



JUDICIARY OF
ENGLAND AND WALES

SUMMARY

Anna Turley -v- (1) Unite the Union (2) Stephen Walker [2019] EWHC 3547 (QB): Mr Justice Nicklin

[references in square brackets are to paragraphs in the judgment of the Court]

1. The Court has handed down judgment in the above matter today, following the trial of the claim between 11-15 and 19 November 2019. The Claimant has been successful and has been awarded damages of £75,000, although, when the judgment is handed down, the Claimant has indicated that she will seek an uplift of 10% to that award because of an offer she made to settle her claim earlier in the proceedings.

Ms Turley’s Claim

2. The Claimant’s claim was for libel and other claims for breach of confidence, misuse of private information and breach of data protection legislation. The non-libel claims were resolved by agreement between the parties before the end of the trial [2]. The judgment therefore deals solely with the claim for libel.
3. The claim arose from publication of an article on the Second Defendant’s blog – *The Skwawkbox* – on 7 April 2017 [4] (“the Article”). The terms of the Article are set out in Appendix 1 to the judgment. The Article reported that, the Claimant had joined Unite Community, a membership section of the First Defendant which, under the union’s rules, was limited to those who were not in work [21]. As the Claimant was an MP, the suggestion made in the Article is that there were reasonable grounds to suspect that the Claimant had acted dishonestly in joining a section of the union to which she was not entitled.
4. Prior to trial, the parties had agreed that the meaning that the Article bore was [100]:

“there are reasonable grounds to suspect that the Claimant chose to join the Community Section of Unite at a concessionary subscription rate knowing that the section was restricted to unwaged persons and that, by joining it, she submitted an application that she knew was false in this respect, and accordingly acted dishonestly in submitting it.”
5. The Article was written and published by the Second Defendant. Prior to publication, the First Defendant’s Director of Campaigns and Communications, Pauline Doyle, was contacted by the Second Defendant for a comment on information that he had received from sources that the Claimant had joined Unite Community, that the First Defendant had received a complaint about this and that the matter was being investigated. After his initial inquiry, Ms Doyle made some inquiries before providing the Second Defendant with a comment for publication in the Article (“the Press Statement”). The comment she provided subsequently appeared in §14 of the Article. On its own, the

Press Statement was highly defamatory of the Claimant [104]: “the Press Statement ... was probably the most powerful contributor to the overall defamatory meaning of the ... Article; in just two sentences she delivered the unambiguous element of fraud”: [55(vi)].

6. The circumstances in which Ms Doyle provided the Press Statement, its terms and what she knew of the Article the First Defendant intended to publish meant that the First Defendant was liable for the publication of the Press Statement in the context of the Article as a whole: [96].
7. The Court was satisfied that the publication of the Article had caused serious harm to the Claimant’s reputation, a requirement that any claimant must establish under s.1 Defamation Act 2013: [114].

The Defences

8. The Defendants relied upon defences of (1) truth; and (2) publication on a matter of public interest under ss.2 and 4 of the Defamation Act 2013. The Court rejected both defences: truth [131]-[136]; public interest [147]-[156].

Truth

9. The central issue in the Defendants’ defence of truth was whether, objectively judged, the facts upon which they relied provided reasonable grounds to suspect that the Claimant *knew* that she was not eligible to join Unite Community because she was in full time employment. The Court found that the only place in which the First Defendant had stated clearly that those in employment were not eligible to join Unite Community was in the union’s rules: [131(ii)]. The Claimant had not read the rules and the online joining process had not required her to declare either that she was not in employment or that she was eligible for membership. The Court found that there was: “*an abundance of evidence providing objective grounds to suspect that the Claimant did not know that she was ineligible to join Unite Community*”: [135].

Public Interest

10. A defence of public interest requires a defendant to establish three things: [138(ii)]:
 - (1) was the statement complained of, or did it form part of, a statement on a matter of public interest? If so,
 - (2) did the defendant believe that publishing the statement complained of was in the public interest? If so,
 - (3) was that belief reasonable?
11. The Court found that the first requirement was met: [147] and that the Second Defendant had believed that publication of the Article was in the public interest: [150]. However, the Court found that the Second Defendant had failed to establish that his belief was reasonable: [153]-[156]. The Court summarised [155]:

“... the allegation made against the Claimant was serious; it touched upon her honesty and integrity. The Second Defendant’s efforts to verify the information were seriously deficient. He tried, but failed, to establish that the First Defendant’s online process for joining Unite Community did not require any declaration that the applicant was unwaged; yet the Article stated directly the contrary. This was a fundamental plank of the defamatory allegation made against the Claimant. The Second Defendant failed fairly to put the allegations that he included

in the Article to the Claimant prior to publication. There was insufficient urgency to justify publication without giving her such an opportunity. In consequence, of both the failure fairly to put the allegations to the Claimant and the Second Defendant's failure to establish basic facts as to the online membership process, the Article did not contain either the Claimant's side of the story or facts that could fairly be presented in her defence..."

12. The First Defendant's reliance on the defence of public interest was rejected because (1) there was no evidence that Ms Doyle had believed that publication of the Press Statement in the Article was in the public interest [149]; and (2) even had she considered that publication was in the public interest, such a belief would not have been reasonable: [152]: "*Ms Doyle's use of the word 'fraudulent' in the Press Statement was wholly unwarranted by the facts as Ms Doyle understood them and the investigations she had carried out. Indeed, it was an astonishing word to use given what Ms Doyle knew of the matter. No one had suggested to Ms Doyle that the Claimant had acted in any way dishonestly. Indeed, the facts available to her suggested that the Claimant had simply made a mistake.*"

Abuse of Process

13. The Defendants had contended that, if the Claimant's claim was successful, she should nevertheless be awarded only nominal damages. The Defendants argued that the Claimant had made dishonest claims or statements in pursuit of her claim which, they argued, should deprive her of any remedy in damages: [157]-[158].
14. The Court rejected this argument and the allegations that the Claimant had been dishonest: [169]-[170]. The Court did, however, find that: "*the failure to answer straightforward questions in correspondence (seeking refuge in a denial of entitlement under procedural rules) and the failure to disclose the true position regarding the Claimant's joining Unite Community... were serious misjudgments*": [169(iii)], [183].

Remedies

15. The Court has awarded the Claimant damages of **£75,000**: [184]. Explaining the award, the Judge said:

[181] ... [T]his was a serious allegation, particularly to make against an MP. It called into question the Claimant's honesty and integrity. The scale of original publication, whilst not at the level of a national newspaper, was nevertheless substantial. There is clear evidence of serious harm to the Claimant's reputation and the grapevine effect in operation in this case. The Second Defendant has continued to publish the Article and there has been no retraction, amendment or apology to mitigate the damage to the Claimant's reputation or to provide any element of vindication. The award of damages (and this judgment) will have to provide that. The Claimant's evidence as to the distress caused by publication was not challenged by the Defendants. I have no doubt that she found the trial – particularly her own cross-examination – to be humiliating and, at points, distressing.

[182] The Defendants' conduct during the trial has seriously aggravated the harm to the Claimant's reputation and her distress. Mr Hudson QC's claim, in opening, that the evidence would show that the Claimant was "*not fit to be an MP*" was a memorable phrase that was picked up in most media reports of the trial. Many reports have been published detailing the Defendants' claims that the Claimant was dishonest. In the event, I have dismissed the Defendants' defence of truth and their claim that the Claimant had conducted her claim dishonestly. The platform on which it was claimed that the Claimant was dishonest and not fit to be an MP has collapsed. Not only does this conduct aggravate the damages,... it makes the vindicatory function of damages particularly important in this case. Although this judgment may serve to vindicate the

Claimant, its effectiveness in doing so will depend on the number of people who read it, or read reports of it. In most cases, effective and lasting vindication is most likely to come... from the size of the award.

16. The Court will hear further submissions as to further/additional remedies sought by the Claimant consequent on the Court's judgment at the hearing on 19 December 2019.

NOTE: This summary is provided to help in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: www.bailii.org

19 December 2019