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IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA & COMMUNICATIONS LIST
[2020] EWHC 3372 (QB)



No. QB-2020-001591

Royal Courts of Justice
Strand
London, WC2A 2LL

Wednesday, 18 November 2020

Before:

MR JUSTICE SAINI

B E T W E E N :

TERRI ANN DAVIES

Claimant

- and -

GAVIN PAUL CARTER

Defendant

MISS B. GROSSMAN (of Counsel) appeared on behalf of the Claimant.

THE DEFENDANT appeared in Person.

J U D G M E N T

(via MS Teams)

MR JUSTICE SAINI:

- 1 This is the pre-trial review in a harassment and libel claim, which is due for a trial commencing on 1 December 2020. The background to the claim was set out by Soole J in a judgment he delivered on 24 July 2020: [2020] EWHC 2674 (QB). In that judgment, Soole J dealt with the application by the claimant, Ms Davies, to continue an interim injunction under the Protection from Harassment Act 1997, which I had in the first instance granted on 3 July 2020 until the return day. Soole J continued the injunction and he describes in his judgment the background to the proceedings. I will not repeat that background.
- 2 Pursuant to an order of Master Fontaine, it was directed that the judge hearing the pre-trial review determine by way of preliminary issues the meaning of various publications relied upon as part of the defamation claim. Those publications are pleaded in para.12 of the particulars of claim. One can ignore para.12.3 because there is no longer a complaint pursued in respect of that publication.
- 3 In approaching the issue of meaning I have applied the well-known test set out by Nicklin J in the case of *Koutsogiannis v The Random House Group Limited* [2019] EWHC 48 (QB) [11]-[13]. As I have explained to Mr Carter this morning, my task is to consider the single meaning of the words complained of, which is the meaning that the hypothetical reasonable reader would understand the words to bear.
- 4 I have received helpful submissions from Miss Grossman, on behalf of the claimant, and Mr Carter has also briefly addressed me this morning.
- 5 I turn then to the first publication, which is the publication on the ‘redslowwe’ account on 29 September 2019 and I quote it as follows:

“Terri Lucas and her amoral business associate Richard Davies have deleted and hidden themselves from angry customers. We will not allow you to run and hide! We continue to demand a refund for your fault product!”

And then there is a link attached to “[thelandofgrimney.co.uk\story.phb](http://thelandofgrimney.co.uk/story.phb)”.

- 6 In my judgment, the meaning of this posting is straightforward and as (*connection broke up*). The meaning is that Ms Davies had been complicit in deliberately and without justification avoiding repaying monies owed to customers at a time when she had been involved in supplying a defective product.
- 7 I turn then to the second publication, which was posted by “Gavin P” on LinkedIn on 29 September 2019. The first post was as follows:

“If John Smith were still alive he would be supporting us, not the greedy unprincipled company Terri Lucas represented too much.”

The second post is as follows:

“... If you were the victim of what transpired you would be considerate and understanding.”

And then there is a link to “thelandofgrimney”.

- 8 In my judgment, the meaning of this post was as follows, that Ms Davies had been involved in exploitative business practises and her association with the Smith Institute brought that institute into disrepute.
- 9 The third publication relied upon is more lengthy and that is a long blog post in “thelandofgrimney” website. I will not recite it because of its length but it is appended in full to the particulars of claim as Annex 2. This was first published on a date unknown to Ms Davies but seems to have been updated and new and additional material had been added amounting to a new publication on a date after 30 October 2019, and I make a finding to that effect.
- 10 This is a lengthy post, as I have explained, and, in my judgment, the meaning to be attached to the detailed and repeated language in the posting is as follows: First, that Ms Davies had been complicit in deliberately and without justification avoiding repaying monies owed to customers. Second, that Ms Davies had by way of such exploitation profited from selling a product which she knew, or should have known, was unfit for purpose. Thirdly, that Ms Davies had been involved in extorting money from a vulnerable person. And, fourthly, that Ms Davies had told untruths about the nature of her involvement in the company which had supplied the product.
- 11 That concludes my ruling in relation to the meaning. Insofar as further reasons are required concerning my conclusion, in particular, in relation to the long blog post which I have just dealt with, there are a number of extracts of the blog post set out in Miss Grossman’s skeleton argument at 18.1 to 18.8. Those are verbatim quotations from the blog post and I will not lengthen this ruling by reading those out, but they do seem to me to support my conclusions as to the meaning of the blog post. My conclusion is not exactly the same as that pleaded by Miss Grossman on behalf of Ms Davies but it is relatively close and it, in some ways, is less elaborate than the meaning pleaded.
- 12 Having come to this conclusion as regards the meaning of the various publications, I also need to address the issue of whether these are statements of fact or opinion. Again, bearing in mind Nicklin J’s guidance in the *Koutsogiannis* case and, in particular, paras.16 and 17 of his judgment, in my view it is clear that the statements made would strike an ordinary and reasonable reader as statements of fact as opposed to statements of opinion.
- 13 That concludes my ruling on the preliminary issues and, in due course, as will be done with other directions I make today, those rulings can be incorporated in an order by Miss Grossman reflecting my decision on the preliminary issue.

CERTIFICATE

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This transcript has been approved by the Judge