

Jones Day threatens CANDEY with legal action

By Annabel Tinson | 6 December 2023

Jones Day has threatened CANDEY with legal action, *The Lawyer* understands, after the litigation boutique sent out a press release alleging the Administrative Court had been critical of the US firm.

CANDEY, representing the defendants, sent a press release on 20 November regarding a decision in an application for a judicial review brought by private prosecution firm Edwards Marshall McMahon (EMM) on behalf of Dubai-based claimants Pradeep Morjaria and Sangita Morjaria.

In its release, CANDEY alleged that EMM was the subject of severe judicial criticism. In addition, the boutique alleged that Jones Day, which was acting for the couple in a separate civil claim, was also subject to judicial criticism. According to documents obtained by *The Lawyer*, Jones Day has threatened CANDEY with legal action regarding its press release, claiming that the firm's statements are false and defamatory.

The Lawyer understands that Jones Day has asked for a public apology, a correction, and has reserved its rights to bring proceedings against CANDEY for damages and further relief if it does not comply with its terms. It is further understood that the boutique has stuck by its press release and invited Jones Day to issue defamation proceedings against it.

In the meantime, EMM has said that it agrees with Jones Day. A statement provided to *The Lawyer* by EMM said: "We are in full agreement with Jones Day that the CANDEY press release is both

inaccurate and defamatory. As the UK's leading private prosecution firm, we are disappointed with this judgment. Not simply because it was critical. We are disappointed because of the unduly high hurdles victims face in private prosecutions. As the Court observed, this was a strong case of fraud committed by the defendants. However, we welcome the clarification from the court.

"Due to a systematic lack of investigation and prosecution in fraud matters, victims often have no recourse to justice other than a private prosecution. We work in one of the most dynamic and evolving areas of law in the UK. We cannot comment further as an appeal in this matter is under active consideration."

The background to the dispute saw Pradeep and Sangita instruct Jones Day in civil proceedings in August 2020 against former business partner Camran Mirza, his family and his company, alleging fraud. The pair also separately appointed EMM in criminal prosecution proceedings in October 2021.

In August 2022, the Magistrates Court issued the summonses sought by EMM and the claimants against Mirza and the other defendants. While the magistrate judge stuck by his decision that there was enough evidence against the defendants to build a case against them, in January 2023, he set aside the summonses and ruled the criminal proceedings as an abuse of process. This decision had followed a disclosure exercise that showed Pradeep, in emails to his lawyers about the two separate legal actions, intended to use

the pressure of the criminal proceedings to force a settlement in the civil proceedings.

The claimants applied for a judicial review of this decision but were unsuccessful in a judgment handed down on 17 November, a few days before CANDEY sent its press release.

Referencing the magistrate judge's decision in January, in November Lord Justice William Davis and Mrs Justice Stacey said: "The judge concluded that this was an abuse of the court's process. The judge determined that the attitude of [Pradeep] as evidenced by his exchanges with his lawyers whether in the civil proceedings or in relation to the criminal summonses was the key indicator of his motivation."

However, the magistrate judge, in relation to the non-disclosed material, said in January: "I do not find that the material was deliberately concealed so as to manipulate the application for a summons. Nor do I make any finding of misconduct against the lawyers acting for the prosecutor in these proceedings."

William Davis J and Stacey J said: "Given the messages passing between [Pradeep] and his lawyers, in particular EMM, we consider that the judge was generous to the lawyers" but agreed that "the question of lack of candour was a side issue."

All parties were approached for comment.