

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 18/03/2014

Before :

THE HONOURABLE MR JUSTICE TUGENDHAT

Between :

JAMES WHITE	<u>Claimant</u>
- and -	
EXPRESS NEWSPAPERS	<u>Defendant</u>

JOHN CALLAGHAN	<u>Claimant</u>
- and -	
EXPRESS NEWSPAPERS	<u>Defendant</u>

Robert Sterling (instructed by **Carruthers Law**) for the **Claimants**
Christina Michalos (instructed by **Express Newspapers**) for the **Defendants**

Hearing dates: 19 February 2014

Judgment

Mr Justice Tugendhat :

1. The Defendant in each of these two libel actions applied to the court for a determination pursuant to CPR Pt 53 Practice Direction para 4.1 that the words complained of are not capable of bearing the meanings attributed to them by the Claimants.
2. The Claimants issued claim forms dated respectively 13 and 14 June 2013. They each complained of publications in the issue of the Daily Star Sunday dated 17 June 2012 under the title “Jimmy’s aide in Betting Probe”. The publications complained of were in the hard copy and online editions, and are said to have remained online until on or about 17 August 2012.
3. The Claimant in the first action (“Mr White”) is a well known professional snooker player. The Claimant in the second action (“Mr Callaghan”) describes himself as a friend and fan of Mr White.
4. Particulars of Claim in each action are dated in August 2013, and the Application Notices were issued on 19 November 2013. No Defences have been served.

5. When the matter came before me I invited the parties to agree that that the issue of meaning (that is to say the actual meaning) be tried by the court as a preliminary issue. I gave those representing the Claimant time to obtain instructions. By letter dated 24 February they informed the court that the Claimants had given consent to this course.

THE WORDS COMPLAINED OF

6. The words complained of are in the article which read as follows:

“Right-hand man pots thousands tipping snooker ace White to
LOSE

Exclusive...

1. A key aide of Jimmy White was at the centre of a probe last night after making a string of bets on the snooker ace to lose games.
2. A Daily Star Sunday investigation can reveal right-hand man and promoter John Callaghan netted more than £5000 on punts against the “Whirlwind”.
3. World snooker bosses said they would look into whether Callaghan – who last night denied working for White and claimed he was just a fan – had inside information before making the wagers.
4. And they may quiz six-times World Championship runner-up White himself before deciding whether to launch a full investigation involving the Gambling Commission and possibly the police.
5. Callaghan, 32 from Sheffield, has placed more than 35 bets on matches involving White in the last year.
6. Most of the punts went on Londoner White 50, to lose with some “frame bets” predicting the exact score.
7. Since opening his account last August, prolific gambler Callaghan, who has also lost several bets on matches involving White successfully backed against his employer 14 times. In one money-spinning wager in August last year he drew suspicion from bookies when he won £958 from three bets on White against Nigel Bond, including a 5-0 drubbing for his boss.
8. And in January this year he landed £825 on two bets predicting rookie Sam Baird would beat White 5-1.
9. There were just as many bets he lost, including wagers on other players.

10. It is an offence for any World Professional Billiards and Snooker Association (WPBSA) member to solicit, encourage, entice or authorise a bet for his direct or indirect benefit.
11. Investigators will trawl through the list of bets involving White to establish any suspicious betting.
12. When we tracked down van salesman Callaghan at his Sheffield home, he said: "I don't know what you're talking about." Confronted with our evidence he admitted making the wagers but insisted: "I'm straight as a die.
13. "Jimmy knows nothing about the bets. He's the most honest man you could ever meet."
14. Callaghan claimed he had never worked for White – despite being named as his "personal assistant" in trade magazine Snookered and having his mobile number on an up-to-date website detailing agent contacts for the players.
15. He is also listed under the promotions team of Jimmy's manager Kevin Kelly.
16. He said: "I'm just a friend and fan. I've helped him a few times but I've never worked for Jimmy in my life."
17. Suspicions were raised when Callaghan used his email John@jimmyworldwind.com - the email on Jimmy's official website – to place the bets.
18. He said: " I can understand how people might think there's something dodgy going on but they're wrong. They've added two and two and got five.
19. "Look at the rest of my account, there's millions of bets. I bet other snooker players have friends who have a bet on them".
20. If there's an investigation fine but I'm not a member of the WPBSA so I can bet on what I want, including snooker."
21. The WPBSA said last night: "The WPBSA take very seriously any allegations of betting irregularities in relation to snooker.
22. Where any such information is received we will carefully examine the circumstances and liaise with the betting industry and Gambling Commission to decide whether an investigation is merited."

7. The defamatory meaning which Mr White and Mr Callaghan each attributes to the words complained of is that each of them:

“... had or must have conducted himself dishonestly, was and is or must have been or be corrupt and had been or must have been involved in a gambling scam because Mr Callaghan would only have profited from his betting on the Claimant if he had had inside information from him”.

THE LAW

8. The principles governing a meaning application are as summarised by Sir Anthony Clarke MR in *Jeynes v News Magazines Limited* [2008] EWCA Civ 130 at [14]:

"(1) The governing principle is reasonableness. (2) The hypothetical reasonable reader is not naïve but he is not unduly suspicious. He can read between the lines. He can read in an implication more readily than a lawyer and may indulge in a certain amount of loose thinking but he must be treated as being a man who is not avid for scandal and someone who does not, and should not, select one bad meaning where other non-defamatory meanings are available. (3) Over-elaborate analysis is best avoided. (4) The intention of the publisher is irrelevant. (5) The article must be read as a whole, and any 'bane and antidote' taken together. (6) The hypothetical reader is taken to be representative of those who would read the publication in question. (7) In delimiting the range of permissible defamatory meanings, the court should rule out any meaning which, 'can only emerge as the produce of some strained, or forced, or utterly unreasonable interpretation ...' (8) It follows that 'it is not enough to say that by some person or another the words *might* be understood in a defamatory sense.'"

9. The courts now commonly refer to various (usually three) different levels of possible defamatory meaning as explained in *Chase v News Group Newspapers Ltd* [2003] EMLR 218, [2002] EWCA Civ 1772 at 45:

"The sting of a libel may be capable of meaning that a claimant [level 1] has in fact committed some serious act, such as murder. Alternatively it may be suggested that the words mean that [level 2] there are reasonable grounds to suspect that he/she has committed such an act. A third possibility is that they may mean that [level 3] there are grounds for investigating whether he/she has been responsible for such an act."

10. It does not follow that all words complained of must be fitted into one or other of these categories. And there may be meanings which are less serious than level 3, but if there are, then a dispute may arise as to whether such lower meanings are defamatory at all. The court is not bound to choose between the contentions of the parties as to what the words complained of mean. Judges must make up their own minds.

11. In addition to the meaning of the words the court should normally also decide at the same time whether the words are fact or opinion: *Cammish v Hughes* [2012] EWCA Civ 1655; [2013] EMLR 13 at [38].

SUBMISSIONS

12. Ms Michalos submits that the words complained of are not defamatory of Mr White at all and that in any event they are not allegations of actual guilt against either of the Claimants.
13. Ms Michalos emphasises that the most that is referred to in the article is a “probe” (the title and para 1), or something short of a “full investigation” (paras 3, 4, 11, 17 20 and 22). Moreover, facts tending to suggest that he has done no wrong are included, such as that Mr Callaghan lost some of his bets on Mr White as well as on other players, and statements from Mr Callaghan that Mr White is an honest man (paras 7, 9 and 13).
14. Ms Michalos submits that what is alleged against Mr White cannot be understood as more serious than what is alleged against Mr Callaghan, but it can and should be understood as less serious. She submits that it would be understood by a reasonable reader that any information which Mr Callaghan acquired about Mr White would not have to be insider information communicated by Mr White, but (unless the reader was unreasonably suspicious) would be information which, as a friend, Mr Callaghan could see for himself, such as if Mr White was not in the best of health.
15. Mr Sterling notes that there is no suggestion in the article that Mr White was given an opportunity to comment on the allegations, so there is no denial or other response from him recorded. The whole theme of the article is that there is a probe or investigation already (the title, paras 1 and 2), in addition to some other investigation to take place in the future (paras 11 and 20), that the sums won by Mr Callaghan have been large (para 2) and the number of winning bets substantial (paras 5). Some of the bets have been strikingly accurate (para 6) and there have been suspicions in the past (para 7).

DISCUSSION

16. In my judgment the words complained of clearly fall short of alleging actual dishonesty or other wrongdoing. There are no words alleging actual guilt. The dominant words are words referring to suspicion or investigation, and there are matters which are included in the article which are exculpatory. Reading the article as a whole, as the reader must be assumed to do, it would be unreasonable to understand actual guilt. On the other hand, the reader is given clearly to understand that there has already been an investigation by the Daily Star Sunday, and that the outcome of the investigation is that there are grounds to suspect dishonesty.
17. In my judgment the meaning is clear: that there are reasonable grounds to suspect that Mr Callaghan used insider information communicated to him by Mr White to place winning bets, and so reasonable grounds to suspect that both men acted dishonestly to enable Mr Callaghan to place winning bets.

18. I reject Ms Michalos's submission that the words are not defamatory of Mr White. A reader would need to be over analytical to consider there was a real possibility that if there were insider information which enabled Mr Callaghan dishonestly to win his bets, then that was not, or might not have been, insider information wrongly disclosed by Mr White.
19. The meaning that I have found is a defamatory allegation of fact.
20. For the avoidance of doubt I record that it is not in dispute that the World Professional Billiards and Snooker Association issued a statement on 1 August 2012 stating that it could not find any evidence of inappropriate betting activity in relation to statements in the article complained of, or by Mr White, and that no further action would be taken.

CONCLUSION

21. The meaning of the words complained of by each Claimant is that there are reasonable grounds to suspect that Mr Callaghan used insider information communicated to him by Mr White to place winning bets, and so reasonable grounds to suspect that both men acted dishonestly to enable Mr Callaghan to place winning bets.