lead Solicitor for the 28 victims of Mirror Group involved in the appeal. He was appointed as lead solicitor by the High Court for both Wave 1 and Wave 2 for the Mirror Group Hacking Litigation.

See various articles on the decision.

<https://inform.wordpress.com/2017/01/26/case-preview-times-newspapers-limited-v-flood-frost-and-others-v-mgn-limited-miller-v-associated-newspapers-limited-aidan-wills/>

<https://www.lawgazette.co.uk/law-reports/times-newspapers-limited-v-flood-miller-v-associated-newspapers-ltd-frost-and-others-v-mgn-ltd/5060699.article>

<http://www.litigationfutures.com/news/supreme-court-hear-trio-cases-continuing-success-fee-ate-recoverability>

<http://www.onebrickcourt.com/cases.aspx?menu=main&pageid=42&caseid=784>