NEWS

Texas judge throws out Wakefield's libel action against BMJ

Clare Dyer

BMJ

The libel action filed in Texas by Andrew Wakefield against the *BMJ*, its editor in chief,

Fiona Godlee, and the investigative journalist Brian Deer has been thrown out before it reached first base.

In a one paragraph order, the Travis County district judge Amy Clark Meachum ruled that the case could not go ahead because the Texas courts had no jurisdiction over the three British defendants.

Wakefield sparked a worldwide scare over the measles, mumps, and rubella (MMR) vaccine when he published research that he suggested could link the vaccine with autism. He was struck off the UK medical register in 2010 by the General Medical Council for serious professional misconduct, including dishonesty and unethical behaviour.¹

Now living in Austin, Texas, he sued the *BMJ*, Godlee, and Deer over articles and editorial commentary published in 2011 that he said accused him of "intentionally and knowingly manipulating or falsifying data and diagnoses."²

Had the case not been thrown out for lack of jurisdiction, the *BMJ*'s lawyers were preparing to argue that it should be dismissed under recent legislation in Texas designed to curb meritless libel lawsuits.

Godlee said, "We have always had full confidence in what we published in the *BMJ*. We look forward to putting this litigation behind us."

Wakefield told the Austin newspaper the *Austin American-Statesman* that he planned to appeal.

Wakefield's 1998 *Lancet* paper, which he suggested raised a possible link between autism and MMR, was later retracted by the *Lancet* in 2010 and described by its editor as "utterly false."

His libel action concerned a January 2011 article in the *BMJ* by Deer, "How the case against the MMR vaccine was fixed,"³ and related editorial commentary by Godlee, in which Wakefield's MMR research was called "an elaborate fraud."⁴

In 2005 Wakefield sued Deer, Twenty Twenty Productions, and Channel 4 for libel at the High Court in London over a television programme titled "MMR: What they didn't tell you," but voluntarily dismissed the action two years later.

The judge in the High Court case, Mr Justice Eady, said in one of his judgments, "I am quite satisfied . . . that the claimant wished to extract whatever advantage he could from the existence of the proceedings while not wishing to progress them or to give the defendants an opportunity of meeting the claims."

1 Kmiotowicz Z. Wakefield is struck off for the "serious and wide-ranging findings against him." *BMJ* 2010;340:c2803.

2 Dyer C. *BMJ* invokes new Texan freedom of speech law to fight Wakefield libel case. *BMJ* 2012;344:e2051.

3 Deer B. How the case against the MMR vaccine was fixed. *BMJ* 2011;342:c5347.

4 Godlee F, Smith J, Marcovitch H. Wakefield's article linking MMR vaccine and autism was fraudulent. *BMJ* 2011;342:c7452.

Cite this as: *BMJ* 2012;345:e5328

© BMJ Publishing Group Ltd 2012