

RESULTS OF LEGAL ACTION AGAINST ALISON PEARCE AND PEDIGREEDOGS.CO.UK

6th December 2006

This web page is being published because some time ago members of the Finnish Spitz Club and Finnish Spitz Society were asked to sign a petition with regard to the importance of freedom of expression and reporting in breed notes. Had we been asked to sign it we would have done so because we believe in freedom of expression and opinion and had no problem with the ideas and concept expressed in that petition. However, clearly this cannot apply to statements made which are inaccurate, untrue, damaging or hurtful.

You may have noted in Dog World last year a front-page apology by the newspaper for something they had written two weeks previously which was not true. The paper made a donation to a canine charity and printed an apology. That was the end of the matter. We would have been very happy with this result and we would like to make it very clear that the only reason the action has taken so long and cost so much is that Alison was not prepared to admit what she wrote was untrue.

The request to sign the petition and the reasons people were given for signing was probably because they had been told about a legal action that we were taking against Alison Pearce and pedigreedogs.co.uk and they had been told that what she had written was true. We would emphasise that in 35 years in the breed we have never before felt the necessity to take such action and since the initial solicitors letter was sent we have not discussed the matter with anyone not directly involved in the statements she made. This means that almost everyone has only one side of the story plus speculation from others who had only heard one side too.

First and foremost we are sad that this matter dragged on for so long. It was never our desire or intention that so much time and money should be wasted. A simple retraction and apology three years ago would have sufficed but Alison consistently refused to even to talk to our solicitor or to mediate although every effort was made by us to bring this matter to a conclusion.

The facts of the matter can be quickly stated. They are backed up by clear and unequivocal evidence all of which is available to anyone who would like verification of the facts.

For many months Alison, for reasons that are still not clear to us, wrote a series of breed notes on pedigreedogs.co.uk that called our integrity into question (many are still there so you may check for yourself). As you will know, this is not unusual in the world of dogs and as successful breeders and exhibitors we could well afford to ignore them and we did so.

However, finally, one set of 'notes' made three statements, which were untrue which we felt were seriously damaging to our reputation.

The first was that we had had a dog killed unnecessarily.

Secondly, when a fellow breeder had asked if they could help they were told to 'keep their nose out of it' – not a phrase that either Angela or I would use.

Thirdly, that we had sold a puppy to a family that was unsuitable.

Although not mentioned by name, we were clearly identified by anyone in the breed reading the article both here and abroad, and by virtually anyone with any serious knowledge of the world of show dogs.

We decided to send a solicitor's letter to Alison and the owners of pedigreedogs.co.uk pointing out the facts and asking for a retraction and an apology. Rather than do so, although Pedigree dogs.co.uk took that set of notes off the site, they decided to defend the comments that had been made.

We have been involved in breed and dog rescue for many years. We have never asked for any contribution from the Club or Society and found homes for many dogs, bred by us and other breeders. Members of the Finnish Spitz Club and Society may remember an article that described Angela's journey to Wales with Karl Baron when they confronted a puppy farmer with a shotgun and brought back a bitch and five puppies. On another occasion David made two long journeys to East Anglia to rescue two dogs whose owners' marriage was breaking up. These were the dogs that were the subject of the disputed breed notes. The owners reclaimed one: the other was microchipped, rehomed locally and is still very much alive. Letters and photographs from the new owners are available.

It is true we were asked by a family to provide them with another puppy and were prepared to do so until we discovered that they were going to get rid of another of their dogs to make room for it. The offer to provide the puppy was withdrawn immediately.

All this evidence was sent to Alison.

The story could easily have been checked for accuracy but Alison did not do so. Initially she declined to say where she had heard the allegations.

Alison and pedigreedogs.co.uk have spent over three years trying to cloud the facts on four counts.

Firstly, they tried to suggest that the allegations were true. This has been clearly shown not to be the case

Secondly, they attempted to show that we were not clearly identified. Our names were synonymous at that time with the organisation mentioned in the article so was not defensible

Thirdly, they tried to imply that there was confusion about the identity of the dog in question. Battersea Dogs Home has confirmed the facts and DNA tests have been carried out to prove the identity of the dog

Finally, they brought forward the defence of fair comment on the grounds that our close friend, Annette Dalley, had told them the story. It is significant that despite being given every opportunity to do so over many months, the 'source' was revealed only after Annette's death. Since then Terry Dalley has made it quite clear that Annette had been very much upset by something Alison had written about her and was avoiding seeing her or speaking to her. This was confirmed in a letter written by her to Alison, a copy of which Annette sent to us at the time.

Whatever the source, it does not affect the central issue – that the statements made about us were not true and were damaging to our reputation. In our view this was deliberate but motivation is not a matter for the Courts. Nevertheless, each of these allegations had to be rebuffed at considerable time and expense.

May we make it quite clear that financial compensation was never been an issue in this case. In fact, many months ago, we even suggested that costs should be set-aside in an attempt to end the matter. This was ignored so all we then asked of the Court was that the Court rule that the statements made in the breed notes were not true so that we could publish that ruling.

On 7th November 2005 Master Eyre, sitting in the Royal Courts of Justice in the Strand struck out the Defence on the grounds that it was inadmissible. This means that Alison and pedigreedogs.co.uk could not prove any of the allegations (because, of course, they were not true in the first place). Master Eyre set a timetable for damages to be awarded by the Court and for the assessment of costs which he made clear Alison and pedigreedogs.co.uk must pay.

We explained to the Court that although we would be asking for our costs we were not interested in damages. However, Court replied that it could not force an apology so we asked the Court to assess the damages. This action was always about a retraction and apology not about financial recompense. However, the costs have been considerable and we do not think it unreasonable that we seek to recover these.

We understand Steve has tried to persuade Alison to retract the allegation and apologise on several occasions and we thank him for that.

The Court has now made an Order against Alison and pedigreedogs.co.uk and this is attached.

You will see that our costs have also been awarded.

David and Angela Cavill



**IN THE HIGH COURT OF JUSTICE,
QUEEN'S BENCH DIVISION,
[Central Office]**

Master EYRE

CAVILL v PEARCE [HQ05XO32981]

ORDER

UPON the assessment of damages payable by the Defendants to the Claimants AND UPON considering the same without a hearing by the written agreement of the parties AND for the reasons annexed

IT IS ORDERED that:

- 1 The said damages be assessed at £50,000.
- 2 The Defendants pay the Claimants' costs, to be the subject of a detailed assessment if not agreed.

**REASONS FOR RULING
given on Thursday, 18 May 2006**

1 The Claimants are dog-breeders, and say that:

- (1) They are unusually prominent in the dog-world as breeders, judges, trustees of charities, founders of institutions to promote dog-care and the like.

- (2) They formerly managed Bell Mead, a Battersea Dogs' Home kennels at Old Windsor;
- (3) They are so well-known as successful breeders of a type of dog called the Finnish Spitz that their name is virtually synonymous in the dog-world with the breed; and
- (4) The First Claimant owns and publishes magazines about dogs.

2 The First Defendant is also a breeder of the Finnish Spitz, and the Second Defendant is a limited company that provides information about the dog-world via its web-site.

3 From about January to October 2001, the First Defendant published articles on the Second Defendant's web-site disparaging the Claimants -- albeit in many instances without directly identifying them --- alleging that the Claimants were guilty of `spin' and `fabrication' in publications about dogs, of `sarcasm' over the First Defendant's work for the breed, of `interference' causing her resignation as an editor, and the like.

4 On the 4th November 2001, the First Defendant sent out an e-mail message to a group made up of individuals with an interest in the Finnish Spitz breed.

5 The message stated that:

- (a) A perfectly healthy Finnish Spitz bitch had been at a rescue-kennel after its owners' marriage had broken up;
- (b) The bitch had been destroyed, an intending rescuer having been told by the breeder "to keep her nose out of it";
- (c) The breeder had at the time puppies that needed homes, which "took priority in their reasoning --- why use up what might be a show home with a pet"
- (d) That their conduct was "not only sad, but downright disgraceful".

6 From the 5th November 2001 to early May 2002, the Second Defendant published on its web-site an article by the First Defendant.

7 The article mentioned 2 incidents:

(1) First incident:

- (a) A Finnish Spitz bitch ended up at Bellmead Kennels after its owners' marriage had broken up;
- (b) It was offered a home by a well-known exhibitor;
- (c) However, the breeder told the intending rescuer "to keep her nose out of it";
- (d) The bitch was then put to sleep;
- (e) That conduct was "shameless and inexcusable".

(2) Second incident:

- (a) A new exhibitor of the breed had decided to re-home one of their dogs as it did not win in the show-ring, thereby making room for a puppy from the same breeder mentioned in the first incident;
- (b) That attitude "suggests an extremely shallow and questionable interest in the breed".

- 8 On about the 10th May 2002, at the Claimants' request, the Second Defendant removed the article from its web-site.
- 9 On the 16th December 2002, the Second Defendant published an article referring to the First Claimant as having "the biggest ego in the dog world".
- 10 On the 6th November 2002, the Claimants brought an action for damages, alleging that the Defendants had defamed them as set out above.
- 11 The Claimants say that:
- (1) The web-site provided the Defendants with world-wide circulation;
 - (2) Various named individuals identified the Claimants as the persons to whom the Defendants were referring;
 - (3) The Claimants were depicted by the Defendants as callous and irresponsible towards dogs, and having an interest in the Finnish Spitz merely as a commodity having a money-value;
 - (4) The publications by the Defendants amounted to a malicious campaign against the Claimants.
 - (5) Neither Defendant has published an apology.
- 12 On the 7th November 2005, the Claimants obtained judgment against the Defendants for damages and interest thereon to be assessed.
- 13 On the 10th November 2005, directions were given for an assessment of damages to take place at a hearing listed for the 18th April 2006.
- 14 All the parties subsequently stated in writing that, in the interest of saving costs, the assessment should be carried out instead on paper only, and without any attendance.
- 15 The Claimants restrict their claim for compensation to general damages only.
- 16 **First Claimant:** In his witness-statement dated the 2nd February 2006, the First Claimant testifies that:
- (1) The Claimants have had an otherwise unblemished reputation in the field both of caring for dogs and of breeding and showing the Finnish Spitz for many years.
 - (2) The Defendants' publications have now damaged the relations that the Claimants previously enjoyed with others in those fields.
 - (3) The Claimants have been hurt and distressed by the publications.
 - (4) The Defendants are actuated by malice.
- 17 **Second Claimant:** In her witness-statement dated the 2nd February 2006, the Second Claimant confirms what is said by the First Claimant, and testifies that "friends have become cold"
- 18 **First Defendant:** The First Defendant seeks to rely on all of the Defendants' witness-statements, but only the one dated the 5th April 2006 even attempts to deal with the damage to the Claimants. In it, she testifies that:
- (1) The Claimants are liars.
 - (2) The action "was and remains driven by malice".
 - (3) She has offered to apologise to the Claimants for the publications.

(4) The Claimants have suffered no damage.

19 **Second Defendant:** In its witness-statement dated the 7th April 2006, the Second Defendant testifies that:

- (1) It apologised in May 2002 to the Claimants for the publications.
- (2) Fewer than 100 `hits' were recorded on the Second Defendant's web-site during the relevant period.
- (3) The Claimants' motive in the litigation is to close down the Second Defendant's web-site, which is a rival to its own web-site.
- (4) The Claimants are using the litigation "to settle a personal feud with the First Defendant and achieve a business advantage over the Second Defendant".

20 FINDING:

- (1) The Defendants made allegations against the Claimants, which fell short of accusing them of cruelty, but in the most emphatic terms accused them of conduct that was heedless of animal welfare, mercenary and shameful.
- (2) The Claimants have a most conspicuous standing in the world that they inhabit, and a reputation that must be highly sensitive to allegations of that kind.
- (3) Their evidence in that respect is fully accepted.
- (4) The Defendants used the Internet to publish these allegations, in an attempt thereby to ensure the widest possible circulation, and did so over a period of more than a year, and on numerous occasions.
- (5) Neither Defendant has been prepared to publish an apology.
- (6) Both Defendants have persisted in the most offensive allegations against the Claimants, allegations that must have been deeply embarrassing and hurtful.
- (7) For all of those reasons, the award of damages payable by the Defendants to the Claimants will be £50,000.