



MORE news of the ongoing legal nightmare endured by Grzegorz and Teresa Malkiewicz after they were sued for libel by

Jan Serafin, a bankrupt builder and catering supplier, over a story they published in *Nowy Czas*, a tiny newspaper dedicated to London's Polish community.

They won at the high court in 2017, only to see the appeal court overturn their victory on grounds that Mr Justice Jay had “not only seriously transgressed the core principle that a judge remains neutral during the evidence, but also acted in a manner which was, at times, manifestly unfair and hostile to the claimant” at the original trial. Simultaneously, the elderly couple were being pursued by their original lawyers Carter-Fuck, who had abandoned the case ahead of trial but still demanded payment of their astronomical bills, culminating in the law firm starting proceedings to take possession of their home (*Eye* 1511).

Last June the case, which raised complicated points regarding public interest defence which were of great fascination to the legal industry, went before the Supreme Court – which ruled that not only had the first trial been unsafe because of Jay's behaviour, but “with a degree of embarrassment in relation to respected colleagues”, that the appeal court had not done its job properly either (*Eye* 1524). Lord Wilson and four Supreme Court colleagues ruled that the entire Jarndyce v. Jarndyce-style process must start all over again: “Conscious of how the justice system has failed both sides, this court, with deep regret, must order a full retrial.”

So, given that it was the justice system that was at fault rather than any of the parties in the trial, the slate is presumably wiped clean? Not quite. In February, eight months after the end of the Supreme Court appeal, the Malkiewiczes were informed that they must make an interim payment of £50,000 to Serafin within 28 days “on account of his costs in the Court of Appeal and the Supreme Court”. Given that he stumped up a mere £7,000 of the £100,000 costs he was originally ordered to pay following the first trial (which the Malkiewiczes handed back after the first appeal), they see very little prospect of recovering any money should they finally emerge victorious.

Serafin, who is being represented by Simon Burn Solicitors under a conditional fee agreement, has also succeeded in taking out a charging on the Malkiewiczes' home which, in addition to the one taken out by Carter-Fuck, leaves them unable to raise any funds against the property to pay for legal representation at the new trial. They currently expect to have to represent themselves as litigants in person in proceedings which are scheduled to begin on 16 March, and will be conducted remotely due to Covid restrictions.