



Neutral Citation Number: [2023] EWHC 3029 (KB)

Case No: QB-2020-004499

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 30 November 2023

Before :

THE HONOURABLE MR JUSTICE MURRAY

Between :

RAFFAELE MINCIONE

Claimant

- and -

GEDI GRUPPO EDITORIALE SpA

Defendant

Ms Lorna Skinner KC and Ms Kirsten Sjøvoll (instructed by **Withers LLP**) for the
Claimant

Mr Aidan Eardley KC and Mr Luke Browne (instructed by **Archerfield Partners LLP**) for
the **Defendant**

Hearing date: 9 November 2023

Approved Judgment

This judgment was handed down remotely by circulation to the parties' representatives by email and release to The National Archives. The date and time for hand-down are deemed to be 30 November 2023 at 10:30 am

Mr Justice Murray:

1. Mr Raffaele Mincione has brought a claim against Gedi Gruppo Editoriale SpA (“Gedi Gruppo”) for libel in respect of four articles (including one in English) and two videos, each of which was published and remains on-line and accessible in England and Wales.
2. I have before me Mr Mincione’s application dated 5 June 2023 to strike out Gedi Gruppo’s defence of truth under section 2 of the Defamation Act 2013 (“the Application”). The essence of Mr Mincione’s argument in support of the Application is that the pleaded defence is not sufficiently clear and coherent, includes many bare and undeveloped assertions, contains irrelevant narrative, and/or impermissibly speculates as to the factual position.

Relevant background

3. Mr Mincione is a businessman with more than 20 years’ experience in the financial sector in banking and investment management. He is an Italian national. He obtained a British passport by naturalisation in 2018, as did his wife and two daughters.
4. Gedi Gruppo is an Italian company that publishes the Italian language publications *La Repubblica* and *L’Espresso*. It occasionally also publishes articles in English.
5. *La Repubblica* is a daily newspaper that is published online and is accessible worldwide. It is also published in a digital edition, available to subscribers only, which is an exact replica of the day’s hard copy edition. *L’Espresso* is a weekly current affairs magazine that is published online and in digital and hard copy editions. The online version is accessible worldwide.
6. Gedi Gruppo also operates the Reptv website (video.repubblica.it) and a YouTube channel (@repubblica), on which it posts videos.
7. These proceedings concern four articles, three in Italian and one in English, and a video in Italian published on two separate platforms (namely, the Reptv website and YouTube, as described further below). All of these publications (“the Publications”) have been published via the internet by Gedi Gruppo in England and Wales.
8. Mr Mincione seeks damages, including aggravated damages, for libel and other relief in respect of the six Publications. The first of the Publications was published on 29 September 2020 and the last on 29 October 2020. All six remain online and accessible from England and Wales.

Procedural history

9. On 17 December 2020, Mr Mincione served the claim form and original Particulars of Claim on Gedi Gruppo. The latter were amended by agreement on 4 May 2021 and re-amended by agreement on 7 July 2021.
10. Following a trial of preliminary issues on 9 December 2022, Griffiths J handed down judgment on 22 December 2022 (neutral citation: [2022] EWHC 3268 (KB)) (“the Meaning Judgment”) in which he set out his determination of the ordinary and natural meaning of each of the Publications and, where applicable, any innuendo meaning.

11. On 5 January 2023, further to paragraph 1 of the order of Griffiths J dated 22 December 2022, Mr Mincione served Re-Re-Amended Particulars of Claim (“the RRAPoC”).
12. On 3 March 2023, Gedi Gruppo served its Defence. It served further draft amendments to its Defence on 3 and 18 May 2023 and on 8 August 2023. Each amendment is marked on the draft Amended Defence in the hearing bundle at tab 5, together with a footnote specifying the date of the amendment. It is agreed between the parties that the amendments are not material to the determination of the Application, and therefore I have been invited to review the Defence, including the proposed amendments (“the Amended Defence”). If the Application is unsuccessful, Mr Mincione will consent to the amendments pursuant to CPR r 17.1(2)(a). In other words, the Application proceeds on the basis that the amendments have been made. Further references in this judgment will therefore be to the Amended Defence, even though not yet approved.
13. Gedi Gruppo relies on the substantive defence of substantial truth under section 2 of the Defamation Act 2013. It also denies serious harm.
14. On 28 March 2023, Mr Mincione made a request for further information under CPR Part 18, to which Gedi Gruppo responded on 3 May 2023. Following further correspondence, Gedi Gruppo provided a draft amended Part 18 response to Mr Mincione (“the Response”). It is agreed between the parties that the Application should be considered and determined on the basis that the draft amended Response has been served. Further references in this judgment to the Response should be understood, therefore, in that sense.

The Publications and the meanings of the Publications

15. Dealing with the Publications in the order in which they are set out in the RRAPoC, the first Publication is an article in Italian dated 29 September 2020 published in the digital edition of *La Repubblica* and online at www.repubblica.it, with the headline “*Il sacco del Vaticano: ‘Svuotato anche il conto del Papa’*”, for which the agreed translation is “The plundering of the Vatican: ‘Even the Pope’s account has been emptied’ ”.
16. The second Publication is an article in English dated 30 September 2020 published online at www.repubblica.it, with the headline, “This is how they stole money from the Pope”. It is a loose translation, prepared in-house, of the first Publication.
17. The third Publication is an article in Italian dated 23 October 2020, published in the digital edition of *La Repubblica* and online at www.repubblica.it, with the headline “*Una associazione a delinquere contro la Santa Sede*”, for which the agreed translation is “A criminal conspiracy against the Holy See”.
18. The fourth Publication is a statement that was published on 29 October 2020 in the digital edition of *L’Espresso* and online at www.espresso.repubblica.it, under the heading “*Quell’Arcivescovo è gay e pedofilo: spuntano i nuovi dossier falsi per i ricatti in Vaticano*”, for which the agreed translation is “That Archbishop is gay and a paedophile: new fake dossiers for Vatican blackmail emerge”.
19. The fifth Publication is a video in Italian, 17 minutes and 52 seconds long, consisting of a “talking heads” style interview between a journalist, Ms Giulia Santerini, and a guest commentator, Mr Carlo Bonini, which was published on 30 September 2020 on

Gedi Gruppo's Reptv website (video.repubblica.it). The video caption reads "*Focus – Il sacco del Vaticano, Bonini: 'Cosi hanno depredato Francesco'*", for which the agreed translation is "Focus – The plunder of the Vatican, Bonini: This is how they plundered Francis".

20. The sixth Publication is the same video as the fifth Publication, published on 30 September 2020 on the YouTube channel of *La Repubblica* (@repubblica) at youtube.com/repubblica.
21. In the Meaning Judgment at [79], Griffiths J set out in summary the meanings that he had determined for each the Publications as follows:

"In summary, therefore, the ordinary and natural meaning of the articles and the Video, so far as defamatory statements about the Claimant are concerned, is:

- i) The [first Publication]:

'There are very strong grounds to suspect that the Claimant played a leading role in the corrupt and criminal plundering and looting of the assets of the Vatican worth up to 454 million Euros including money given for alms through donations to Peter's Pence. There are therefore very strong grounds to suspect that the Claimant is guilty of criminal offences.'

- ii) The [second Publication]:

'There are very strong grounds to suspect that the Claimant played a leading role in the corrupt and criminal plundering and stealing of the assets of the Vatican worth up to 454 million Euros including money given for alms through donations to Peter's Pence. There are therefore very strong grounds to suspect that the Claimant is guilty of criminal offences.'

- iii) The [third Publication]:

'There are reasonable grounds to suspect that the Claimant is guilty of the criminal offences of abuse of authority, embezzlement, corruption and money laundering, and the use of proceeds from criminal activities to the detriment of the Holy See. There are strong grounds to suspect that the Claimant is guilty of conspiracy with Torzi and Crasso and others to the detriment of the Holy See.'

- iv) The [third Publication] has the following additional innuendo meaning (assuming proof of the facts relied upon in support of it), added in bold and square brackets below:

‘There are reasonable grounds to suspect that the Claimant is guilty of the criminal offences of abuse of authority, embezzlement, corruption and money laundering, and the use of proceeds from criminal activities, to the detriment of the Holy See. There are strong grounds to suspect that the Claimant is guilty of conspiracy with Torzi and Crasso and others, to the detriment of the Holy See[, **including Peter’s Pence funds reserved for charitable purposes**].’

- v) The [fourth Publication] has the following ordinary and natural meaning:

‘There are very strong grounds to suspect that the Claimant played a leading role in a criminal conspiracy which diverted over €100 million from the Vatican.’

- vi) The [fourth Publication] has the additional innuendo meaning (assuming proof of the innuendo-supporting facts) added in bold and square brackets below:

‘There are very strong grounds to suspect that the Claimant played a leading role in a criminal conspiracy which diverted over €100 million from the Vatican[, **including funds reserved for charitable purposes**].’

- vii) The [fifth and sixth Publications have] the following ordinary and natural meaning:

‘There are reasonable grounds to suspect that the Claimant dishonestly used the transactions for 60 Sloane Square to misappropriate assets of the Vatican, including charitable funds and the Pope’s personal bank account, amounting to between €400 and €500 million, for the benefit of himself and others.’ ”

22. The term “Peter’s Pence”, which is used in the ordinary and natural meanings of the first and second Publications and in the innuendo meanings of the third and fourth Publications, refers to funds collected as donations on behalf of the Holy See, which are intended to be reserved for charitable purposes.
23. In terms of the “levels” of meaning found in respect of the six Publications, following *Chase v Newsgroup Newspapers Ltd* [2002] EWCA Civ 1772, [2003] EMLR 11, the meanings determined by Griffiths J range from “reasonable grounds to suspect” to “strong grounds to suspect” to “very strong grounds to suspect”. This places these meanings between levels 1 and 2 in terms of the three types of defamatory allegation identified by Brooke LJ in *Chase* at [45], which have come to be known as the *Chase* levels of meaning.
24. A *Chase* level 1 meaning is a positive assertion that the claimant has committed some serious act. A *Chase* level 2 meaning is an assertion that there are reasonable grounds to suspect that the claimant has committed some serious act. For completeness,

although not relevant to this case, a *Chase* level 3 meaning is an assertion that there are grounds for investigating whether the claimant is responsible for some serious act.

25. Nicklin J made it clear in *Brown v Bower* [2017] 4 WLR 197 (KB) at [17] that the three *Chase* levels are not meant to be a straitjacket but rather a helpful shorthand, so that a particular meaning may fall between the levels, as Griffiths J has found in this case.
26. At the hearing, it appeared that Mr Mincione and Gedi Gruppo took differing approaches to what Gedi Gruppo needed to prove in order to establish its defence of truth in relation to the first and fourth Publications. Ms Lorna Skinner KC, leading counsel for Mr Mincione, submitted that, in order to succeed on its defence of truth in relation to the first Publication, Gedi Gruppo had to prove the plundering and looting as alleged before proving very strong grounds to suspect Mr Mincione's involvement. Similarly, in relation to the fourth Publication, she submitted that Gedi Gruppo had to prove a criminal conspiracy as fact, before proving very strong grounds to suspect that Mr Mincione played a leading role in it.
27. In relation to each of the first and fourth Publications, Mr Aidan Eardley KC, leading counsel for Gedi Gruppo, submitted that it was sufficient to prove that there were very strong grounds to suspect that there had been plundering and looting or a criminal conspiracy, as the case may be, and that Mr Mincione had been involved in the former or had played a leading role in the latter.
28. I consider that I do not need to resolve these differing approaches in order to determine the Application.

The Amended Defence

29. Gedi Gruppo relies on a defence of substantial truth under section 2 of the Defamation Act 2013. The particulars of truth are set out at paragraphs 16 to 54 of the Amended Defence in relation to the first Publication, and then repeated in relation to each of the other Publications. This is qualified in relation to the third Publication in respect of the imputations that there are reasonable grounds to suspect Mr Mincione of the criminal offences of money laundering and corruption and other offences listed in paragraph 18(a) of the RRAPoC. If Gedi Gruppo fails to establish the truth of any of those imputations, then it relies on section 2(3) of the Defamation Act 2013 on the basis that any such unproven imputations do not seriously harm Mr Mincione's reputation.

The Application

30. Under the Application, Mr Mincione seeks an order striking out paragraphs 15 to 54, 57, 60, 64, and 70 of the Amended Defence under CPR r 3.4(2)(a) and/or the court's inherent jurisdiction on the basis that the particulars of truth set out in these parts of the Amended Defence are incapable of showing that any of the imputations conveyed by the Publications are substantially true. In other words, Mr Mincione asserts that Gedi Gruppo has not pleaded a defence of substantial truth under section 2(1) of the Defamation Act 2013 that is capable of succeeding.
31. In addition or in the alternative, Mr Mincione seeks an order striking out paragraphs 15 to 54, 57, 60, 64, and 70 of the Amended Defence under CPR r 3.4(2)(b) and/or the court's inherent jurisdiction on the basis that these parts of the Amended Defence are

an abuse of the court's process or are otherwise likely to obstruct the just disposal of the proceedings. That is because they do not plead a sufficiently clear and coherent defence of truth against Mr Mincione's claim, they contain irrelevant narrative, and/or they impermissibly speculate as to the factual position in support of a defence of reasonable, strong, or very strong grounds to suspect that Mr Mincione is guilty of various criminal offences.

32. Finally, in addition or in the alternative, Mr Mincione seeks an order striking out paragraphs 17, 21, 35.14, 41, and 49.7 of the Amended Defence under CPR r 3.4(2)(c) on the basis that there has been a failure to comply with CPR PD 53B, paragraph 2.1 and/or paragraph 4.3(2) in that these paragraphs of the Amended Defence contain a series of bare assertions and/or impermissibly speculate as to the factual position in support of a defence of reasonable, strong, or very strong grounds to suspect that Mr Mincione is guilty of various criminal offences.

Legal principles

33. The law applicable to the determination of this Application is not materially in dispute, although there are some differences of emphasis between Mr Mincione and Gedi Gruppo as to which principles are salient for the purposes of the Application.

34. CPR r 3.4(2) provides as follows:

- “(2) The court may strike out a statement of case if it appears to the court –
- (a) that the statement of case discloses no reasonable grounds for bringing or defending the claim;
 - (b) that the statement of case is an abuse of the court's process or is otherwise likely to obstruct the just disposal of the proceedings; or
 - (c) that there has been a failure to comply with a rule, practice direction or court order.”

35. In *HRH The Duchess of Sussex v Associated Newspapers* [2020] EWHC 1058 (Ch), [2020] EMLR 21 at [33], Warby J gave guidance on the application of CPR r 3.4(2) to an application to strike out part of a pleading (that case having concerned a defendant's application to strike out part of the claim). Although I do not set it out here, I bear that guidance in mind.

36. In relation to CPR r 3.4(2)(a), in *Soriano v Société d'Exploitation de l'Hebdomadaire Le Point SA* [2022] EWHC 1763 at [15], Collins-Rice J noted that a court will strike out a claim on the basis that it discloses no reasonable grounds for bringing the claim if the court is “certain” that the claim is bound to fail. That obviously applies equally to the strike-out of all or part of a defence on the basis that it discloses no reasonable grounds for defending the claim. In this case, that means I must be certain that Gedi Gruppo's defence of truth is bound to fail before I strike it out under CPR r 3.4(2)(a).

37. CPR PD 53B, paragraph 2.1 provides:

“Statements of case should be confined to the information necessary to inform the other party of the nature of the case that they have to meet. Such information should be set out concisely and in a manner proportionate to the subject matter of the claim. ...”

38. CPR PD 53B, paragraph 4.3 provides:

“Where a defendant relies on the defence under section 2 of the Defamation Act 2013 that the imputation conveyed by the statement complained of is substantially true, they must –

- (1) specify the imputation they contend is substantially true; and
- (2) give details of the matters on which they rely in support of that contention.”

39. Section 2 of the Defamation Act 2013 provides in relevant part as follows:

- “(1) It is a defence to an action for defamation for the defendant to show that the imputation conveyed by the statement complained of is substantially true.
- (2) Subsection (3) applies in an action for defamation if the statement complained of conveys two or more distinct imputations.
- (3) If one or more of the imputations is not shown to be substantially true, the defence under this section does not fail if, having regard to the imputations which are shown to be substantially true, the imputations which are not shown to be substantially true do not seriously harm the claimant’s reputation.

...”

40. The defence under section 2 of the Defamation Act 2013 requires that the defendant show that the imputation of the relevant statement is “substantially true”. As made clear by Nicklin J in *Bokova v Associated Newspapers Ltd* [2018] EWHC 2032 (QB), [2019] QB 861 at [28], by reference to the earlier authorities of *Turcu v News Group Newspapers Ltd* [2005] EWHC 799 (QB) at [109] (Eady J) and *Rothschild v Associated Newspapers Ltd* [2013] EWCA Civ 197, [2013] EMLR 18 at [17] (Laws LJ, approving *Turcu* at [109]), the court should not be too literal in its approach but instead should “isolate the essential core of the libel and not be distracted by inaccuracies around the edge – however extensive” (*Turcu* at [105]). The court “should not ... insist upon proof of every detail where it is not essential to the sting of the article” (*Turcu* at [109]).

41. Nicklin J notes in *Bokova* at [28] that:

“... The question for the court – when considering a striking out application – is whether the particulars of truth are capable of proving the substantial truth of the defamatory imputation(s).”

42. In *Simpson v MGN Ltd* [2016] EWCA Civ 772, [2016] EMLR 26, which was an appeal by a defendant against the strike-out of its defence of justification as disclosing no reasonable grounds for defending the claim, Laws LJ made clear at [18] that, in order to strike out a defence of substantial truth, the court:

“... would have to be satisfied that no reasonable fact finder could conclude that proof of the particulars of justification would prove the truth of the words complained in the meaning found by the Judge.”

43. In *Simpson* at [20]-[21], Laws LJ found the proposition at the core of the case to be that the meaning of a defamatory statement does not necessarily establish the intensity of its sting. There were factors in that case going to the intensity of the sting on which reasonable people might disagree. The Court of Appeal concluded that the question of the intensity of the sting should, therefore, have been left by the first instance judge to the fact-finding tribunal at trial.

44. The general pleading requirements for a defence of justification are discussed in *McPhilemy v Times Newspapers Ltd* [1999] EMLR 751 at 776 (Lord Woolf MR), in *Ashcroft v Foley* [2012] EWCA Civ 423, [2012] EMLR 25 at [49] (Pill LJ and Sharp J), and in *Hunt v Times Newspapers Ltd* [2012] EWHC 110 at [24] (Eady J). In general, these requirements embody the principles that should govern all pleadings, namely, that each pleading should make clear the general nature of the case of the pleader, should clearly identify the issues and extent of the dispute between the parties, should include a concise statement on which the pleader relies, should be properly particularised, and should include sufficient detail.

45. In *Ashcroft v Foley* at [49], the Court of Appeal made clear that particulars of a plea of justification must not include excessive or irrelevant detail. The pleading must be confined to:

“... a succinct and clear summary of the essential (and relevant) facts relied on, enabling a claimant to know the precise nature of the case against him, and providing him with sufficient detail so that he can meet it.

46. This requirement, applied to the pleading of a defence of truth under section 2 of the Defamation Act 2013, is set out in CPR PD 53B, paragraph 4.3(2).

47. What amounts to sufficient and relevant detail for a defence of truth will, of course, be a matter of judgment for the defendant, about which reasonable people could disagree. As noted by Eady J in *Hunt v Times Newspapers* at [24]:

“Each sub-paragraph of the particulars of justification should be relevant to and supportive of one or more of the defamatory

meanings sought to be justified. *Of course, it is right that some material may appear as necessary background, but it must genuinely form part of the narrative for the purpose of achieving that ultimate objective.*” (emphasis added)

48. These principles, applicable to all statements of case in a media and communications claim, are reflected in CPR PD 53B, paragraph 2.1.
49. In *Turley v Unite the Union* [2019] 3547 (QB) at [115]-[125], Nicklin J discussed in some detail the principles governing a defence of truth of a *Chase* level 2 meaning. I bear in mind the principles set out in that passage. It is not necessary to set it out here in full, but I highlight the following principles of particular relevance to this case from *Turley* at [117]:
- i) a defendant pleading a defence of truth needs to plead and ultimately prove primary facts and matters that, objectively judged, give rise to reasonable (or stronger) grounds to suspect;
 - ii) it is generally necessary for the defendant to plead allegations of fact tending to show it was some conduct on the claimant’s part that gave rise to the grounds of suspicion (the so-called “conduct rule”);
 - iii) however, the conduct rule is not an absolute rule; strong circumstantial evidence can itself contribute to reasonable grounds for suspicion; and
 - iv) a defendant may not plead particulars in such a way as to have the effect of transferring the burden to the claimant of having to disprove them.
50. In *Turley* at [118], by reference to his earlier decision in *Bokova v Associated Newspapers Ltd* [2019] QB 861 at [24]-[25], Nicklin J gave further guidance on the interplay between the conduct rule and circumstantial evidence. In essence, while the particulars of the defence of truth must plead facts demonstrating conduct of the claimant said to give rise to suspicion, the strength of those pleaded facts may properly be assessed by reference to the circumstances of the case as a whole as established by the evidence.

Submissions for Mr Mincione

51. In support of the Application, Ms Skinner submitted that, despite the Publications setting out allegations that there were grounds, from reasonable to very strong, to suspect that Mr Mincione himself was directly involved in serious criminal wrongdoing and that he played a leading role in a criminal conspiracy, Gedi Gruppo’s pleaded case does not specify a single act said to have been carried out by Mr Mincione himself that is capable of giving rise to a reasonable suspicion of the alleged criminal activities. Throughout her submissions, Ms Skinner emphasised the paucity of detail in Gedi Gruppo’s case of Mr Mincione’s personal and direct involvement in those activities.
52. Ms Skinner submitted that Gedi Gruppo’s pleaded case on truth could be viewed as comprised of three pillars, namely, that:
- i) Mr Mincione exercised “close control” over his various business entities;

- ii) Mr Mincione was complicit in alleged misrepresentation and overvaluation of a property at 60 Sloane Square in London (“the London Property”) on two occasions, namely:
 - a) in July 2014 in order to induce the Secretariat of State of the Holy See (“the SoS”), the governmental unit of the Holy See, which exercises sovereign jurisdiction over the Vatican City State, to invest in the London Property at a level substantially in excess of its true market value; and
 - b) in November 2018 in order to induce the SoS to enter into an agreement (“the Exit Agreement”) under which the SoS acquired the full ownership of the London Property, surrendered other investments held by it, and paid a “price adjustment” amount determined by reference to a false valuation of the London Property that substantially overstated its true market value; and
- iii) Mr Mincione was part of a criminal conspiracy:
 - a) with a Mr Enrico Crasso, a financial adviser to the SoS, and a Mr Fabrizio Tirabassi, a Vatican public official, in relation to the initial investment by the SoS in the London Property in July 2014; and
 - b) with, at a minimum, Mr Crasso, Mr Tirabassi, and a Mr Gianluigi Torzi, a businessman, in relation to the Exit Agreement entered into in November 2018,

the purpose of each conspiracy being to obtain unjust advantages for the conspirators and/or associated entities.

- 53. In relation to the first pillar, the overarching submission was that the facts pleaded did not and could not show that Mr Mincione exercised “close control” over his various business entities. This therefore amounted to no more than a bare assertion. In relation to the second pillar, the overarching submission was that facts pleaded did not and could not show that Mr Mincione had direct knowledge of any misrepresentation to the SoS of the value of the London Property or that he committed a deliberate act to misrepresent the value of the London Property in order to divert or misappropriate Vatican funds. In relation to the third pillar, the overarching submission was that Gedi Gruppo’s pleaded case on the alleged conspiracies relied almost entirely on the conduct of others allegedly involved, there being little to no pleaded case relating to Mr Mincione’s own conduct.
- 54. In Mr Mincione’s skeleton argument and during the hearing, the foregoing points were developed in some detail by reference to the Amended Defence and the Response. In relation to the first pillar, Ms Skinner submitted that the defence case at its height failed to make the case that Mr Mincione was a decision-maker. At best, he was, in colloquial terms, a “rainmaker”, in other words, someone who attracted business to his companies. His role was ambassadorial and inspirational. He attended meetings and provided ideas. It was up to others to run with them.

55. In relation to the second pillar, Ms Skinner submitted that there was little that was pleaded that went beyond the assertion of Mr Mincione's "close control" of his group of companies. Absent from the pleadings were any pleaded facts from which it could reasonably be deduced that Mr Mincione made any decision and/or gave any instruction that led to any misrepresentation to the SoS in 2014 or in 2018 concerning the market value of the London Property.
56. In relation to the third pillar, Ms Skinner submitted that Gedi Gruppo's pleaded case contains little or no reference to any acts allegedly done by Mr Mincione himself in furtherance of any conspiracy to profit unjustly at the expense of the Holy See, nor is Mr Mincione's alleged role explained with adequate specificity in relation to any such conspiracy or concerning his knowledge, conduct, or involvement. The focus in the particulars is almost entirely on the conduct of other alleged members of the conspiracies.
57. Ms Skinner submitted that one effect of Gedi Gruppo's approach is impermissibly to shift the burden of proof in relation to the alleged conspiracies from Gedi Gruppo to Mr Mincione, forcing the latter to have to disprove Gedi Gruppo's case based on the actions and intentions of third parties.

Submissions for Gedi Gruppo

58. Responding to the Application, Mr Eardley accepted the organisation of Gedi Gruppo's defence into three "pillars", although he suggested that the first pillar was "overstated", given that the defence did not rely merely on Mr Mincione's heading up the companies involved in making the misrepresentations at the heart of the alleged criminal activity in which there are reasonable (or stronger) grounds to suspect that Mr Mincione was involved.
59. In relation to the first pillar, Mr Eardley's overarching submission was that Mr Mincione's close control of his group of companies was a natural inference, given the pleaded case that he is at the top of the corporate structure and is the beneficiary of the trust that ultimately owns everything else. Mr Mincione clearly had a strong personal interest in what the entities lower down in the structure were doing. Furthermore, it was necessary to look at the structure realistically. Structures of the type through which Mr Mincione operated his business activities are commonplace, reflecting tax, regulatory compliance, and other requirements, but not reflecting the reality of day-to-day business. Gedi Gruppo has advanced a sufficiently pleaded case that the acts of the corporate entities identified in the Amended Defence were done with Mr Mincione's knowledge and approval.
60. In relation to the second pillar, Mr Eardley pointed to specific passages in the Amended Defence and Response that allege Mr Mincione's personal involvement in events preceding the investment by the SoS in the London Property in 2014 and again in relation to the Exit Agreement in 2018. Mr Eardley highlighted aspects of the pleaded case that tended to show that the valuations at the heart of the alleged misrepresentations in 2014 and in 2018 were false and/or unjustified and that Mr Mincione must have known at the time that this was so. Mr Eardley also highlighted aspects of the pleaded factual matrix from which, he submitted, it could reasonably be inferred that the misrepresentations in 2014 and in 2018 were made with Mr Mincione's knowledge and approval.

61. In relation to the third pillar, Mr Eardley submitted that the conspiracies were pleaded as a conspiracy is typically pleaded, namely, by reference to alleged facts and circumstances that demonstrate the existence, scope, purpose, and other relevant aspects of the conspiracy. This requires dealing with the conduct of other conspirators and other relevant circumstances beyond the conduct of the specific conspirator in question. In this regard, Gedi Gruppo relied on the observations by Nicklin J in *Turley* as to the relationship between conduct and circumstances in a *Chase* level 2 allegation of conspiracy. It is only by pleading in this way that a case can be made out that there are sufficiently strong grounds to suspect a particular conspirator of involvement in a conspiracy.

Discussion and conclusion

62. As forcefully and attractively as Ms Skinner has put Mr Mincione's case, I am not persuaded that the Application passes the high hurdle that needs to be surmounted in order to justify striking out under CPR r 3.4(2) Gedi Gruppo's defence of truth, particularly bearing in mind that this is a "grounds to suspect" case, in other words, falling short of *Chase* level 1. In relation, for example, to CPR r 3.4(2)(a), bearing in mind *Soriano* at [15], I am far from certain that Gedi Gruppo's defence of truth as pleaded is bound to fail.
63. Having carefully reviewed the pleadings, having considered the submissions of the parties, and having considered the relevant authorities, I am satisfied that Gedi Gruppo has pleaded its defence of truth in the Amended Defence with sufficient particularity such that it does disclose reasonable grounds for defending the claim. The particulars of truth are, in my judgment, capable of proving the substantial truth of the defamatory imputations. I am also satisfied that Gedi Gruppo's pleaded defence of truth is not an abuse of the court's process or otherwise likely to obstruct the just disposal of the claim.
64. Having reached those conclusions, it follows that there has been no relevant failure by Gedi Gruppo to comply with a rule, practice direction, or court order such that I should make an order striking out its defence of truth under CPR 3.4(2)(c).
65. Adopting the "three pillars" classification of Gedi Gruppo's pleaded case, in relation to the first pillar, whether Mr Mincione exercised "close control" over any or all entities in the corporate structure that he established and of which he was the principal beneficiary will be a proper matter for determination at trial. This aspect of the defence is closely linked to the second and third pillars, which will again be a matter of evidence that should be left to the trial judge to determine.
66. Many, perhaps most, of the submissions made by Ms Skinner in support of the Application involved looking at an individual statement in the Amended Defence or Response and attacking its significance, weight, or relevance in isolation as a "bare assertion", ignoring the place of the statement in the defence case as a whole or the natural inferences that can be drawn from the facts pleaded (for example, in relation to the corporate structure through which Mr Mincione ran his business activities at the relevant times). Other submissions by Ms Skinner involved criticism of specific passages of the Defence or Response as involving irrelevant detail. While that targeted, surgical approach may be appropriate in another sort of case, it is unrealistic as a basis for a strike-out application in a case such as this one, given the allegations made in the six Publications.

67. In particular, in relation to the pleading of the conspiracies, I accept Mr Eardley's submission that it is necessary to plead the full circumstances, including the conduct of the other conspirators, in order to establish the conspiracies, so that the court can properly assess whether there are grounds of the relevant strength to suspect that Mr Mincione was involved in the manner suspected. This necessarily involves setting out relevant context in passages of the pleaded defence case that do not individually allege specific conduct of Mr Mincione. At the pleading stage, the court should accord a degree of latitude to a pleader in pleading relevant circumstances, particularly in relation to establishment of grounds to suspect a conspiracy. In this case, I remind myself that the defence under section 2 of the Defamation Act 2013 only requires the defendant to show that the imputation of the relevant statement is "*substantially true*" (emphasis added).
68. I do not agree with Ms Skinner's submission that the defence case as pleaded has, in relation to any part of it, the effect of reversing the burden of proof in relation to the defence of truth. Mr Mincione will not have to disprove any aspect of Gedi Gruppo's defence of truth in order to succeed on his claim. Gedi Gruppo will need to show, on the evidence, that there are strong or very strong grounds to suspect that Mr Mincione is guilty of the criminal activities alleged against him and involved in a conspiracy to profit unjustly to the detriment of the Holy See. That will be a sufficient challenge for Gedi Gruppo to overcome, and it will have to bear that burden throughout in relation to its defence of truth.
69. For the reasons given, I have concluded that Mr Mincione has failed to discharge the burden on him that the defence of truth pleaded by Gedi Gruppo in the Amended Defence and Response is not capable of establishing the substantial truth of the defamatory allegations of fact. Accordingly, the Application is refused.