



COMMENT

# Hugh Grant is wrong over potential £10m costs

Actor could also have made a part 36 offer in his case, writes Colin Campbell

Colin Campbell | Thursday April 25 2024, 12.01am, The Times

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**H**ugh Grant has accepted an “enormous sum of money “ from News Group Newspapers, the publishers of The Sun, which offered to pay him that amount under the provisions of part 36 of the Civil Procedure Rules to settle his privacy case.

However, it was an unhappy ending, according to the Hollywood star of *Four Weddings and a Funeral*. The actor would have “loved to see“ his claims of illegal phone hacking, phone tapping, burglary at his flat and the “blagging” of his medical records tested in a High Court trial.

But, as he noted in a statement, that was rendered impossible because the rules of court meant that if he recovered a penny less than the newspaper publisher’s offer, he would face a bill of up to £10 million in legal costs.



Hugh Grant made claims about the “blagging” of his medical records, among other matters  
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Grant’s comments imply that this is a case of “poor Hugh” and that the rules of court have been used against him as a strong-arm tactic to deny him his day in court. In effect, Grant is saying that a trial before a judge — who would make findings of fact and award damages if his allegations were found to be true — has effectively been bought off.

Grant is mistaken. Part 36 is a carefully drafted rule that has a place in the litigation armoury of claimant and defendant alike. Its purpose is to compel parties to focus on settling the case before trial, with penalties for those who do not engage in the process. In short, it gives both parties a stick.

For defendants, that stick is that if the claimant wins at trial but fails to beat a defendant’s offer, the claimant must pay the defendant’s standard costs from the last date on which the offer should have been accepted. Usually, but not automatically, a winning claimant will recover costs up to that date.

However, claimants like Grant can also make part 36 offers and that gives them a valuable weapon. If, at trial, the claimant wins more than the amount they have offered, the defendant has to pay an extra 10 per cent of the damages awarded. This is limited to a maximum £75,000, together with enhanced interest and indemnity, as opposed to standard, basis costs.

How does this square with Grant’s grumble that even if he won the case, he could still be £10 million out of pocket? Not well is the answer. His own carefully pitched part 36 offer would have given him protection against the risks of continuing with the case. So, while he will not now have a trial, at least he has the certainty and comfort that things cannot go badly on the day. As all lawyers know, that can happen, even in a seemingly watertight case.

**Colin Campbell is a consultant at Kain Knight and a former costs judge**

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