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Judgment: approved by the Court for handing down | *Delivered:* **01/02/11**
*(subject to editorial corrections)**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

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QUEEN'S BENCH DIVISION

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Between:

BLAIR WALLACE

Plaintiff;

-and-

SUNDAY NEWSPAPERS LIMITED

Defendant.

_____

GILLEN J

[1] The applications currently before the court arise out of a claim for defamation by the plaintiff against the defendant concerning a publication in the Sunday World Newspaper on 21 February 2010. That article asserted that a police officer named Graham Wallace, who had been guilty of a "drunken vicious assault", was related to the plaintiff. In the amended Statement of Claim the plaintiff alleges that in their natural and ordinary meaning the words complained of meant and were understood to mean that:

> "(d) Mr Graham Wallace has brought shame upon the plaintiff as a result of his conduct.
>
> (e) Mr Graham Wallace has brought shame upon the plaintiff's family as a result of his conduct.
>
> (j) The plaintiff's known exemplary and distinguished record and career has been stained by the actions of Graham Wallace."

[2] Mr Dunlop, who appeared on behalf of the defendant, mounted three separate applications before me by way of interlocutory application and I shall deal with them seriatim.

Material facts/Order 18 rule 19(1)

[3] It was the contention of the defendant that paragraph 1 of the Statement of Claim, other than the opening sentence to the effect that "the plaintiff is the retired Deputy Chief Constable of the Royal Ulster Constabulary of Northern Ireland", contained not merely the material facts upon which the plaintiff relied, but on the evidence by which this was to be proved.

[4] This amounted to an application under Order 18 rule 19(1) to strike out the contents of paragraph 1 other than the first sentence. The court should only exercise its power to strike out in a clear case. In Buttes Gas and Oil Company v Hammer (1975) 1 QB 557, Roskill LJ described the matter as follows at page 577:

> "This is a striking out application. In relation to any striking out application two things at least are clear. First in considering any application to strike out, the courts will not go outside the pleadings themselves. Secondly the courts will only exercise their undoubted right to strike out all or part of the pleadings in a very clear case."

[5] It is well trodden ground to declare that the particulars of a Statement of Claim must contain a concise statement of the material facts on which the plaintiff relies, but not the evidence by which they are to be proved. The plaintiff should state all the facts necessary for the purpose of formulating a complete cause of action.

[6] The degree of particularity required will of course depend upon the facts of each case. However, as a general rule, as much certainty and particularity must be insisted on as is reasonable having regard to the circumstances and to the nature of the acts alleged (see Ratcliffe v Evans (1892) 2 QB 524 at 532 and Gatley on Libel and Slander 11th Edition at paragraph 28.3).

[7] It is customary to plead by way of prefatory averment a short account of who the parties are. In the normal case this will be limited to a brief description of their occupations and, if appropriate, their relationship. In cases where the plaintiff's standing to sue may be an issue, the plaintiff should provide sufficient details of his standing in his prefatory averments. The defendant will be entitled to such additional information in relation to

any prefatory averment as may be reasonably necessary and proportionate to enable the defendant to prepare his own case or understand the case he has to meet.

[8] In the present case I am satisfied that the averments in paragraph 1 come within the definition of appropriate prefatory averments. The reference to the numerous outstanding decorations which this plaintiff had received, his serious responsibilities whilst as a police officer and the functions he had attended together with reference to his wide respect throughout the United Kingdom and Ireland in his profession were all matters which I consider it appropriate to have included within the prefatory contents of this paragraph in order that the defendant would be fully appraised of the nature of the reputation which it is alleged has been impugned in this instance. In my view it would not have been sufficient to merely state that he was a retired Deputy Chief Constable of the Royal Ulster Constabulary if, as apparently is the case, the plaintiff intends to rely on the reputation he has gathered through the various distinctions set out in paragraph 1.

[9] I find no substance therefore in the defendant's claim that paragraph 1 should be deleted other than the first sentence.

Order 82 Rule 3A(1)

[10] It was the defendant's contention that paragraph 5(e) added nothing to the case i.e. the meaning was not defamatory of the plaintiff and he should not be allowed to recover because, as a class, the article might arguably be defamatory of his family. In short the defendant argued that if paragraph 5(d) was sustained as being defamatory of the plaintiff, paragraph 5(e) added nothing of substance. It was inconceivable that the plaintiff would fail in paragraph 5(d) and yet succeed at paragraph 5(e).

[11] It is for the judge to decide whether the words are capable of a defamatory meaning. In so determining, the judge will construe the words according to the fair and natural meaning which will be given to them by reasonable persons of ordinary intelligence, and will not consider what persons setting themselves to work to adduce some unusual meaning might extract from them. The reasonable reader is not naïve but not unduly suspicious, can read between the lines, can read in an implication more readily than a lawyer and may indulge in a certain amount of loose thinking. The court should be cautious of an over-elaborate analysis of the material in issue. (See Neeson v Belfast Telegraph (1999) NIJB 200, Skuse v Granada Television Limited (1996) EMLR 278 at 285-286 and Murray v Independent News and Media (NI) (2008) NIQB 137).

[12] I am also conscious of the admonition of Carswell LCJ in Neeson's case when he said:

> "We have devoted very careful consideration to the individual meanings propounded in the statement of claim, and propose to express our conclusions on them as shortly as we can. We are conscious that this matter is very much one for the jury and that where we decline to rule out a particular meaning pleaded it will still be open to the jury to hold that the words do not in their view bear the meaning. We feel accordingly that it is better that we should not discuss our reasons for our conclusions in any greater detail than is strictly necessary."

[13] I have come to the conclusion that a jury could properly hold that the plaintiff's personal reputation could arguably be different from his reputation as a member of a family and that therefore paragraphs 5(d) and 5(e) of the statement of claim are capable of carrying two separate aspects of the plaintiff's reputation.

[14] Mr Dunlop further contended paragraph 5(j) could not be derived from the impugned article as it stood. Whilst this paragraph could perhaps more pertinently have been included as part of paragraph 5(e) given the content of paragraph 1 of the statement of claim, nonetheless I am satisfied that in the event that the plaintiff gives evidence in accordance with paragraph 1 a jury could conclude that by virtue of his position as Deputy Chief Constable he would be known to have an exemplary and distinguished record and career and accordingly a jury could conclude that the article was defamatory in this respect.

[15] In so concluding on these matters in paragraph 5 I am deciding no more than that the plaintiff's pleaded case is arguable. I am not satisfied that this is a clear case for striking out.

Paragraph 7/Aggravated damages

[16] Mr Dunlop objected at least to the presence of the opening contents of paragraph 7 of the Statement of Claim. Strictly speaking the first sentence in paragraph 7 would be more appropriately pleaded in paragraph 6 dealing with the claim for aggravated damages but it was not a matter that merited the issue of a summons to correct. During the hearing I indicated that I was prepared to permit an amendment to this effect. I consider the remainder of paragraph 7 is unobjectionable.

Costs

[17] In the event the defendant has failed to satisfy me that the matters raised in these applications were justified and I have not acceded to any of the applications. In those circumstances I dismiss the summons and award the costs of this application to the plaintiff.