

THE LEVESON INQUIRY

INTO THE CULTURE PRACTICES AND ETHICS OF THE PRESS

Part I : Module I

WITNESS STATEMENT OF GERALD PATRICK McCANN

I, GERALD PATRICK McCANN, c/o Collyer Bristow LLP, 4 Bedford Row, London, WC1R 4DF, WILL SAY AS FOLLOWS:

1. I am a Consultant Cardiologist working at the Glenfield Hospital in Leicester. I am married to Kate McCann, on whose behalf I also make this statement, and the father of three children.
2. Our eldest daughter, Madeleine, has been missing since 3 May 2007.
3. As a result of this our family has been subject to some of the most sensationalist, untruthful, irresponsible and damaging reporting.

Madeleine

4. I do not propose to go into any detail as to the events surrounding Madeleine's disappearance. Needless to say much has been written about this intensely private and emotional period of our lives.
5. I would however like to make clear that the search for Madeleine continues and we are still striving for the safe return of Madeleine to our family.

May 2007

6. In May 2007 we were on a family holiday in Praia da Luz, Portugal when Madeleine was abducted from our holiday apartment. What was a joyful time spent with family and loved ones turned into a living nightmare for Kate and myself.
7. Jon Corner, a good friend and godparent to the twins, used his media experience to release a number of pictures of Madeleine to the whole of the UK media in the early hours of the 4th May 2007 to publicise her image.

8. Incidentally the only organisation to contact Jon Corner prior to publication and to seek further details and verification was the BBC. The rest of the UK media used the images to publish a story about a missing British child without hesitation. Whilst we make no criticism of this, as it is what we wanted, it shows the differing attitudes of various media outlets to their responsibilities in situations such as this.
9. Nothing could have prepared us for the unprecedented media coverage, particularly in Portugal and the UK, which followed. Neither Kate nor I had any experience in dealing with the mainstream media.
10. On 4 May 2007, the day after Madeleine was abducted; there was a huge media presence in Praia da Luz. The scale of the media interest may have been amplified by the release of Madeleine's pictures and perhaps by the very rare nature of the crime. We were immediately faced with a decision as to whether to interact with the media or not.
11. Although I had several reservations we made the decision to interact, feeling that the media could help in the search for Madeleine. I issued an appeal that night. Despite what has happened subsequently, it is a decision I do not regret as I still strongly believe that the media can help in the search for a missing child.
12. It should be noted that in the first days following Madeleine's abduction we were desperate to find out as much information as possible and at the same time get the message out that Madeleine was missing and appeal for help in finding her. We were desperate, as we still are, that our daughter could be found and we wanted people to help with that in any way possible.
13. For example we were particularly concerned that those who abducted Madeleine may seek to try and get her out of Portugal as quickly as possible and given the Spanish border was about 90 minutes away this would have been relatively easy. We therefore wanted to ensure that the search for Madeleine was international and that she could be recognised as widely as possible. The best way to do this was to engage with the international media.
14. During these early days we gave several statements to the media and initially accepted being filmed going about our normal activity, acknowledging that we were likely to be filmed whether we consented or not. We did however inform the press that we were not going to provide daily updates.
15. Our engagement with the media worked well to begin with. The vast majority were sympathetic to what we were going through and understood our objective. What

emerged however was a heavy focus of attention on Kate and me (as opposed to Madeleine) and increasingly speculative and irresponsible reporting. We expected this reporting and level of focus to subside, however it was sustained for a period of over 12 months.

Portugal

16. The Portuguese criminal system is different to that in the UK. Unlike the UK, in Portugal there is no formal dialogue between the law enforcement agencies and the public including the press; indeed they are prohibited by law from having any. This means that the Police, the Policia Judiciaria ("PJ") would not make any public appeals for information concerning Madeleine's disappearance or have any dialogue with the public about any information which the public may have. This was incredibly frustrating given we came from a country which encourages these sorts of appeals in order to ensure those investigating have as much information as possible available to them. The police were therefore not influencing the media direction and coverage.
17. The lack of dialogue with the press obviously leaves the system open to abuse. When elements of the PJ wanted information to be known to the public, which was inevitable in a case with this much attention, they would leak it to sections of the Portuguese media. We strongly believe that individuals involved in the investigation deliberately fed the media snippets of information that were often out of context, exaggerated or simply untrue. These leaks would then be picked up and reported, and often misreported, by the UK media and internationally. This is regardless of the fact that a lot of the information appearing in the Portuguese media was often entirely incorrect and/or misleading.
18. With regards to the UK press, I believe they had no means of determining what they were reporting was factually correct. It did not deter them.

Intensity

19. As I have said we were totally unprepared for the intensity of the media focus on Madeleine's disappearance. Our family was suddenly headline news and the journalists in Praia da Luz were desperate to speak with us and those whom we knew at home in the UK. The day after Madeleine went missing there were literally hundreds of journalists from around the world in Praia da Luz. A number of these journalists would remain throughout the summer with all of the tabloid newspapers and the *Daily Telegraph* having at least one journalist there at all times.

20. The broadcast media appeared to be equally interested in the story as well. Sir Trevor McDonald and Huw Edwards were both in Praia da Luz in the early days and requested interviews with us on behalf of ITV and the BBC as did Sky News.
21. At first we received some help from a crisis management specialist from Bell Pottinger called Alex Woolfall. Alex was working on behalf of Mark Warner, the company through whom we booked our holiday, and gave us some *very good basic* tips in dealing with the media. After Alex we were relieved and extremely grateful to receive consular assistance from Cherie Dodd who had expertise in campaign management within the Department of Trade and Industry.
22. After that we received help from Clarence Mitchell who was seconded to the Foreign and Commonwealth Office as our media liaison in Praia da Luz for 3 weeks. Clarence's help was invaluable. We wanted, and still want, a partnership with the media when we have information which we think may be relevant and may help the search for Madeleine.
23. After Clarence returned to the UK Madeleine's Fund employed Justine McGuinness as our campaign manager and part of her role included ongoing media liaison. Justine worked with us through the Summer of 2007, including when we were declared *arguidos*.
24. It has been suggested by parts of the press that we are being hypocritical by complaining about our treatment at their hands when at the same time we have used them to further the search for Madeleine. I believe this is a crass and wholly one-sided way of looking at things; the suggestion being that we should not have sought to publicise Madeleine's disappearance or use the media to make our own appeals unless in return we were prepared to allow the newspapers to write inaccurate stories or invade our family's privacy.

Accuracy of Reporting

25. Most of the reporting originated in Portugal either through the Portuguese press or the numerous British press who would often congregate in the bars of Praia da Luz. As I have said the reporting was on the whole sympathetic and helpful in the days immediately following Madeleine's disappearance from May until July 2007.
26. Much of the coverage in the early days was entirely speculative since there was very little 'news' to report. We quickly realised that such speculation was not helpful and generally decided to stop reading newspapers and watching the TV coverage, which was virtually constant with the presence of 24 hour news channels.

27. That said it did not take long before innuendo started to creep into the reports we were seeing both on the television and particularly in the press. On the whole the broadcast media was reasonably restrained however the press reporting was not. This was incredibly distressing for Kate, me and our families who would often alert us to such articles.
28. We expected the media storm to calm with the passage of time but it continued day after day. We had anecdotal evidence from the British journalists in Praia da Luz that the story of Madeleine's disappearance had caught the imagination of the British public and was driving sales in the UK. As a result those journalists in Praia da Luz were under intense pressure from their news desks to file more copy concerning the story.
29. In June 2007 it appeared to us that the focus of the media reporting was shifting from the search for Madeleine to Kate and myself which made us very uncomfortable. To try and shift this back to Madeleine we gave an interview to Sky News in which we reiterated the focus should be on the search for Madeleine.
30. As information from the investigation started to dry up the journalists had to look elsewhere for their copy. Not only were journalists seeking stories in Portugal they were also seeking stories from and about our friends and relatives at home in Leicestershire. At other times we believe they were simply making stories up. One story that sticks out in this regard was an article in the *Daily Star* that suggested that we had sold Madeleine into white slavery to pay off our mortgage. I cannot imagine how any self-respecting journalist in Praia da Luz at that time, and who could witness what Kate and I were going through, could write such lies.
31. Early on the press also focussed a great deal of attention on Robert Murat, a British citizen living in Praia da Luz. Mr Murat was the first person to be named as *arguido* by the PJ. As a result there were numerous articles concerning Mr Murat, his past and his family along side other reporting on the investigation of Madeleine.
32. Some of the worst articles that were published in the UK were often based on articles originally published in Portugal. A very small quote or theory in a Portuguese article would be spun into a front page headline in the UK and presented as fact.
33. There was also often a considerable disconnect between the headline and the content of the article. This was particularly upsetting as it appeared the headline was only written for its sensationalist nature in order to try and get people to buy the newspaper. This might have been a little more acceptable if it was guaranteed that

those who read the headline went on to read the whole of the article inside but as experience suggests, it was likely to be read more by people who would only glance at a copy of the particular paper say on the garage forecourt or on the newsstands. An explicit denial of the events in question by Clarence, Kate or myself rarely stopped articles from being published.

Arguido Status

34. The nature of the reporting changed dramatically after Kate and I were declared *arguido* by the PJ on 7 September 2007 (although numerous inaccurate, unsubstantiated and damaging articles had started appearing in August 2007). This officially meant that we were 'persons of interest' and were entitled to legal representation which is not the case for 'witnesses'. Under Portuguese law at that time, the police determined when a witness became an *arguido* and this status would remain until the investigation was complete. The media interpreted it as meaning we were formal suspects in the Police investigation.
35. As if being suspected of being in some way connected with Madeleine's disappearance was not distressing enough the press considered our *arguido* status reason to declare open season on Kate and myself.
36. What followed was a sustained, inaccurate and malicious series of headlines in a number of papers which gave the impression that we were in some way responsible for or involved in Madeleine's disappearance. Again the headlines were particularly shocking.
37. Whilst we expected the story to gain prominence again with our being named *arguido* we did not expect the renewed vigour with which the journalists pursued us. We were virtually being tried by the media which reported wholly inaccurate and incredibly damaging stories day after day whilst we were 'threatened' with imprisonment if we broke judicial secrecy.
38. On returning to the UK, we asked Clarence Mitchell if he would act as our spokesman and for the search for Madeleine given how well he had handled the media when he was with us in Portugal.
39. During this time Clarence informed us that reporters were telling him they had to get a front page story on us or their job was on the line. This suggested that the newspapers were demanding stories as they were commercially valuable to them and/or because they had to keep up with their competitors. This was confirmed by Peter Hill, the then editor of the *Daily Express*, who admitted to the Culture, Media

and Sport Committee in 2009 that "[these stories] certainly increased the circulation of the *Daily Express* by many thousands on those days without a doubt."¹

40. I cannot put into words how hurtful it was to read some of the articles that followed in the days after we were named as *arguidos*. For instance the *London Evening Standard* splashed the following front page headline on its 7 September 2007 edition, the day we were declared *arguidos*: "POLICE BELIEVE MOTHER KILLED MADDY".
41. In the following day's *Daily Mail* a journalist called David Jones, who I had never met, felt it appropriate to write an article with the sub heading "I pray the Portuguese police are careering down the wrong track, but from the start, a terrible nagging doubt has refused to leave me."
42. I appreciate that it is a journalist's job to write provocative articles however I find it astonishing that someone would feel it appropriate to write an article such as this about me and my wife, people he did not know, making the most serious possible accusations against us, without knowing all of the relevant details. This was not the only such article.
43. As for Mr Jones and the *Daily Mail*, on 4 May 2009 he wrote a further article under the heading "David Jones has his suspicions about the McCanns but two years on, he confesses he was terribly wrong." No doubt Mr Jones was not the only person to question Kate's and my involvement in Madeleine's disappearance however he was one of the few with an audience of millions. His article in May 2009 did little to correct the damage done by his article in September 2007 some 18 months earlier.
44. Other articles suggested for example that Kate and I were "swingers", criticised our faith or attacked our parenting. I find this journalism unforgiveable. The articles we included in our libel complaint are referred to later in this statement.
45. During this time we also received a large volume of hate mail including a death threat which I believe was largely attributable to these articles and their reporting of the investigation.

Photographs

46. When we returned home from Portugal a large number of photographers felt it necessary to camp outside our family home. They did so in order to get an up to date

¹ Culture, Media and Sport Committee – *Privacy standards, privacy and libel*; Second Report of Session 2009-10 Volume II, Ev 161 – Q620

picture of us to go with that day's article despite our appearance clearly not having changed and the press having hundreds of library pictures of our whole family.

47. These photographers felt it necessary to follow our every move and acted with utter disregard for our family's private life. They were camped outside our house for several days before the police asked them to move to the end of the cul de sac where they appeared daily for months. They would often bang on the car windows to provoke a reaction when we left the house with the twins. This was obviously incredibly frightening for the twins and on more than one occasion Amelie said to Kate "Mummy, I'm scared." It is difficult to explain to your children why these sorts of events happen.
48. When we wanted to go for a run we would drive to a different location in order to avoid being photographed. Even this had to stop when several photographers would try and follow us and wait by our car so they could get their photograph. I have also had my privacy invaded by being photographed playing golf when on a private course when I was actually trying to get some respite from the media.
49. Another trick deployed by the papers would be to distort photographs taken of Kate. We believe that at least one newspaper elongated photographs in an attempt to make Kate look thinner than she was. They would be accompanied by articles commenting on Kate's health and how she looked "frail" or "fragile" and implying that she may be anorexic.

Effect of Articles

50. It is difficult to ever properly explain how Kate and I felt as a result of these articles. It was devastating and totally distracted from the search for our innocent, missing daughter Madeleine. The abductor must have been smiling wryly..
51. The most damning thing of all and the most damaging aspect of the coverage which Kate and I cannot forgive was the presentation that there is a substantial body of (implicitly credible) evidence that suggests that Madeleine is dead. In fact there is no evidence to suggest she has been seriously harmed at all.
52. It is very likely that such reporting would stop people looking for, or pass on relevant information about Madeleine if they thought she was already dead. To this day, particularly in other European countries, we are still asked about widely publicised lies such as Madeleine's DNA and blood in our hire car and tranquilisers that we had supposedly given to our children.

Raising our Concerns

53. In early September 2007 Justine McGuinness (campaign manager for Madeleine's Fund) together with our solicitor Angus McBride met with all the editors of the major UK tabloid newspapers. These meetings were to convey to the editors that what they had been reporting was largely unfounded and to emphasise that we considered most of the coverage libellous but more importantly damaging to the search for Madeleine. Reporting did seem to improve but only for a few days
54. On 17 September 2007 Matthew Baggott, Chief Constable of Leicestershire Police, felt it necessary to circulate a letter to the British media voicing their serious misgivings as to the media coverage and urging greater restraint.
55. This letter did not appear to have any effect and on 8 October 2007 he repeated this request. Copies of these letters are attached as '**Exhibit GM 1**'.
56. Further meetings were organised with the editors and Clarence Mitchell (now working for us again) accompanied by Angus McBride. It was not long before the rumour mill went in to overdrive with wildly inaccurate and speculative stories appearing about how we were implicated in Madeleine's disappearance.
57. As a result we took advice on whether or not it was possible to take legal action to try and prevent further publication. The advice was favourable and our solicitors Kingsley Napley wrote to the Legal Department of Express Newspapers and the *Evening Standard* on 26 September 2007.
58. It was our belief that the Express Group newspapers, the *Daily Express*, *Sunday Express*, *Daily Star* and *Sunday Star* were the worst offenders when it came to the publishing of sensationalist articles. They were by no means the only offenders but they were certainly the worst.
59. I understand from Clarence that the editor of the Daily Express acknowledged that some of their headlines had overstepped the mark and that he informed him that they would be more careful to check the accuracy of their reporting in the future.
60. This did not appear to have the desired effect and variations of the same malicious and damaging stories would reappear over and over. Articles continued despite our solicitor writing again on 10 October 2007. This had no effect and the newspapers continued to publish these stories despite not having any reliable sources and our assertions that they were untrue.

61. I can only presume that they made this decision on a purely commercial basis. By which I mean they considered their ability to make money from the additional sales of the newspapers carrying the stories to be more important than taking into account our legitimate concerns as to the accuracy of the reporting and the effect it would have on our family - most significantly the search for, and well-being of our missing daughter.
62. We decided not to take legal action at this time feeling we needed to prioritise matters, such as our efforts 'on the ground' to find Madeleine and our *arguido* status before dealing with the inaccuracies in the press. I know that Clarence continued to try and reason with the press but to little avail.
63. At the beginning of 2008, following a series of grossly libellous headlines over 10 days, we decided to instruct specialist media lawyers, Carter-Ruck, to make our complaint formally to the Express Group of newspapers.
64. We were advised that it would also be possible to sue a number of different newspapers as a result of their reporting. For a number of reasons we initially confined this complaint to the Express Group who we considered to be the worst offenders. Other considerations included not wanting to alienate the whole of Fleet Street when we still wanted to be able to put our message across when necessary and to continue to publicise the search for Madeleine. In addition, we were reluctant to be seen as going to 'war' against the press more generally. We felt we had enough battles to fight in the search for our daughter.

Libel Claims – Express Group Newspapers

65. Carter-Ruck sent a letter before action on 30 January 2008 to the editor of the *Daily Express*. On 6 February 2008 they sent a similar letter to the editor of the *Daily Star*. These letters attached a schedule of the most serious articles we complained of. A copy of these schedules and articles is attached to this statement as 'Exhibit GM2' and 'Exhibit GM3'.
66. A selection of the worst front page headlines include:
- *MADDIE MUM ORGY FURY*
 - *PRIEST 'BANS' MADELEINE: He takes down posters as Praia da Luz 'wipes her from its memory'*
 - *MADELEINE – MCCANN'S ARE MAIN SUSPECTS SAY POLICE*
 - *IT WAS HER BLOOD IN PARENTS' HIRE CAR; New DNA tests report*

67. As I have said previously one only has to read the articles in question to realise that the headline did not always accurately reflect the content but the damage is often done by the headline as that's what the public see and remember.
68. On 7 February Carter-Ruck were contacted by Express Newspapers. Having received our complaint they indicated in the first instance that they were not "presently" willing to publish apologies for the serious libels they had published, on the spurious basis that our ongoing *arguido* status made this "unworkable". Instead, Express Newspapers said they were minded to offer us a "platform" within Express Group newspapers (including *OK! Magazine*) which we understood meant that they would print positive coverage about us and/or an interview with us. Even though this offer was coupled with an indication that Express Group may be willing to make a contribution to Madeleine's fund, I found it simply breathtaking that they would think it appropriate to offer us interviews or other coverage in their own publications which they would subsequently make money from, as an appropriate remedy for the distress and hurt they had caused. We were advised immediately to reject this offer and to press for the full apology and damages to which we were clearly entitled.
69. After a short delay to allow the newspapers to take leading counsel's advice Express Newspapers, in their first formal response to Carter-Ruck, admitted they were guilty of wrongly publishing a number of articles which suggested we were the prime suspects in the disappearance of Madeleine and that there was sufficient evidence to charge us. They further agreed to publish front page apologies and to make a substantial donation to Madeleine's fund.
70. After a period of negotiation a statement in open Court was read on 19 March 2008 and payment of £550,000.00 was made to Madeleine's fund.
71. Before this sum was agreed, Carter-Ruck advised that there was a good argument that we should be entitled to exemplary damages given the apparent commercial gains which the Express Group would have expected to have made (and no doubt did make) from publishing the articles complained of. However, it was not our wish to drag out the dispute by bringing proceedings against the Express Group. We simply wanted an appropriate sum to reflect the gravity of the libels, and above all, a full apology and correction to inform the readers and the wider public, so that we could continue to focus on and improve the search for Madeleine. We also believed that such a settlement would send out a very strong message to other media outlets.
72. We were happy that the matter could be dealt with relatively quickly but it was also frustrating at the same time. If they were so quick to accept there was no truth in the

allegations within the articles why did they publish them in the first place? I repeat that I can only believe it is because they were more concerned about publishing the articles in order to increase sales of the newspaper than considering their accuracy or the effect they would have on our family and the search for Madeleine.

73. Much was written at the time about the Express Group agreeing to make an "unprecedented" front page apology. Indeed the actual wording of the apology states it was "unprecedented". In light of the fact that many of the articles had been published or trailed on the front page we considered this to be the only appropriate place for the apology. It is for this reason that we specifically sought a front page apology in our letters of complaint. Indeed it seems unjustifiable to me that a newspaper should not have to carry front page apologies where they have published misleading, inaccurate or defamatory front page articles.
74. Following the complaint which we made to Express Newspapers it was noticeable that the whole tone of the press coverage about us – both in Express Newspapers publications elsewhere – changed. In essence, the reporting became far more balanced and responsible, and we did not see a return to the wildly misleading headlines which had been published about us in late 2007 and early 2008. The reporting improved further in July 2008 when the Portuguese Prosecutor confirmed that there was no credible evidence to suggest Madeleine was dead or to suggest that we were implicated in Madeleine's disappearance.
75. Whilst our settlement with Express Newspapers obtained a lot of coverage it should not be forgotten that the same newspapers were also found to have acted in a similarly irresponsible fashion in respect of those we were on holiday with and other alleged *arguidos*. Our friends were accused of covering up the truth about Madeleine's disappearance and misleading the PJ investigating the case. This shows the extent to which the newspapers were indiscriminate in trying to obtain stories pertaining to Madeleine's disappearance.
76. Needless to say, despite being unfairly victimised on the front page and elsewhere their settlements were not well reported and they did not receive the "unprecedented" front page apology we did, it being tucked away on Page 21 of *The Sun*, page 20 of the *Daily Mirror* and page 5 of the *Daily Express*.
77. We are aware that Mr Murat also brought proceedings and was awarded significant damages for the articles referred to above.

Libel proceedings – Associated Newspapers

78. In July 2008, after our complaint against Express Newspapers had been resolved, we made a further libel complaint in relation to coverage in the *Daily Mail* and in *The Evening Standard* (and its website thisislondon.co.uk), all of which at that time were published by Associated Newspapers.
79. While Express Newspapers was undoubtedly the worst offender in terms of their defamatory coverage of us, Associated Newspapers had also published a number of very serious allegations about us. We felt it was important to seek vindication in relation to these allegations also and to inform this different readership group of the previously inaccurate reports they will have encountered and subsequently based their opinions on.
80. The complaint was resolved with the payment of a substantial donation to be used in the search for Madeleine, and the publication of an apology by the *Evening Standard*. While the *Daily Mail* agreed to carry a number of free 'adverts' (or appeals for information) on behalf of the Find Madeleine campaign in their continental editions, they were not willing to publish an apology. The *Daily Mail* resisted on the basis that they had published a number of articles which were supportive of us which they believed largely balanced the articles reporting allegations and suspicions about us. While we were disappointed by their stance, we had no wish to embark on a protracted dispute with the newspaper, particularly given the need to maintain good relations with the press in continuing to publicise the search for Madeleine.

Conditional Fee Agreements

81. I should mention that Carter-Ruck made clear that they would be willing to act for us in our libel dispute on the basis of a Conditional Fee Agreement, albeit that in the end this was not necessary as Express Newspapers and Associated Newspapers did not contest our complaints. However, had it not been for the availability of a CFA, it would have been very difficult – if not impossible – for Kate and I to have brought the complaint as we do not have the resources to take on large media organisations in this way.

First Anniversary

82. In early 2008 we were campaigning through the European Parliament for the introduction of a better alert system for child abductions. We had proposed this be similar to the AMBER alert system used successfully in the US.

83. This had not received as much coverage as we would have hoped, which in itself shows how the press would pick and choose stories about Madeleine that were of interest to them only and were not always to our benefit. One publication that was interested in covering the story was *HELLO!* Magazine which is distributed throughout Europe. As a result we agreed to an interview with *HELLO!* to publicise this campaign further particularly given its readership in other EU member states.
84. When the *News of the World* ("*NotW*") editor, Colin Myler, found out about our interview with *HELLO!* he telephoned me direct. He was angry and asked (rhetorically) how he could be expected to help if we gave away stories to rival publications and that "*the staff here felt let down*". The *NotW* had very generously raised a £1.5m reward for anyone who provided information leading to the return of Madeleine. It appeared from our telephone conversation that Mr Myler felt this meant that they had first refusal on any story or interview we wished to give subsequently. It also sadly highlighted that any help given to help Find Madeleine was conditional.
85. In the end we were made to feel so guilty that we agreed to give an interview to the *NotW* despite not really wanting to do so. At the time we did not want to upset the *NotW* and wanted to keep them onside for Madeleine's sake. To our amazement on the anniversary of Madeleine's disappearance an article by *NotW* columnist Carole Malone also featured in the paper under the heading "*I wept for Kate but I still blame her.*"

Kate's Diary – *News of the World*

86. On 14 September 2008, and without any notice to us, the *NotW* published complete transcripts from Kate's personal diary. The *NotW* led with a front page article with the headline "*KATE'S DIARY: IN HER OWN WORDS*". The article continued on pages 4 to 7 with a leading article on page 8. Pages 4 and 5 had the heading "*PLEASE GOD. IS SHE DEAD?*" running across the both pages. Kate was distraught and in her words, felt 'mentally raped'.
87. Whilst the article itself was presented in a positive way and highlighted the reasons why the articles we have previously complained of were untrue, the diary was deeply personal and obviously intensely private. To this day I have not read its contents. .
88. It beggared belief that the *NotW* felt it appropriate to publish to the world at large Kate's innermost feelings, recorded by her at a time of unimaginable anxiety and stress.

89. The diary itself had been seized by the PJ in August 2007. This was the only possible source from whom the *NotW* could have obtained the diary and they therefore must have been aware that it had been obtained without Kate's consent, was a serious breach of privacy and confidence and a breach of copyright.
90. Of more concern was that when we investigated this leak it became apparent that there was an order from a Portuguese Judge which stated that the PJ should return the diary to Kate and destroy all copies in its possession, given it had no relevance to the investigation and use of it would be a violation of its author. As a result we are unsure as to how the *NotW* obtained a copy.
91. Further the text that was published in the *NotW* did not match Kate's actual diaries. It would appear that it was an English translation of a Portuguese translation of the original diaries made for the PJ. As you would suspect some things were lost in translation.
92. The picture of Kate and the sub-heading on the front page "IN HER OWN WORDS" gave the impression that she had in some way authorised the publication of her diary. A copy of the front page is attached as **Exhibit GM4**. This added to our distress as it gave the impression that we were willing to capitalise financially on inherently private information which could not have been further from the truth. The truth was that there was no way Kate would have been prepared for her diary to have been made public in such a way.
93. In the days before publication of the article, Ian Edmondson the deputy editor of the *NotW* had spoken to Clarence on several occasions as was fairly normal at that time. He indicated they were going to write a positive piece in that week's *NotW*. At no point during their conversations did Mr Edmondson mention that the *NotW* had a copy of Kate's diary and were intending to splash its contents, verbatim, in his paper.
94. Had we known this we would have asked the *NotW* not to publish the extracts. If they refused, it is likely we would have instructed our solicitors to take whatever legal steps were necessary to prevent publication. Without knowing that publication was to take place, we were robbed of our only effective remedy to keep the information private.
95. In the end, all we could do was instruct Carter-Ruck to bring a complaint after the event on Kate's behalf. The News of the World agreed to publish an apology to Kate, and to pay a financial donation to further the search for Madeleine. While this was of

course better than nothing, it provided scant consolation given the distress caused to Kate and our family by the publication of her most private thoughts without Kate's consent.

Continuing Relationship with the Press

96. Despite our repeated complaints to the media we have on a number of occasions been forced to seek assistance, legal and otherwise, in dealing with press issues at the eleventh hour. These issues inevitably arise on a Friday night or at the weekend when we would normally hope to be spending quality time together as a family. Instead we would have the stress of urgent calls with Clarence, subsequent conversations with Carter-Ruck and then waiting to see what could be agreed, whilst at all times knowing that we may need to apply for an injunction or suffer the consequences of an authorised publication. .
97. An example of such an issue was an intended story that was to allege that Kate was undergoing further IVF treatment in order to have a baby to "*replace Madeleine*". This was completely untrue and extremely upsetting. The story was pulled at the eleventh hour as a result of our intervention.
98. Whilst interest in our family has on the whole died down when a new story about Madeleine does arise the papers are still quick to report it. Unfortunately despite all of the warnings we have given they continue to do so with little or no regard to our family and more importantly the search for Madeleine.
99. We are of course very keen for the press to keep reminding the public that the search for Madeleine is ongoing in the hope that this may generate leads. However, there are times when the search may have been jeopardised by the publication in the press of sensitive 'intelligence' with no regard for the harm that may be caused
100. For example in July of this year the *Daily Mail* reported that Madeleine had been sighted in India. They did so without contacting Kate or me or any of the number of people searching for Madeleine. Our concern is that this type of reporting has no regard for Madeleine's wellbeing or of how best this information may be used in the investigation. At worst it has the potential to tip off her abductors that we know where they are, which could have tragic consequences. It appears to us that publication of 'the story' seems to be more important than potentially apprehending those responsible for Madeleine's disappearance and bringing them to justice.

Press Complaints Commission ("PCC")

101. When I gave evidence to the Culture, Media and Sport select committee on 10 March 2009² a number of questions were raised as to the presence or otherwise of the PCC during this period and their willingness to get involved.
102. Whilst we understand that the PCC have said they tried to contact us through the British Embassy in Portugal in May 2007 the first we were aware of this was when the PCC gave evidence to the Culture, Media and Sport select committee in 2009.
103. That said we have on a number of occasions had cause to contact the PCC. The PCC was extremely helpful in dealing with the unwanted intrusion into the privacy of our twins. In particular the press were constantly taking photographs in which our children were included.. Having contacted the PCC this quickly stopped.
104. However, when it came to the inaccurate reporting of articles both defamatory and otherwise the PCC did nothing that we are aware of. The PCC did nothing proactive before our libel complaint. We did approach the PCC about these articles but the then chairman, Sir Christopher Meyer, explicitly told us that it would be better if we were to seek redress through the Courts. I found it amazing that the press regulator could do nothing to regulate the press.
105. Legal action was always a last resort for Kate and me. That said we did not want these offensive slurs to continue, especially given their effect on the search for Madeleine . A complaint in this regard is nearly always retrospective and by the time you complain the damage has already been done.
106. The advice we had from our lawyers was that the press would not consider an adjudication from the PCC to be a deterrent. We were advised, and this was confirmed by Sir Christopher, that an effective remedy to prevent further damaging articles could only be achieved through the Courts and that the PCC were essentially powerless in stopping the Press pre-publication.
107. I was also surprised that the PCC did not decide to take any action itself after Express Newspapers had admitted their wrongdoing. To me they were effectively brushing it under the carpet. The PCC has said that they did not do so as they felt it would be seen as trying to exploit the publicity that the investigation had attracted³ however they did not contact us to seek our view on this. We would have been more

² Culture, Media and Sport Committee – *Privacy standards, privacy and libel*; Second Report of Session 2009-10 Volume II, Ev 67 – 79.

³ Culture, Media and Sport Committee – *Privacy standards, privacy and libel*; Second Report of Session 2009-10 Volume II, Ev 107 - §7.6

than happy for them to investigate this matter and reprimand Express Newspapers and any other paper they felt had crossed the mark in its reporting.

108. I am very much a believer of the free press but there has to be a remedy available when journalists and the media overstep the mark. It seems to me that the PCC is clearly ineffective in this regard and a much more stringent regulatory regime should be put in place.
109. Another issue I found deeply troubling about the PCC was the fact that the editor of the *Daily Express*, who had sanctioned the most devastating stories about us, sat on the board of the PCC. We did not believe that we could possibly receive a fair hearing given that one of the individuals ruling on our complaint was the editor of the very newspaper we were complaining about.
110. When Mr Hill was specifically asked if anyone had "*been reprimanded, disciplined, sacked, demoted at the Express over what happened with the McCanns?*" Mr Hill's response was "*I have reprimanded myself because I was responsible*"⁴. I would suggest this is symptomatic of the problems the PCC encounters and the newspaper's attitude to self-regulation.

Kate's Book

111. In May 2011, Kate's account of Madeleine's disappearance and the effect on our family was published in a book entitled simply "Madeleine."
112. The decision to publish the book was a very difficult one, and one we'd prefer not to have made at all. Kate wrote it to give an account of the truth, first and foremost for our three children. The book is incredibly detailed and includes some very personal, intimate and emotional aspects of our lives. Our preference in an ideal world would be to share little of this detail but without it, it wouldn't have conveyed the extent to which our life has been impacted by Madeleine's abduction and the subsequent press coverage we endured. Kate needed the book to be true and real. As with every action we have taken over the last four years, it always boils down to whether what we are doing could help us to find Madeleine. When the answer to that question is yes, or even possibly, we do it.
113. Kate's book was also serialised in *The Sun* and *The Sunday Times* in the lead up to the fourth anniversary of Madeleine's disappearance in May of this year. We had

⁴ Culture, Media and Sport Committee – *Privacy standards, privacy and libel*; Second Report of Session 2009-10 Volume II, Ev 163 – Q644

initially decided not to serialise the book and the publishing deal with Transworld did not make this a condition. That said we agreed at a later date to meet with a team from News International (who had been relatively supportive in the past) at their request to see what they wished to offer.

114. One of those we met was Rebekah Brooks who was very persuasive. She set out very clearly *The Sun's* support for our search for Madeleine. She asked us our priority at that time which was for a formal review of Madeleine's case. A Review is a highly valuable investigative process, performed as standard practice in the UK for major unsolved crimes. After four years, no review had been carried out in Madeleine's case. We had by then met with three Home Secretaries to request a formal review without success.
115. Rebekah said that she would actively assist us in seeking a review and set out various ideas of how *The Sun* could help. It was this campaign and its potential to help the search for Madeleine that persuaded us to agree to serialised extracts of Kate's book being published in *The Sun* and *The Sunday Times*. On the launch day of Kate's book, 12 May 2011 which was Madeleine's eighth birthday, *The Sun* published an open letter from us to The Prime Minister requesting a review. Later the same day it was announced by the Home Office that a formal review would take place.

Culture Change Required

116. Over the last four and a half years my family has been through some of the worst ordeals anyone could ever have the misfortune to experience. As if the disappearance of Madeleine was not enough, this has been severely compounded by our family's treatment at the hands of the British press and the tabloid media in particular. That they are free to do as they please without proper regulation is frightening. Without major change other innocent individuals and families will suffer as we have done.
117. In my view the reporting we suffered was driven entirely by a desire to increase circulation and profit. I can see no other reason why the stories were covered in such a way for such a protracted period of time. The newspapers clearly saw our family's situation as something they could profit from and they took every step possible to capitalise on this with little or no regard to the privacy or well being of our family and Madeleine, the greatest victim in all this. Given the tens of thousands of extra copies the editor of the *Daily Express* acknowledged stories about our family generated;

perhaps they considered the payment of £550,000 worthwhile. Indeed it disturbed me to know that the *Daily Express* sold out on the day the apologies were published.

117. It has been said by the media that a press free to question and investigate those in power is required within a democratic society. Before Madeleine's disappearance I would have strongly agreed with such a statement. Our experience since has shown that the press have repeatedly failed to take into account the very serious responsibility that comes with such freedom and have very little regard for the public's legitimate right to privacy. The press may also say that mistakes happen so rarely that they do not justify enforced or statutory regulation. However as soon as such 'mistakes' are published the damage is done and often cannot be fully reversed. Knowing what it is like to experience such ill treatment at the hands of an unregulated press I no longer believe that self regulation of the media is appropriate.

Statement of Truth

I believe that the facts in this witness statement are true.

Signed:..

Gerald Patrick McCann

Dated: 30/10/11.....