

Your ref:

Our ref: LC/00017-Smith

Date: May 11, 2020

Samuels Solicitors

Please ask for: Laura Coad

By email only:

Email: lcoad@keidanharrison.com

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Direct dial: 07894 238649

Dear Sirs,

**WITHOUT PREJUDICE SAVE AS TO COSTS**

**Our client: Oliver Smith**

**Your client: Emil Kirkegaard**

We write further to your email dated 11 May 2020 and have now had the opportunity to obtain our client's instructions in relation to the terms of the offer proposed.

It is apparent that your client now understands that their claim no longer holds any merit following the judgment of the preliminary issues hearing. It is evident from the judgment dated 11 December 2019 ("**Judgment**") that your client's claim will likely to fail to meet the serious harm under section 1 of the Defamation Act 2013 and our client also has a strong defence of honest opinion. This was clearly set out to you in our letter dated 4 December 2020 in which we invited your client to discontinue their claim. On 3 March 2020, we sent you a further letter requesting that you provided the relevant evidence to show that our client did not hold an honest opinion, however, you unreasonably failed to provide this evidence.

As a result of the above, our client has had to incur further significant legal costs defending an unmeritorious claim despite giving your client the opportunity to reconsider its' position. Therefore, our client is entitled to recover the costs that he has incurred. In order to try and reach a swift conclusion our client is willing to settle on the following terms:-

- 1) An additional payment of £9,000 towards our client's costs incurred since the Judgment. Our client's actual costs incurred since the Judgment amount to circa £13,000 and you will see that this represents a discount;
- 2) Payment of our client's further costs in finalising and agreeing the Settlement Agreement (the amount of which is to be agreed in the settlement agreement but we expect it to be in the region of £2,000);
- 3) Removal of the blog post about our client from the Claimant's website; including the picture of our client with the caption "paedophile";
- 4) An agreed statement to be published on the same URL for 6-months, our client also requests that the December Order and the Tomlin Order is published with this statement;
- 5) An agreement that no further statements are made about our client by the Claimant.

The statement as stated in point 4) should read as follows:

*“Following a trial of meaning and fact/opinion as preliminary issues in a defamation claim brought by the Claimant, Emil Kirkegaard, against Oliver Smith, the Defendant, and the decision of the England and Wales High Court (Queen’s Bench Division) on 11 December 2019 in favour of the Defendant, the Claimant has withdrawn his claim against the Defendant by consent and agreed to pay the Defendant’s legal costs as Ordered by the Court, together with an additional payment for costs as agreed between the Parties.”*

We request that you confirm your client’s acceptance in principle of the above terms by midday on Wednesday 14<sup>th</sup> May and provide a draft settlement agreement. We will need to negotiate and complete on the agreement by 4pm on 15 May 2020 to avoid the costs of further preparations of the hearing which we must commence on Monday 18<sup>th</sup> May 2020 at the very latest. If the offer is not acceptable then your client may simply discontinue the claim and accept the costs sequences that flow from discontinuance. We take the view, however, that even if your client discontinues, his application to pay by instalments will remain extant with the costs consequences that flow from that if he does not also withdraw that application.

Please note that this offer is made on a subject to contract basis.

Yours faithfully,

*Keidan Harrison LLP*

**Keidan Harrison LLP**