

McKennitt privacy case ends with settlement

Press Release

05.10.2007

London- The long-running privacy action by Canadian singer Loreena McKennitt has ended in the High Court, today with author Niema Ash, who had signed a confidentiality agreement as an employee of the singer, agreeing not to publish a book that delved into deeply private matters.

This follows a judgment by Mr. Justice Eady in the Court of Appeal in December 2005 which found that Loreena McKennitt's privacy had been intruded upon and that the duty of confidence owed to her by Niema Ash, her former friend and employee, had been violated.

Niema Ash, a UK resident, had self-published a book about the Canadian singer and composer in the summer of 2005. This followed an acrimonious dispute over the shared ownership of a property in London, which was settled several years earlier. In court she described the book as a "love letter" to Loreena McKennitt. After a 10-day High Court trial in November of 2005, certain passages of the book were restrained by order of Mr. Justice Eady.

In his November 2005 judgment, Mr. Justice Eady stated:

"[Ash] is not capable of standing back and making any kind of dispassionate or objective assessment of her motivation or of the consequences of what she has done. She is clearly resentful towards Ms. McKennitt and finds it difficult to move on from the breakdown in that relationship."

Mr. Justice Eady also found that numerous passages of the book, such as those dealing with the tragic death by drowning of Ms. McKennitt's fiancé and her subsequent grief, "were remarkably intrusive."

A settlement was announced on October 4th, 2007 in the High Court before Mr Justice Eady.

A statement read in Open Court by Desmond Browne QC made clear that Ms Ash undertook to the Court not to publish her new version of the book or any other information about Loreena McKennitt. Ms Ash also agreed to make a substantial payment of costs.

The statement in Open Court was as follows:

"I am pleased to be able to tell your Lordship that the parties have now agreed terms on which to dispose of this long-running litigation.

As the Court knows, in 2005 Ms Ash published a book entitled "Travels with Loreena McKennitt". Following a trial later that year, an Injunction was granted on the grounds of breach of confidence preventing the publication of substantial passages in the book. An appeal by the Defendants to the Court of Appeal failed, as did their application to the House of Lords for leave to appeal.

Just days after the dismissal of her application to the Lords, Ms Ash published a second edition of the book. Ms McKennitt took the view that even in its amended form, the book still seriously intruded on her legitimate right to privacy, and that it fell foul of the injunction granted by the Court at the end of 2005. She was therefore compelled to start a second set of proceedings, and in the meantime the Court granted an interim injunction against further publication of the second edition.

Ms Ash has now agreed that she will not publish "Travels with Loreena McKennitt" any further, nor publish or disclose any other information about the Claimants or her dealings with them. She has also agreed to make a substantial contribution in payment of the costs orders in the Claimants' favour. In these circumstances Ms McKennitt feels she has achieved her objective in protecting the human right she shares with others to a private life, and welcomes the settlement which has been achieved. ")

Dated this 4th day of October 2007

*Signed Desmond Browne QC
Barrister for Claimants*

*Jonathan Crystal
Barrister for Defendants*

Loreena McKennitt, currently on tour in the United States, said:

"I passionately believe that if an aspect of one's career places one directly in the public eye or if extraordinary events make an ordinary person newsworthy for a time, we all still should have the basic human dignity of privacy for our home and family life. At the end of this long process, privacy law has been developed and built upon."

"I would like to thank those journalists who have reported on this matter fairly and accurately. This was never a case about suppressing journalistic investigation of matters of genuine public interest, but about protection from publication of deeply intrusive material about my private life and my private grief."

Mark Thomson, of London law firm Carter Ruck, representing Ms McKennitt, said today:

"Loreena McKennitt is relieved that Ms Ash has agreed to stop these relentless attempts to invade her privacy, by the successful conclusion of the second set of proceedings today before Mr Justice Eady.

"My client is encouraged that the principles set out in the original ruling of Mr Justice Eady in December 2005 and the Court of Appeal's ruling in December 2006 are now being applied generally."

"My client is also pleased that the House of Lords approved the Court of Appeal decision which made clear that the right of privacy now extends to protect false information, which was one of the issues in the original action".

Contact:

Lucy Kelly
FD
Business Communications
Direct Line; +44 20 7269 7256
Email: lucy.kelly@fd.com

Mark Thomson
Carter-Ruck
Tel: +44 20 7353 5005
Email: Mark.Thomson@carter-ruck.com