



I was sued for libel under an unjust law

Nature reporter **Quirin Schiermeier** explains how one of his stories saw him face a High Court challenge — and win.

When I finally faced the man who had given me such a hard time in court, somehow I was unable to feel much resentment. Squeezed into a witness box in the Queen's Bench Division of the Royal Courts of Justice in London, waiting to be cross-examined by my opponent — standing just an arm's length from me — my prevailing impression was one of farce.

I was in the court because Mohamed Salah El Din Hamed El Naschie, an Egypt-born engineer-turned-physicist, had sued me and Nature Publishing Group for libel over a news article I had written for *Nature* in November 2008 (see *Nature* 456, 432; 2008). Last week, the judge ruled in favour of me and Nature Publishing Group on all counts.

By the time we finally met in court last autumn — attempts at settlement had failed — the usual rigmarole of English litigation had produced the stately bundles of 25 bulging files now heaped in front of the judge, the barrister and me. El Naschie, who was representing himself, he explained, had left his bundle behind at home. This was not the only example of his bizarre behaviour. As the transcripts of the proceedings show, El Naschie had previously failed to turn up in court when expected, and when he was there, he had repeatedly lost his temper.

The case centred on the way that El Naschie published hundreds of papers written by himself in a journal of which he was editor-in-chief — *Chaos, Solitons and Fractals*, published by Elsevier Science.

I knew that some scientists in the field were concerned about the sheer number of his own papers that El Naschie had published, many of which pondered the texture of time and space. Physicists questioned the quality of the papers and the lack of proper peer review.

But those who raised their voices, in blogs or letters, were silenced by his threats of litigation.

My instincts as a reporter told me that there was an interesting story here. It featured allegations of editorial abuse of power, inflated impact factors and, not least, Elsevier's 'package' sales strategy that requires libraries to subscribe to second-rate journals.

My reporting of the story took around two weeks. One physicist told me that El Naschie was a scientific genius of a sort not seen since the days of Newton and Einstein. (He was equally convinced that the world would be devoured by miniature black holes created at CERN.)

I asked El Naschie for an interview; I wanted to tell his side of the story. But all I ever got from him was a string of e-mails that contained entertaining but irrelevant information. One included an invitation to ski with him. In more serious matters — when complaining to my editors

about the inappropriateness of my queries, or when threatening legal action — he was more direct. And then there were the e-mails from his supporters, or people who claimed to be his supporters, which accused me of impertinence and conspiracy, and warned that I would have to "carry the responsibility of my actions". It later emerged that the named senders of the e-mails did not exist. The judge found that the e-mails were, however, sent with El Naschie's knowledge or with his authority.

Nature made it clear that it stood by my article, so unless El Naschie dropped his legal complaint, it was evident that the situation would end for me in the intimidating environment of a foreign court. For the better part of three years, the looming trial was perhaps more

disquieting for my wife and my family than it was for me personally. And yet, it was the first time in my career as a science journalist that I had seen the darker side of a profession I had always enjoyed.

I am German and, as English farces go, this was far from a pleasant experience. English litigation is a long and costly process that could almost have been designed to bludgeon a defendant into submission. Still, unlike other science journalists, such as Simon Singh, who had previously had to go through the libel ordeal on their own, I was in the comparatively comfortable situation that my employers had the resources, the stamina and the willpower to take the case on.

Preparing for the trial ate up weeks of my time. I drafted and re-drafted my witness statement. Hours and days passed with me trying to recall and record the content of conversations and con-

siderations and decisions made many months ago.

It was a daunting task, but in doing it I began to realize that the importance of what was happening went beyond me and my story of a rather low-profile journal and its somewhat freewheeling editor.

The bigger picture, I believe, is that this case demonstrates once again how English libel law can stifle justified discourse, including open scientific discussion. The burden of proof falls too heavily on the defendant to prove what they said was true, not on the accuser to show that it is false. The law is therefore more likely to stifle free speech and suppress legitimate criticism than defend the interests of science or society at large. As a matter of fact, England's antiquated libel law has become a liability for the country and, in the age of online journalism, a nuisance to the world. If my experience helps to get it changed, it will perhaps have been worth every second. ■

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