

Droit - Economie - Sciences Sociales

Session : Septembre 2018

Année d'étude : Troisième année de Licence Droit

Discipline : *Anglais juridique*

Examen : Second semestre (UEC2 7396)

Durée : 1h30

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Les documents et les appareils électroniques ne sont pas autorisés.

I. Complete the following sentences, adding between 10 and 25 words. Do not start a new sentence. (20 points)

1. In order for breach of confidence to...
2. Since the Constitutional Reform Act...
3. Part 36 offers...
4. Whenever a divorcing couple fails...
5. Unlike constructive manslaughter...

II. Read the text. Answer each of the questions in your own words (approximately ten lines/100 words for each question). DO NOT QUOTE FROM THE TEXT. (30 points)

Max Mosley threatens to sue papers over orgy story under data laws

Dan Sabbagh, *The Guardian*, Friday 16 February 2018

Max Mosley is threatening to sue Britain's three largest newspaper groups, claiming they are in breach of the Data Protection Act because they continue to refer to an infamous sadomasochistic orgy involving the former Formula One boss a decade ago.

The 77-year-old claims that data protection and privacy laws require the press to stop disseminating information about him that is not in the public interest, but media lawyers as well as the newspaper owners say his demand is an attempt to rewrite the historical record.

Underscoring the battle is a long-running row about the state of press regulation after the Leveson inquiry in which Mosley is trying to put pressure on hostile newspapers to create an independent regulator recognised by the state. (...)

The Daily Mail and the Times responded by publishing articles attacking Mosley's manoeuvre. Stephen Glover, writing in the Mail, said it was "a dark story about how one very wealthy man is trying to undermine the freedoms enjoyed by the press" while an editorial in the Times accused him of "an attack on press freedom generally".

In an interview with the Guardian, Mosley said the newspapers were engaged in "a commercial campaign" against him because they did not like his privacy campaigning and his arm's length financial support for Impress, which is the first and only press regulator in the UK to have been recognised by the Press Recognition Panel, set up by Royal Charter following the Leveson inquiry. No national newspapers have yet signed up to Impress.

He accused the titles of referencing the orgy to belittle him and said he had resorted to data protection law because he did not trust Ipso, the independent regulator set up by the large newspaper groups, including the owners of the Mail, Times and Mirror. The Guardian is not a member of Ipso and deals with complaints separately.

"What the Data Protection Act does is stop people publishing false information or information in breach of privacy. There are exemptions for newspapers; those who are doing their job have nothing to fear," Mosley said. He added that if the newspapers did not respond within 21 days he would most likely "go to court".

The most eye-catching element in the complaint is his demand that the titles stop referring in detail to the S&M orgy, which was secretly filmed by one of its participants in the pay of the News of the World, and published on the front page of the now defunct Rupert-Murdoch-owned newspaper with video on its website.

Mosley, the son of the British fascist leader Sir Oswald Mosley, took the tabloid title to court in 2008 in a trial that was widely reported at the time. He won a landmark legal victory, which asserted he had a right to privacy under English law as far as the party was concerned and won £60,000 in damages. Mr Justice Eady, presiding, also held that "there was no public interest" for reporting what had happened at the event involving Mosley and five women.

Nearly a decade later, Mosley and his lawyers assert under data protection law that newspapers can no longer refer to this in any detail because they do not have a public interest exemption that allows them to do so. (...)

The intervention comes at a time when there are growing concerns about the implications of existing data protection law – and increasing attempts to use it against the press. In January, peers voted to amend a data protection bill to implement section 40 of the Crime and Courts Act, which would force a newspaper to cover the legal costs of the claimant in any libel case even if it had won, unless it had joined a recognised regulator such as Impress.

Mosley said he hoped to highlight the section 40 debate with his legal complaint, arguing that it would force the large newspaper groups "to revamp Ipso". However, Theresa May has pledged to reverse the Lords amendment, and the introduction of section 40 is unanimously opposed across Fleet Street because it would force newspapers to pay legal costs of both sides even in libel cases they won.

Mark Stephens, a senior partner and media lawyer at Howard Kennedy said there were good reasons for law and journalism students to study the details of the Mosley-News of the World case, because it was a test case for privacy. He added that if the data protection complaint were to succeed it would have serious implications. "Effectively people will be able to airbrush¹ history. In terms of using the law, this is entirely novel," Stephens added.

1. What action had Max Mosley taken against the *News of the World* in 2008 and why? What action is he considering taking now and on what grounds? (10 pts)
2. What does the article explain about the regulation of the press in the UK? What further regulation has been adopted by the House of Lords? (10 pts)
3. Discuss the underlined sentences. (10 pts)

¹ To rewrite

III. Choose one of the following topics and write an essay in approximately 250 words (+/- 10%). (50 points)

1. To what extent has the Human Rights Act affected the constitutional balance in the UK?

2. Alex and Chris are a married couple who have struck a surrogacy arrangement.

Linda, the surrogate, visits the couple on a regular basis. Although she has complained several times that she needs more money to cover her expenses, Alex and Chris have made it clear they would refuse to pay her any more than what they are already paying her. They believe that the money they are giving Linda is sufficient.

One day, after lunch at Alex and Chris's flat, while the couple is not looking, she steals a very expensive watch.

After the couple discovers the watch has disappeared, they call the police who arrest Linda and find the object at Linda's.

Linda is angry for having been arrested and now threatens to keep the child.

Discuss the possible proceedings and the likely outcomes.

