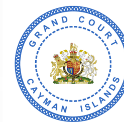


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: G 93 of 2021

BETWEEN:

MORNE BOTES

PLAINTIFF

-AND-

LINDA CLARK

DEFENDANT

IN CHAMBERS

Appearances: **Mr Colm Flanagan of Nelsons for the Plaintiff**
Mr Rupert Wheeler of KSG for the Defendant

Before: **Mr Justice Alistair Walters (Actg.)**

Heard: **28 March 2022**

Draft circulated: **25 April 2022**

Judgment Delivered: **4 May 2022**

HEADNOTE

Claim for damages for libel. Determination of meaning of words pursuant to GCR O. 82 r.3A. Consideration of whether Plaintiff identified and context within which words posted on Facebook.

JUDGMENT

Summary of background

1. This is an action commenced by the Plaintiff by way of writ dated 7 June 2021 in which he seeks damages from the Defendant for libel in connection with posts made and published on 8 May 2021 on the website Facebook.com in a group created by the Defendant called "Cayman Development Watch".

2. The statement of claim is dated 2 July 2021 (the "Statement of Claim"), the defence is dated 1 September 2021 (the "Defence") and the reply is dated 15 September 2021 (the "Reply"). I elaborate below on the details of the alleged libel and the defence to that.

3. The present application is by way of a summons dated 13 October 2021 in which the Plaintiff seeks an order pursuant to GCR O.82, r.3A determining whether or not the words complained of in the posts are capable of bearing a particular meaning or meanings attributed to them in the Statement of Claim. The relevant part of the rule reads as follows:

> "*Ruling on meaning (O.82, r.3A)*
>
> *3A. (1) At any time after the service of the statement of claim either party may apply to a judge in chambers for an order determining whether or not the words complained of are capable of bearing a particular meaning or meanings attributed to them in the pleadings.*
>
> *(2) If it appears to the judge on the hearing of an application under paragraph (1) that none of the words complained of are capable of bearing the meaning or meanings attributed to them in the pleadings, he may dismiss the claim or make such other order or give such judgment in the proceedings as may be just."*

4. Counsel indicated at the hearing that they had not identified any decisions of the Grand Court dealing with this particular rule. There are, however, a number of relevant English authorities dealing with the equivalent English rule which set out clearly the approach the court should take when determining the meaning of the words in question and there was no disagreement between counsel as to those principles.

The parties

5. The Plaintiff is described in the Statement of Claim as "*an entrepreneur and property developer, resident in the Cayman Islands*" whose latest development venture is a development by the name of BARKERS Beach Resort (the "Development"). The Statement of Claim describes the Defendant as a resident of the Cayman Islands who is a well-known activist for environmental causes. In the Defence the Defendant states that she is Caymanian, born in Grand Cayman and that she has "*an interest in enforcement of the laws of the country across a broad variety of issues expressing her views on such issues.*" It appears to be the case that the Defendant participates from time to time as a volunteer with Plastic Free Cayman, a non-profit organisation and was also involved in the Cruise Port Referendum.

The allegedly libelous words and their publication

6. As mentioned above, it is alleged that on 6 May 2021, the Defendant created a group on Facebook.com called Cayman Development Watch (the "Group"). This is admitted by the Defendant.

7. The Defendant states in the Defence that she created the Group "... *to facilitate the expression of views about development in the Cayman Islands amongst a limited number of like-minded individuals and concerned citizens of the Cayman Islands"*. It appears that, at all material times, the Defendant was one of the administrators of the Group with the ability to control, edit, supervise and monitor the Group's content. The Defendant denies that she "...*ought reasonably to have read, pre-screened and monitored all items that were from time to time posted by other members of the Group*". She claims in the Defence that the "...*Group is a private group for a limited number of citizens of the Cayman Islands. It is not intended for an international audience nor for those without affiliation to the Cayman Islands"*.

8. It appears that the Plaintiff was a member of the Group from on or about 6 May 2021 but was excluded from the Group on or about 12 May 2021. It appears to be agreed that when the allegedly libelous words were published, the Group content was accessible to anyone. The Defendant claims that the Group's settings were changed to private on 22 July 2021.

9. The only evidence before the court at the hearing was an affidavit dated 21 February 2022 sworn by a Ms Marilyn Moxam exhibiting copies of various printed pages from the Group chat from 8 May 2021. The first page of the exhibit is about the Group. It confirms that the Group was created on 6 May 2021 and that it is *"[a] group for concerned citizens of the Cayman Islands to raise awareness and concerns of development projects across all 3 islands*". It goes on to say that the Group is public and that anyone can see who is in the group and what they post. "*Linda*" (presumably the Defendant) is named as "*an admin*".

10. Page 3 of the exhibit is the first printed page of the relevant chat. The names of those posting do appear in the chat but save where they are those of the parties, I have simply used their initials to preserve their privacy. In my view, their identity is irrelevant for the purposes of this application. The first relevant post was by "JW" a member of the Group at 07.54 and comprises a photograph of what is stated to be the Development, together with the comment "*is this a serious development?*

Do they know they'll be cleaning the beach hourly to keep them looking like this picture? Horrified."

11. I was advised by counsel that the following comments were comments on that post and were sequential, one following the other, all on the same day. The first 3 are not particularly relevant. The fourth comment is by "CB" and states:

> "*Yup ... was sold out to real estate agents and foreign investors before the developers even finalized the plans. Real estate agents have gone from ex waiters to millionaires here. New business is 10% down, no stamp duty and flipping properties before com ...*" (the remainder of that comment was not reproduced).

12. The fifth comment is by the Defendant, identified by her name and described as "*Admin*". She states:

> "*This is the type of development that is prone to money laundering. This same self-proclaimed developer has many such projects popping up and disappearing across Grand Cayman, with no planning permission but 'sales'. Money launderers invest in this type of speculative investment as it is worth their time, losing a portion of the funds to clean the money is part of the cost of doing dirty business*." (the "First Post").

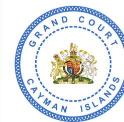
13. The First Post also contained a hyperlink to an article published on 26 March 2019 in the Cayman News Service entitled "*Developers vulnerable to money laundering*".

14. That article is dated 26 March 2019 and discusses generally the then recently published Caribbean Financial Action Task Force ("CFATF") mutual evaluation report for the Cayman Islands and, in particular, the risks of money laundering associated with property development. No specific developments or developers are mentioned.

15. The next comment is by "AM" who says "*Linda Clark hey Linda just so you know, the developer guy messaged me about this comment*" beneath that was a screen shot of two messages from the Plaintiff sent to AM using Messenger. The Plaintiff is identified because his name appears as the sender of the messages. The first in the sequence but second in time reads:

> "***Morne Botes*** *11m ago*
> *Morning When you read these statements by Linda Clark a founding member of CPR and respected activist, did you believe them to be true?*"

The second, but first in time reads:



"***Morne Botes*** *12 m ago*
https://www.facebook.com/groups/308928207337785/permalink/3099272739045 45/"

16. It appears, therefore, that either the Plaintiff saw the First Post or it was seen by another member of the Group who sent him a link to it. It seems that the Plaintiff then sent the above messages to AM.

17. The Defendant commented on AM's comment saying "*Hi [A] I am not a founding member of CPR. I...*" the rest of the comment has not been reproduced.

18. The Defendant then adds a further comment which says:

> *"Time for the PACT [Government] to ACT. This property is owned by former MP Captn Eugene Ebanks who very likely promised the "developers" CPA approval despite any neighbouring objections or objections by any other govt body (including the National Conservation Council)"* (the "Second Post").

19. Attached was a hyperlink to another article from Cayman News Service dated 11 January 2019 which covers a then recent audit report from the auditor general urging the government to introduce anti-corruption legislation with specific reference to fraud and corruption in the planning sector.

20. All of these comments followed the original post by JW.

The Pleadings

21. The Statement of Claim raises a number of issues. The question of the identification of the Plaintiff in the context of the First Post is addressed. The Plaintiff alleges that it was clear to readers that the First Post was referring to him because of the comment from AM immediately following it. The Plaintiff also raises the issue that the Defendant did not take the opportunity to refute the fact that the First Post was referring to the Plaintiff. The Plaintiff's position is that the words in the First and Second Posts and/or by inference or innuendo, meant and were understood to mean that he:

    21.1 was engaged in, or assisting with money laundering or other associated criminal offences;

    21.2 is or was acting dishonestly; and/or

    21.3 the Development is not legitimate and/or is associated with or is engaged in money laundering or other illegal or corrupt practices.

22. Initially the Defendant acted in person. The Defence contains a great deal of factual information and comment that would be more appropriately included in an affidavit or witness statement. In summary, the Defendant's position is that in relation to the First Post, the words complained of are not capable of bearing the meanings attributed to them by the Plaintiff in the Statement of Claim. Her approach is to break the words in the First Post down into shorter phrases and analyse the meaning in that way. In particular she says that:

    22.1 It means literally what it states.

    22.2 It was a reference to the type of development being prone to money laundering and that money launderers invest in that type of investment. Contrary to the Plaintiff's case, it was not an assertion that the Plaintiff himself was prone to money laundering nor that any of his investments were, in fact, the subject of money laundering.

    22.3 The post meant that commercial developments of the type referred to in the Original Post must be properly scrutinised in all aspects because of the high perceived risks that they may be targeted by money launderers to legitimize their ill-gotten gains.

23. The Defendant proceeds to argue that, "fatally" to the Plaintiff's claim, the words of the First Post do not identify the Plaintiff and there is nothing within the words from which to infer that they refer to the Plaintiff. On that basis, she argues that they cannot bear any meaning that is defamatory of him. The Defendant further contends that, as a matter of principle, context for which a defendant is not responsible cannot be held against them on meaning. The Defendant says that she was not responsible for the AM post and that but for the Plaintiff's action, the AM post would not and could not exist. She says that it would be contrary to principle and wrong in law for the AM post to be used against her on meaning.

24. As to the Second Post, the Defendant alleges, again, that it means literally what it states and denies that it is capable of meaning what the Plaintiff claims.

Relevant law and the scope of this application

25. There is no question but that this is a complex area of law. As mentioned above, counsel have helpfully summarized the law in some detail and I will make use of those summaries below. Before doing so, I think that it is important to clarify precisely what it is the court is tasked with

considering. GCR O. 82, r.3A is clear in its scope but within that there are a number of other issues that can arise.

26. At the commencement of the hearing counsel made it clear that they had only prepared to argue the question of natural and ordinary meaning and nothing wider. Any further issues would have to be dealt with at subsequent hearings. There was discussion of an adjournment to accommodate those issues in one hearing but as the parties were present personally and via Zoom it was decided to proceed.

Defamatory Meaning

27. The authors of *Clerk & Lindsell on Torts* state[1]:

> "*In considering whether a statement has a defamatory meaning, the court should give to the material in question its "natural and ordinary meaning". Words are to be taken in the sense that is most natural and obvious, and in which those to whom they are spoken will be sure to understand them. The test of reasonableness guides and directs the court.*"

28. The meaning (or each of the meanings where there are multiple allegations) must be a single meaning, that is a meaning which the court finds would be understood by the hypothetical reasonable reader (*Rothschild v Associated Newspapers Ltd*[2]).

29. In *Koutsogiannis v The Random House Group Ltd*,[3] the Court stated the following principles should be applied when determining the natural and ordinary meaning of words:

29.1 The governing principle is reasonableness.

29.2 The intention of the publisher is irrelevant.

29.3 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 someone 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. A reader who always adopts a bad meaning where a less serious or non-defamatory meaning is available is not reasonable:

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[1] At 21-23

[2] [2012] EWHC 177 at 23

[3] [2020] 4 W.L.R. 25 at 12 see also *Jeynes v News Magazines Ltd* [2008] EWCA Civ 130.

s/he is avid for scandal. But always to adopt the less derogatory meaning would also be unreasonable: it would be naïve.

29.4 Over-elaborate analysis should be avoided and the court should certainly not take a too literal approach to the task.

29.5 Consequently, a judge providing written reasons for conclusions on meaning should not fall into the trap of conducting too detailed an analysis of the various passages relied on by the respective parties.

29.6 Any meaning that emerges as the produce of some strained, or forced, or utterly unreasonable interpretation should be rejected.

29.7 It follows that it is not enough to say that by some person or another the words might be understood in a defamatory sense.

29.8 The publication must be read as a whole, and any "*bane and antidote*" taken together. Sometimes, the context will clothe the words in a more serious defamatory meaning. In other cases, the context will weaken (even extinguish altogether) the defamatory meaning that the words would bear if they were read in isolation.

29.9 In order to determine the natural and ordinary meaning of the statement of which the claimant complains, it is necessary to take into account the context in which it appeared and the mode of publication.

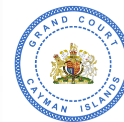
29.10 No evidence, beyond the publication complained of, is admissible in determining the natural and ordinary meaning. This was further clarified by Nicklin J in *Morgan v Associated Newspapers Ltd*[4]: "*No evidence, beyond the words complained of is admissible*".

29.11 The hypothetical reader is taken to be representative of those who would read the publication in question. The court can take judicial notice of facts which are common knowledge, but should beware of reliance on impressionistic assessments of the characteristics of a publication's readership.

29.12 Judges should have regard to the impression the article has made upon them themselves in considering what impact it would have made on the hypothetical reasonable reader.

29.13 In determining the single meaning, the court is free to choose the correct meaning; it is not bound by the meanings advanced by the parties (save that it cannot find a meaning that is more injurious than the claimant's pleaded meaning).

[4] [2018] EWHC 1850 (QB)



30. The question of the natural and ordinary meaning of the statement must be answered without reference to the knowledge or attitudes peculiar to a particular class or group of people[5].

Context

31. Duncan & Neil states the following in respect of context in social media cases:

> *"5.31 Context in relation to online publication (in particular on social media such as Twitter and Facebook) has required both consideration of the nature of the communication itself and particular focus on whether, and to what extent, extrinsic material constitutes relevant context. It appears that when determining the natural and ordinary meaning of a statement, the court will permit reference to be made as context to material which could reasonably be expected to be known to (or read by) all the publishees. This may include:*
>
> *(1) Matters of common knowledge. That is material that, for practical purposes, everyone knows.*
>
> *(2) Matters that are to be treated as part of the publication, which the ordinary reasonable reader would have read. This may be where the publication article expressly cross-refers to a linked article or contains a hyperlink.*
>
> *(3) Matters of 'directly available context' to a publication. This is likely to arise where a publication is one in a series of postings on social media or forms part of an ongoing discussion, where material external to the publication is sufficiently closely connected to it in time, content or otherwise.*
>
> *The limits in any particular case will require close consideration of the facts and circumstances."*

32. In *Monroe v Hopkins*[6] Eady J in the English High Court dealt specifically with defamation in the context of social media. The case involved tweets sent by the defendant about the plaintiff whose complaint was that the tweets accused her of vandalizing a war memorial and desecrating the memory of those who fought for her freedom, or of approving or condoning such behaviour. The defendant did not suggest that the plaintiff did behave in either of these ways. Her answer to the claim was that her tweets did not bear the meanings complained of; were not defamatory of the plaintiff according to common law principles; and, or in any event, were not defamatory because it has not been shown that they caused serious harm to the plaintiff's reputation.

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[5] Duncan & Neill on Defamation; 5.22

[6] [2017] 4 WLR 68 paragraphs 35 – 39.

33. I think that it is helpful to quote a number of relevant paragraphs from the judgment of Eady J:

> *"Principles applied to Twitter*
>
> 34. *These well-established rules [to decide meaning] are perhaps easier to apply in the case of print publications of long standing such as books, newspapers, or magazines, or static online publications, than in the more dynamic and interactive world of Twitter, where short bursts of pithily expressed information are the norm, and a single tweet rarely exists in isolation from others. A tweet that is said to be libellous may include a hyperlink. It may well need to be read as part of a series of tweets which the ordinary reader will have seen at the same time as the tweet that is complained of, or beforehand, and which form part of what Mr Price has called a "multi-dimensional conversation".*
>
> 35. *The most significant lessons to be drawn from the authorities as applied to a case of this kind seem to be the rather obvious ones, that this is a conversational medium; so it would be wrong to engage in elaborate analysis of a 140 character tweet; that an impressionistic approach is much more fitting and appropriate to the medium; but that this impressionistic approach must take account of the whole tweet and the context in which the ordinary reasonable reader would read that tweet. That context includes (a) matters of ordinary general knowledge; and (b) matters that were put before that reader via Twitter.*
>
> 36. *As to the characteristics of the readership, it has been said that in a Twitter case, "The hypothetical reader must be taken to be a reasonable representative of users of Twitter who follow the Defendant": McAlpine [58] (Tugendhat J). The mechanics of the medium mean however that the readership of a tweet may go beyond followers of the defendant, and extend to followers of other Twitter users: see How Twitter Works at [14]. This case is an illustration. But nobody has attempted to establish by evidence any particular characteristics of the groups of Twitter readers this case is concerned with that could have a bearing on meaning. It is not in dispute that the followers of the parties (and, I would add, visitors to their homepages) are likely to be people who are at least broadly sympathetic to the contrasting political stances of Ms Monroe and Ms Hopkin. This means, on the facts, that there were groups of readers who read what was said from different political standpoints. But that is not relevant to the meaning of words.*
>
> 37. *There has been some debate about another issue: what are the limits of categories (a) and (b) at [35] above? How much should be regarded as known to a reader via Twitter, or as general knowledge held by such a reader? I am not sure that the answers matter a great deal for the resolution of the question that I am now addressing, or for the outcome of this case overall. But in principle the main dividing lines seem reasonably clear. A matter can be treated as known to the reader if the court accepts that it was so well-known that, for practical purposes, everybody knew it. An example would be the fact that the Conservatives formed a government after the 2015*

General Election. A matter can be treated as known to the ordinary reader of a tweet if it is clearly part of the statement made by the offending tweet itself, such as an item to which a hyperlink is provided. The external material forms part of the tweet as a whole, which the hypothetical reader is assumed to read. This much seems to be common ground in this case. Ordinary readers of the tweets complained of had information that a war memorial had been sprayed with offensive graffiti.

38. *The third point concerns material on Twitter that is external to the tweet itself. This is perhaps less straightforward. I would conclude that a matter can be treated as part of the context in which an offending tweet if it is on Twitter and sufficiently closely connected in time, content, or otherwise that it is likely to have been in the hypothetical reader's view or in their mind, at the time they read the words complained of. This test is not the same as but is influenced by the test for whether two publications are to be treated as one for the purposes of defamation: Dee v Telegraph Media Group Ltd [2010] EWHC 924 (QB) [2010] EMLR 20 [29] (Sharp J).*

39. *I would include as context parts of a wider Twitter conversation in which the offending tweet appeared, and which the representative hypothetical ordinary reader is likely to have read. This would clearly include an earlier tweet or reply which was available to view on the same page as the offending material. It could include earlier material, if sufficiently closely connected. But it is not necessarily the case that it would include tweets from days beforehand. The nature of the medium is such that these disappear from view quite swiftly, for regular users. It may also be necessary, in some cases, to take account of the fact that the way Twitter works means that a given tweet can appear in differing contexts to different groups, or even to different individuals. As a matter of principle, context for which a defendant is not responsible cannot be held against them on meaning. But it could work to a defendant's advantage.*

33. The principles in *Monroe* can be summarized as follows:

33.1 It is a conversational medium and so it would be wrong to engage in elaborate analysis of the tweet/post. An impressionistic approach is much more fitting and appropriate to the medium;

33.2 The impressionistic approach must take account of the whole tweet/post and the context in which the ordinary reasonable reader would read that tweet/post. That context includes (a) matters of ordinary general knowledge; and (b) matters that were put before that reader via Twitter (or Facebook);

33.3 When considering how much is to be known to a reader via Twitter/Facebook and the state of their general knowledge, "*[a] matter can be treated as known to the reader if the court accepts that it was so well known that, for practical purposes, everybody knew it*"

33.4 A matter can be treated as known to the ordinary reader of a tweet/post if it is clearly part of the statement made by the offending tweet itself, such as an item to which a hyperlink is provided;

33.5 Regarding material that is external to the tweet/post, a matter can be treated as part of the context of an offending tweet if it is on Twitter and sufficiently closely connected in time, content, or otherwise that it is likely to have been in the hypothetical reader's view, or in their mind, at the time they read the words complained of. This would clearly include an earlier tweet or reply which was available to view on the same page as the offending material. It could include earlier material, if sufficiently closely connected;

33.6 As a matter of principle, context for which a defendant is not responsible cannot be held against them on meaning.

34. *Monroe* was cited in the case of *Stocker v Stocker*[7] in which the English Supreme Court dealt with an appeal in a case involving domestic violence and a post on Facebook by Mrs Stocker that her former husband had tried to strangle her.

35. Lord Kerr in *Stocker* provides a further, helpful analysis of social media platforms in the context of defamation:

> "*Context*
>
> 40. *The starting point is the sixth proposition in Jeynes - that the hypothetical reader should be considered to be a person who would read the publication - and, I would add, react to it in a way that reflected the circumstances in which it was made. It has been suggested that the judgment in Jeynes failed to acknowledge the importance of context - see Bukovsky v Crown Prosecution Service [2017] EWCA Civ 1529; [2018] 4 WLR 13 where at para 13 Simon LJ said that the propositions which were made in that case omitted "an important principle [namely] ... the context and circumstances of the publication ...".*
>
> 41. *It may be that the significance of context could have been made more explicitly clear in Jeynes, but it is beyond question that this is a factor of considerable importance. And that the way in which the words are presented is relevant to the interpretation of their meaning - Waterson v Lloyd [2013] EWCA Civ 136; [2013] EMLR 17, para 39.*
>
> 42. *The fact that this was a Facebook post is critical. The advent of the 21st century has brought with it a new class of reader: the social media user. The judge tasked with deciding how a Facebook post or a tweet on Twitter would*

[7] [2019] UKSC 17

be interpreted by a social media user must keep in mind the way in which such postings and tweets are made and read.

43. *In Monroe v Hopkins [2017] EWHC 433 (QB); [2017] 4 WLR 68, Warby J at para 35 said this about tweets posted on Twitter:*

"The most significant lessons to be drawn from the authorities as applied to a case of this kind seem to be the rather obvious ones, that this is a conversational medium; so it would be wrong to engage in elaborate analysis of a 140 character tweet; that an impressionistic approach is much more fitting and appropriate to the medium; but that this impressionistic approach must take account of the whole tweet and the context in which the ordinary reasonable reader would read that tweet. That context includes (a) matters of ordinary general knowledge; and (b) matters that were put before that reader via Twitter."

44. *I agree with that, particularly the observation that it is wrong to engage in elaborate analysis of a tweet; it is likewise unwise to parse a Facebook posting for its theoretically or logically deducible meaning. The imperative is to ascertain how a typical (ie an ordinary reasonable) reader would interpret the message. That search should reflect the circumstance that this is a casual medium; it is in the nature of conversation rather than carefully chosen expression; and that it is pre-eminently one in which the reader reads and passes on.*

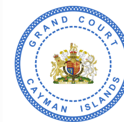
45. *That essential message was repeated in Monir v Wood [2018] EWHC (QB) 3525 where at para 90, Nicklin J said,* "Twitter is a fast moving medium. People will tend to scroll through messages relatively quickly." *Facebook is similar. People scroll through it quickly. They do not pause and reflect. They do not ponder on what meaning the statement might possibly bear. Their reaction to the post is impressionistic and fleeting. Some observations made by Nicklin J are telling. Again, at para 90 he said:*

"It is very important when assessing the meaning of a Tweet not to be over-analytical. … Largely, the meaning that an ordinary reasonable reader will receive from a Tweet is likely to be more impressionistic than, say, from a newspaper article which, simply in terms of the amount of time that it takes to read, allows for at least some element of reflection and consideration. The essential message that is being conveyed by a Tweet is likely to be absorbed quickly by the reader."

46. *And Nicklin J made an equally important point at para 92 where he said (about arguments made by the defendant as to meaning),*

"… these points only emerge as a result of close analysis, or someone pointing them out. An ordinary reasonable reader will not have someone by his/her side making points like this."

47. *A similar approach to that of Nicklin J had been taken by Eady J in dealing with online bulletin boards in Smith v ADVFN plc [2008] EWHC 1797 (QB) where he said (at paras 13 to 16):*



> "13. It is necessary to have well in mind the nature of bulletin board communications, which are a relatively recent development. This is central to a proper consideration of all the matters now before the court.
>
> 14. ... Particular characteristics which I should have in mind are that they are read by relatively few people, most of whom will share an interest in the subject-matter; they are rather like contributions to a casual conversation (the analogy sometimes being drawn with people chatting in a bar) which people simply note before moving on; they are often uninhibited, casual and ill thought out; those who participate know this and expect a certain amount of repartee or 'give and take'.
>
> ...
>
> 16. People do not often take a 'thread' and go through it as a whole like a newspaper article. They tend to read the remarks, make their own contributions if they feel inclined, and think no more about it."

Identification of the Plaintiff

36. The Plaintiff bears the burden of proving that the statement complained about was published about him[8]. The general test is whether reasonable people reasonably understand the statement to refer to the plaintiff. This is an objective test and the intention of the defendant is irrelevant[9].

37. Where the statement complained of does not, itself clearly identify the plaintiff, the matter can sometimes be decided by reference to the context. A plaintiff may seek to show that the statement would have been understood to refer to them because of some facts of circumstances which are extrinsic to the statement itself[10].

38. "*Where the plaintiff is not named, the test which decided whether the words used refer to him is the question whether the words are such as would reasonably lead persons acquainted with the plaintiff to believe that he was the person referred to.*"[11]

39. A plaintiff whose case on identification is based on extrinsic facts must plead those facts and identify readers who knew them[12].

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[8] Duncan and Neill 7.01
[9] Duncan and Neill 7.02
[10] Duncan and Neill 7.03.
[11] *Knupffer v London Express Newspaper Ltd* [1944] AC 116 at 119.
[12] Duncan and Neill 7.04

40. Where a plaintiff seeks to prove identification through innuendo (i.e. "*a meaning alleged to be conveyed to some person by reason of knowing facts extraneous to the words complained of*"), the extrinsic facts must be known to the persons understanding a statement as defamatory of the plaintiff at the time of its publication[13].

Submissions of the Plaintiff

Identification

41. The Plaintiff's position is that the First Post is made in reply to a previous comment that identifies the Development which the Plaintiff contends is a commonly known development in which he is involved. The Plaintiff argues that:

41.1 the first sentence of the First Post immediately identifies the Development in reply to the original post above by stating "*this type of development*";

41.2 the second sentence then links "*this type of development*" to the Plaintiff by stating "*this same self-proclaimed developer*";

41.3 the second sentence further identifies the Plaintiff as being someone who "*has many such projects… across the Cayman Islands*";

41.4 in reply to the post by AM, the Defendant replies to the words attributed to the Plaintiff via comment replying to AM thereby confirming to readers of the First Post and the comment thread that he was the "*self-proclaimed*" developer she was referring to.

42. He further contends that:

42.1 The Defendant demonstrated that she had a clear meaning of who she was referring to by virtue of both her own words and further by confirmation in response to AM's comment.

42.2 Each reference to the "*developer*" read in isolation and as a whole draws a clear inference as to the identity of the Plaintiff.

42.3 There is no reasonable alternative interpretation of who and what is being spoken about in the context of the discussion of the developments being depicted by name and image.

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[13] Clerk & Lindsell 21-29

Meaning of the words

43. The Plaintiff asserts that the words used by the Defendant are unable to be read in a manner whereby the meaning could be inferred by the hypothetical reasonable reader as non-defamatory.[14] The meaning of the words that the Plaintiff's developments are "*prone to money laundering*", are "*popping up and disappearing without no planning permission but 'sales'* and that "*money launderers invest in this type of speculative investment...*" read together in the context of the publication on the Group (and considering the Group's purpose) could only strike the hypothetical ordinary reasonable reader as an implication of the Plaintiff engaging and or assisting in money laundering or other criminal activities. The Plaintiff suggests that the Defendant's use of quotation marks around *sales* implies that sales of the development were not genuine.

44. The Plaintiff asserts that the Second Post carries on the thread of the First Post reiterating the Defendant's reference to corruption in development in the Cayman Islands; compounding the meaning of her statements overall. He argues that there is a clear and intentional consciousness of the Defendant throughout the posts aimed at the Plaintiff and the Development. He says that in the context of having been identified, the plain and ordinary implication from the words in the post are that he acted corruptly or assisted corruptly in obtaining planning permission.

45. The Plaintiff contends that the articles which were linked as part of both the First and Second Posts, have sensational headlines the natural and ordinary meaning of which create in and of themselves the impression and innuendo that he is engaged in dishonest, immoral or illegal activity. When the tone and words conveyed by the articles are considered he says that this is only amplified.

46. The Plaintiff argues that the reading of the First Post and Second Posts as whole offers no possible alternative meaning or antidote[15] to the implications made against him. Even when given the opportunity to deny that the Plaintiff was the developer being referred to, the Defendant failed to do so.

47. The Plaintiff contends that the hypothetical reader is likely to be an individual concerned with development in the Cayman Islands and likely to be anti-development. As a result, he says that

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[14] *Koutsogiannis*, 12

[15] Chalmers v. Payne (1835) 2 Cr. M. & R 56, 159

they are likely to be more ready to read the First and Second Posts, as conveying the "*ugly truth*" about developers notwithstanding that the articles linked were almost 2 years old. I bear in mind in relation to that contention the point made in *Monroe* to the effect that whatever sympathies readers may have with the authors of posts, it is the meaning of the words themselves that the court has to be concerned with.

48. Finally, the Plaintiff submits that those reading the words of both posts would not break them down in the way that the Defendant contends for in her pleading. He says that Facebook is a casual medium[16] and that the readers of these conversations would not break the posts down into separate clauses, much less isolate individual words and contemplate their possible significance. On his case, the combined effect of all these statements taken together with the linked articles in the context of the thread as a whole is clearly to convey to the hypothetical ordinary reasonable reader all of the meanings that he relies on including that his activities are illegal, corrupt and or unethical because:

48.1 the developments in which he is involved are illusory; and/or,

48.2 he engages in speculative property sales for the purpose of facilitating money laundering or "*dirty business*".

The Defendant's submissions

Identification

49. The Defendant argues that the words complained of in the First Post are not capable of bearing the meanings attributed to them by the Plaintiff in the Statement of Claim.

50. She says that first, and "fatally" to the Plaintiff's claim, the words of the First Post do not identify him. The Defendant argues that there is nothing within the words from which to infer that they refer to the Plaintiff. On that basis, she contends that they therefore cannot bear any meaning that is defamatory of him.

51. The Defendant argues that when considering the words themselves, no reader could conclude that the Plaintiff was being referred to from the words "*this type of development*" or "*this same self-proclaimed developer*". She claims that when considering the directly available context, no

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[16] Stocker v Stocker [2019] UKSC 17

reference to the Plaintiff is disclosed. The Defendant says that, at its highest, a reader could infer that the "*developer*" referred to in the First Post was "*Barkers Beach Apartment & Condo Building*" and not the Plaintiff. Any link between the Plaintiff and the Development she says is neither common knowledge known by everyone nor something that is directly available in the context of the publication of the First Post. There was no earlier post that links the Plaintiff to the Development, and so there was no external material to identify that link at the time of the publication of the First Post[17]. It is not enough the Defendant argues to say that by some person or another the words might be understood to be defamatory of the Plaintiff[18].

52. In particular, the Defendant claims that the Plaintiff cannot rely on the subsequent post by AM in seeking to link the meaning of the First Post to him. This she says is because, as a matter of principle, context for which a defendant is not responsible cannot be held against them on meaning[19]. The Defendant says that she was not responsible for the AM post which was a direct consequence of the Plaintiff sending a message to AM. The Defendant argues that but for the Plaintiff's action, the AM post would not and could not exist and it would, therefore, be contrary to principle and wrong in law for the AM post to be used against the Defendant on meaning.

53. Finally, the Defendant argues that the contents of the article for which a link was included in the First Post should be treated as being known to the ordinary reader and do not refer to the Plaintiff or his acts but rather to the general vulnerability of developers. It refers repeatedly to developers being vulnerable, rather than involved in criminal acts themselves. It indicates that some blame may lie with the state for not having sufficient oversight in place. There is no reference to the Plaintiff at all. She says that the First Post reflects the nature of the article.

54. In conclusion, the Defendant contends that, the First Post is not capable of even identifying the Plaintiff and for that reason it cannot bear the meaning claimed by him.

Meaning of the words

55. The Defendant's positon is that even if the Plaintiff could be identified by the First Post, the hypothetical reasonable reader would not select the meanings the Plaintiff claims for. She argues that:

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[17] *Monroe,* [38] – [39]
[18] *Koutsogiannis*, principle vii
[19] *Monroe,* [39]

55.1 The meanings claimed for by the Plaintiff are strained and forced[20] in comparison to the natural and obvious meaning that follows from a simple reading of the words. The natural and obvious meaning of the First Post is that that type of development is prone to money laundering and can be targeted by money launderers. It is unreasonable to try and go beyond that and seek to read an implication that the First Post was specifically aimed at the Plaintiff rather than bearing the general meaning that it clearly does.

55.2 Selecting the meaning put forward by the Plaintiff would be to adopt an irrationally derogatory meaning. The hypothetical reasonable reader would select the far more obvious and non-derogatory meaning put forward by the Defendant[21].

55.3 The Defendant's submissions regarding the CFATF article apply equally to the issues of identification and meaning.

56. The Defendant argues that, for these reasons, the reasonable hypothetical reader would not conclude that the First Post bears the meaning put forward by the Plaintiff. That meaning is not defamatory of the Plaintiff and therefore any claim based on the First Post should be dismissed.

57. In relation to the Second Post, the Defendant argues that the words complained of are not capable of bearing the meanings attributed to them by the Plaintiff in the pleadings:

57.1 Again she says that here is no reference to the Plaintiff at all. The reference is to "developers". The only possible way that a reader could infer that the Plaintiff was one of the "developers" is by reference to the AM post. The Defendant argues that this is context for which she was not responsible and so it cannot be used against her when determining meaning. Furthermore, the use of the plural "developers" creates further ambiguity, as no definition is given as to who and how many individuals may encompass that group.

57.2 The Defendant continues by arguing that, fundamentally, it is impossible to see how the reasonable hypothetical reader would conclude that the Second Post means what the Plaintiff claims it means because there is no reference to the Plaintiff (or even the "developers") being involved money laundering, acting dishonestly, or otherwise involved in illegal practice.

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[20] *Koutsogiannis*, xviiii
[21] *Koutsogiannis*, xvi

57.3 Conversely, she says, the natural and ordinary meaning of the Second Post is that the Development is likely to have been promised CPA approval by Eugene Ebanks, despite objections. She says that it is difficult to understand how the Plaintiff claims that this implies wrongdoing on behalf of the Plaintiff. Furthermore, she says, the Plaintiff is not the Development and therefore a reference to it is not a reference to him.

58. On that basis, the Defendant argues that the meaning cannot be that claimed for by the Plaintiff. The correct meaning of the Second Post is not defamatory of the Plaintiff and so any claim based upon it should also be dismissed.

Additional issues

59. During the course of Mr Wheeler's submissions, I explored with him two questions which were ultimately dealt with by way of further written submissions from counsel.

60. The first question was the extent that the First Post could realistically be read in isolation from the comment by AM. The second was the extent to which the role of the Defendant as administrator of the Group is relevant to the context within which the First and Second Post are to be considered.

61. In relation to the first question, the Plaintiff reiterates that when considering the question of context, the whole publication must be considered and language which is not defamatory on its face may become so when the circumstances are taken into account[22].

62. He argues that matters that are to be treated as part of the publication which the ordinary reasonable reader would have read, including cross references to links and that context can be taken from postings that form part of an *"ongoing discussion, where material external to the publication is sufficiently closely connected to it in time, content or otherwise."*[23]

63. The Plaintiff refers to the case of *Hourani v Thomson and other*[24] in which Warby J considered the question of what constituted a defamatory meaning and said:

[22] Clerk & Lindsell [21-26]
[23] Duncan & Neil 5.31
[24][2017] EWHC 432 (QB) 119

> *"The principle is that when determining the meaning of any publication the whole publication must be considered. That means that I must consider the whole of any individual website or social media posting."*

64. That case involved a number of different publications on a number of different online sites. When considering how to identify the "whole publication" in such a case the judge said that:

> *"... in this context, as with print publication, the test to be applied is whether the statements are "sufficiently closely connected as to be regarded as a single publication", and that this applies whether or not the items are on continuation pages, or different items of published material relating to the same subject matter: Dee v Telegraph Media Group Ltd [2010] EWHC 924 (QB) [29] (Sharp J)."*

65. The Plaintiff's position is that the Plaintiff was clearly identified and that the thread of comments has to be read as a whole. When doing so, he argues that it is clear that he was the developer being referred to, that the Defendant was fully aware of that and took no steps to correct the perception that readers might have from the AM comment.

66. By contrast the Defendant argues that the AM post cannot be taken into account when considering the meaning of the First Post because, to do so, would mean that the meaning changes over time depending what happens subsequently and for which the Defendant had no control. She argues that to approach this issue otherwise means that particular words can have potentially infinite different meanings depending on unforeseeable and unforeseen future events for which she is not responsible. That, she says, offends the principle of legal certainty because a person cannot possibly regulate their conduct when they may be held liable on the basis of future events outside their control.

67. Mr Wheeler goes on to refer to the case of *Simon v Lyder*[25] in which the Privy Council heard an appeal relating to the defendant newspaper which had published two separate articles. The first suggested that unnamed persons in the Trinidad police force had arranged an assassination by shooting. In the later article the defendant named the persons allegedly responsible for the shooting. A claim for defamation was made on the basis of the two articles. The court had to consider the extent to which two different statements made on two different occasions by the same defendant could be aggregated for the purposes of considering a claim in defamation, when viewed on their own, neither statement would give rise to a cause of action.

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[25] [2020] AC 650

68. The Court said:

> *"26. It is unnecessary for the purposes of determining this appeal for the Board to resolve with any precision the question how the exception to the exclusionary principle is to be framed. It may well be that there are several different conceptual routes to its identification on different facts. It is sufficient to say that the authorities on this question demonstrate that, for two statements made by the same person, but published at different times, to be aggregated for the purpose of giving rise in conjunction to a completed cause of action in defamation, there must in the mind of the reasonable reader be created a sufficient nexus, connection or association between the two of them, so that (where one is defamatory and the other identifies the subject) there comes a moment in time at which, in the mind of that reader, the claimant is identified as the subject of the defamatory accusation. That moment in time will generally be the time of publication (i.e. reading) of the second statement."*
>
> ...
>
> *"34. Where it is sought to use the identification of the claimants in a later published statement as identifying them as the subjects of an earlier defamatory statement, the later statement must be read as a whole. The question then is, do the reasonable readers of the two statements, if aggregated in their minds, come away with a perception that the common maker of those statements is, by the time of the second of them, asserting matters defamatory of the claimants. If the effect of the second statement (or group of statements) is to take away the defamatory sting in the first, then the aggregation may well not be defamatory taken as a whole."*

69. The Defendant argues that because she did not publish the AM comment, what Mr Wheeler described as the "puzzle" of identity is not solved by a statement that she published. He goes on to argue that the Second Post cannot be relied on by the Plaintiff to shed light on the First Post because the Second Post does not identify the Plaintiff and the alleged identification is by the AM comment. Mr Wheeler says that the best that the Plaintiff can do is argue that after the AM comment, the Defendant did not deny that the First Post referred to the Plaintiff. That, he says, makes what the Plaintiff said in the First Post ambiguous and that it is unreasonable to infer that the Defendant must have been referring to the Plaintiff in the First Post because she did not deny or intervene after the AM comment. In summary, he says that the material post-dating the First Post cannot be used to inform its natural and ordinary meaning, the AM comment cannot be relied on because the Defendant did not post it and the Second Post does not assist because it does not meet the test for aggregation in *Simon.*

70. In relation to the second question, the Plaintiff maintains that it would produce an absurd result if the surrounding contextual material which identified the Plaintiff and within which the First and Second Posts were published was to be ignored.

71. The Plaintiff also refers to case of *Fairfax Media Publications Pty Ltd v Voller Nationwide News Pty Ltd*[26] in which the High Court of Australia held that administrators are legally responsible for all comments on their pages including by third parties. By creating a public Facebook page and posting content, the court found that the appellants in that case had facilitated, encouraged and thereby assisted the publication of comments from third-party Facebook users, and they were, therefore, publishers of those comments. In that case, which is focused on the liability of parties for the publication of defamatory material, the court said:

> *"**[86]** The advent of the Internet has resulted in a 'disaggregation' of the process of publication and has facilitated a shift from 'one-to-many' publication to 'many-to-many' publication. That technological and sociological development has not been shown to warrant relaxation of the strictness of the common law rule associated with Webb v Bloch.*
> ***[87]** Application of the strict common law rule as to publication, as has been emphasised, has long captured within the meaning of 'publisher' all persons who have intentionally assisted in the process of publication. It is unsurprising, therefore, that statements can be found in some cases describing a publisher's liability for defamatory matter as arising by reason of the person 'assisting and encouraging' another to do an act, or that all those who contribute to publication of a libellous book are 'joint tortfeasors in respect of the ultimate publication'.*
> ***[88]** Equally clear, however, is that the strictness of the common law rule ensures that all degrees of intentional participation in the process of publication constitute publication for the purposes of the law of defamation. Unlike other areas of tort law or criminal law, where 'mere assistance' or 'mere similarity of design' may be insufficient to establish liability of an assister as a principal, liability in defamation depends upon 'mere communication' of the defamatory matter to a third person, provided the defendant intentionally participated to any degree in that process.*
>
> ...
>
> ***[105]** In sum, each appellant intentionally took a platform provided by another entity, Facebook, created and administered a public Facebook page, and posted content on that page. The creation of the public Facebook page, and the posting of content on that page, encouraged and facilitated publication of comments from third parties. The appellants were thereby publishers of the third-party comments."*

[26] [2021] HCA 27, 628.

72. Although the present application is concerned with the limited question of the natural and ordinary meaning of the words in the First and Second Posts, the Plaintiff says that given that, at the relevant time, the Group was public, all posts and content are relevant to the Defendant's liability.

The Defendant says that it is illogical to suggest that the question of whether content for which the Defendant is not responsible can be used against her on the question of meaning changes based on her role as administrator. Mr Wheeler says that the fact that she may have had the power to remove or amend the AM post could not change what she meant when she wrote the First and Second Posts. He also says that the Defendant's status as administrator is an external factor so should not be taken into account.

Analysis and discussion

Who is the hypothetical reasonable reader?

73. As set out above, in *Koutsogiannis*[27],

> "*The hypothetical reader is taken to be representative of those who would read the publication in question. The court can take judicial notice of facts which are common knowledge, but should beware of reliance on impressionistic assessments of the characteristics of a publication's readership.*"

74. Putting that in the context of social media, as was pointed out in *Monroe, "The hypothetical reader must be taken to be a reasonable representative of users of Twitter who follow the Defendant."*

75. Although there was no argument or evidence (other than what has been referred to above) in relation to this issue, it seems to me that there are a number of factors relevant to determination of the characteristics of the hypothetical reasonable reader in this case. Although the Group was initially open to the public, it does not appear to be disputed that it was set up with a specific goal in mind which was described by the Defendant as being "*... to facilitate the expression of views about development in the Cayman Islands amongst a limited number of like-minded individuals and concerned citizens of the Cayman Islands and that* the "*...Group is a private group for a limited number of citizens of the Cayman Islands. It is not intended for an international audience nor for those without affiliation to the Cayman Islands".*

[27] Paragraph 12, page 3 (xi)

76. So the first characteristic, is that the hypothetical reasonable reader is very likely to be resident in the Cayman Islands or have close connections with it. As such, it seems to me that when considering the question of ordinary knowledge of the hypothetical reasonable reader, as the Defendant suggests, it must be appropriate to infer a degree of common knowledge about the Cayman Islands themselves, the level of development that is taking place here as well and the well-publicized issues relating to the longstanding efforts taken by the Cayman Islands government to prevent the use of the Cayman Islands for money laundering. I think that it is also reasonable to assume that the hypothetical reasonable reader would be familiar with at least some of the developers in the Cayman Islands and the developments with which they were involved with. That, of course, was one of the reasons why the Group was set up. The Cayman Islands is a small community and I believe that it is also reasonable to assume that at least some of the members of the Group will be familiar with each other. I think that it is also reasonable to assume that some members of the Group "follow" the Defendant and are sympathetic towards her views, although, as was said in *Monroe,* that is not determinative of the meaning of her words.

Context

77. It seems to me that the next question to answer is whether the Plaintiff was identified. If he was not, then he has not been libeled.

78. However, this cannot be answered without first considering the issue of context. *Monroe* and *Stocker* have made clear what approach the court should take when considering the context in which allegedly defamatory words are to be considered when posted on social media. The approach of the court should not be too granular, should approach the words on an impressionistic basis and on the basis that they are published in a casual, conversational medium. The impressionistic approach must take account of the whole message or post and the context in which the hypothetical reasonable reader would read that information looking at matters of ordinary general knowledge; and matters that were put before that reader via the medium in question.

79. When I consider the Group, it is clear that it was relatively new. There is no evidence about what might have been posted before or after the First and Second Posts. When reading the thread of posts and comments as a hypothetical reasonable reader it seems to me that I can only do so by reading them as a whole. They were all published on the same day and I think that it would be artificial and contrary to clear authority to break the posts and comments down by the words or phrases used in them or to read posts or read comments in isolation to the remainder of the thread in which they

appear. I have considered carefully the position of the Defendant and the way in which she argues that the court should approach the First Post, subsequent comments and the Second Post. These are not successive statements published in separate publications as in *Simon* and so I think that the better approach to the question of aggregation is that followed in *Monroe, Stocker* and *Hourani*. In this case the social media posts and comments are clearly closely connected in subject matter and time. On that basis I have approached them as being material that would have been read and considered at the same time by the hypothetical reasonable reader and therefore as one publication.

Was the Plaintiff identified?

80. The Plaintiff was not named in the First Post but it seems clear that either the Plaintiff himself saw the First Post or, someone who read the First Post, knew or assumed that it was referring to him and sent him a link to it. If the latter, it is not clear whether that was because the person in question knew that the Plaintiff was involved with the Development but, as I have already noted, this is a small community and I think that it is likely that this would have been the reason for the link being sent. So at that very preliminary level, in my view, the Plaintiff was identified to the hypothetical reasonable reader.

81. The Plaintiff sent messages to AM. The Plaintiff himself did not post those as comments in the thread. That was done by AM so I don't think that the Defendant's case is assisted by that point.

82. After AM posted her comment with the messages from the Plaintiff, it was, in my view, clearly open to the Defendant to clarify the First Post or otherwise make it clear if she was or was not referring to the Plaintiff. In her Defence, the Defendant simply denies that she was the <u>sole</u> administrator with the ability to control, edit, supervise and monitor the Group's content[28]. By implication, therefore, she did have power to do those things whether solely or jointly.

83. The fact that the Defendant left the screen shot identifying the Plaintiff in the thread without qualification or without removing it and then went on to post the Second Post would, in my view, leave the hypothetical reasonable reader in no doubt that it was the Plaintiff to whom the Defendant was referring. In my view, the action or inaction of the Defendant in effect endorsed that position. As mentioned above, the *Fairfax* case dealt with the question of liability for the publication of defamatory material, but makes it quite clear that responsibility for publication lies with those who

[28] Paragraph 6.5 of the Defence

create and administer social media pages. In this case the Defendant was the administrator of the Group pages and was encouraging publication of material. It is not denied that she had the ability to moderate content and she chose to leave the comment by AM in the public thread.

84. Therefore, I disagree with the Defendant that her role as administrator is an external factor that should not be taken into account. I also think that the focus by the Defendant on the extent to which her not correcting or qualifying the AM comment might have a bearing on the meaning of the words in the First Post is to look to her intention rather than simply what the relevant words mean when read in context. The Defendant's intention is irrelevant.

85. I do not agree with the Defendant that the fact that the Plaintiff was not identified personally in the First or Second Post themselves is relevant when those posts are read in the context that I have outlined above. In my view, the Plaintiff was identified and has discharged that burden of proof.

Were the words in question defamatory?

86. The Defendant has sought to argue that the First and Second Posts were referring to developers and developments generally and has suggested that the articles to which links were included reinforced that because they, in turn, were dealing with the respective subject matter in general, generic terms.

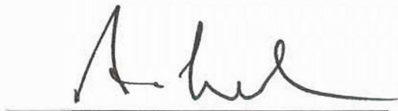
87. At the beginning of this case I did read the First and Second Posts before engaging in the papers in too much detail. What struck me in the First Post was the use of words and expressions such as "self -proclaimed", the suggestion that projects were "popping up and disappearing" and the use of speech marks to emphasis the word "sales" in what seemed to me as a questioning and derogatory way. That combined with the reference to money laundering left me with the impression that the Defendant was referring to someone who was not legitimate and was engaged in unlawful activity.

88. The Plaintiff was identified immediately after the First Post and, in my view, the Second Post, compounded the impression of the Plaintiff created by the First Post. Whatever the Defendant may say, in my view, the Second Post again questions the legitimacy of the Plaintiff by the use of speech marks around the word "developer" and goes on to suggest that the Plaintiff is someone who would take advantage of the corrupt behaviour of others.

89. In my view, the assertions by the Defendant about the Plaintiff are blunt, not disguised and stand out starkly from the First and Second Posts. As such, I think that they would have been quite clear to the hypothetical reasonable reader even when accepting that they would have approached the thread in an impressionistic and casual way.

90. In my view, the words complained of are defamatory of the Plaintiff and bear the meaning alleged by him in his Statement of Claim.

91. I asked the parties to address me separately on the question of costs.



Hon Mr. Justice Alistair Walters
Acting Judge of the Grand Court