MINISTRY OF JUSTICE
Tāhū o te Ture

30 September 2013

Matthew John Blomfield
7 Rame Road
Greenhithe
Auckland

Re: **Blomfield v Slater**** **CIV-2012-092-001969**

The following minute/directions was made in the above matter

By Blackie DCJ

On 26 September 2013

Please find enclosed copy of the Decision of Judge C S Blackie on the interlocutory applications dated 26 September 2013.

If you have any queries, please do not hesitate to contact me on 09 915 6882 or email CMT-MAN@justice.govt.nz

Eleanor Piteša
Deputy Registrar

Copies To:

Jordan Williams / Nikki Pender

IN THE DISTRICT COURT
AT MANUKAU

CIV-2012-092-001969

	BETWEEN	MATTHEW JOHN BLOMFIELD Plaintiff
	AND	CAMERON JOHN SLATER Defendant

Hearing: 2 September 2013

Appearances: Mr Blomfield in Person (Plaintiff)
Mr Williams for Defendant

Judgment: 26 September 2013

DECISION OF JUDGE C S BLACKIE
ON INTERLOCUTORY APPLICATIONS

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[1] The plaintiff, Matthew Blomfield, has brought proceedings against Cameron John Slater, the defendant, in defamation. It is alleged that the defendant has made various publications on a website called Whaleoil, which are defamatory in nature. The plaintiff claims (inter alia) that the defendant contends that he has conspired to steal charitable funds and that he is accused of making pornography, drug dealing, fraud, theft, being a "cock smoker", a psychopath, a criminal and a thief.

[2] The plaintiff seeks the following relief:

(a) An order that the defendant remove from the Whaleoil site all documentational content of any kind relating to the plaintiff.

(b) Damages and punitive damages.

(c) Costs.

[3] In defence of the alleged defamatory meaning of the words published, the defendant is raising truth and honest opinion.

[4] Whereas the proceedings are reaching a point when they can be set down for a hearing, there remains two outstanding matters relating to an application by the plaintiff for discovery and interrogatories.

[5] Mr Blomfield is self-represented. Initially these proceedings were commenced by way of a notice of claim under the District Court Rules 2009. This meant that all the initial pleadings were prepared and exchanged between the parties themselves without the need for reference to the court. Documents, will say statements and affidavits were filed and included in information capsules.

[6] It is only when interlocutory orders were sought and the file referred to a Judge that these proceedings, being in defamation, required the filing of a statement of claim and statement of defence in the traditional manner, rather than the manner prescribed by the District Court Rules for other causes of action.

[7] In his statement of claim, the plaintiff alleges that on 17 occasions between 3 May 2012 and 6 June 2012, the defendant published on the website Whaleoil (www.whaleoil.co.nz) a number of statements which the plaintiff alleges bear a defamatory meaning and are defamatory of him. Some of the words pleaded as being published by the defendant are as follows:

(i) Who really ripped off Kids Can – the real story of mad Blomfield's rip-off of Kids Can and how he blamed Warren Powell

(ii) What I am about to reveal is the real story behind the scam at Kids Can and the involvement of Matt Blomfield in collusion with Stu "McMillions" McMullen to throw another director under the bus for the whole sorry issue.

(iii) Who really ripped-off Kids Can? From the email trail Warren Powell appears to have been made fall boy set up by Matt Blomfield and Stu McMullen to cover their own incompetence. In Stu McMullen's case, there was reason altogether more sinister. Stu demands Warren "falls on his sword".

(iv) Matt is a psychopath.

(v) He loves extortion.

(vi) He is a pathological liar. He lives out(??) a lie daily and enjoys it.

(vii) To summarise, Matt Blomfield, in tandem with advice from his faithful lawyers, and a number of emails to Waitakere City Council, conspired to steal a cheque from a PO Box, using some private investigators.

(viii) Matt, on the advice of his lawyers, then tried to lauder the money but was caught by a vigilant bank.

(ix) Drugs, fraud, extortion, bullying, corruption, collusion, compromises, perjury, deception, hydraulic-ing ... it is all there.

(x) A network of crooks – fascinating how they have all got away with it for so long.

[8] The above list is only a few examples of what the plaintiff pleads in his statement of claim.

[9] In a revised statement of defence, the defendant would appear, in the main, to admit publication of the material complained of and to admit, in some cases, the defamatory meaning that is pleaded. The affirmative defences are truth and/or honest opinion. In his pleadings, the defendant lists particulars that are relied upon to support the defences.

[10] It is not clear from the Court file to what extent there has been discovery, other than the collection of documents that are referred to within the information capsules earlier filed. In my view, this is an appropriate case where all material that is relevant to the issues to be determined by the Court are properly disclosed. Accordingly, the application for discovery is granted in terms of standard discovery as required by Rule 8.7 of the High Court Rules. For the avoidance of doubt, that Rule stipulates:

> "Standard discovery requires each party to disclose the documents that are or have been in that party's control and that are –
>
> (a) Documents on which the party relies; or

(b) Documents which adversely affect the party's own case; or

(c) Documents that adversely affect another party's case; or

(d) Documents that support another party's case".

Also, for the avoidance of doubt, the term "document" defined in Rule 1.3 can include information electronically recorded or stored and information derived from that information.

[11] Rule 8.2 of the High Court Rules requires the parties to co-operate to ensure that the process of discovery and inspection are:

(a) Proportionate to the subject matter of the proceeding; and

(b) Facilitated by agreement on practical arrangements.

[12] I anticipate that the parties to these proceedings will act in accordance with Rule 8.2 and ensure that matters are progressed expeditiously. I direct that discovery be complied with within 20 working days of the date of the order.

[13] The plaintiff also seeks that the defendant answer a number of questions by way of interrogatories.

[14] I was advised from the Bar at the hearing that the defendant has complied with the plaintiff's notice to answer interrogatories with the exception of the question:

7. "Do you know who was sending the messages, that have been filed in Court, from a Skype account on the mobile phone of Rebecca Blatchford (027-628-439). These are the messages attached to the email sent to the defendant on 28 May 2012 (copies attached).

[15] The Court has jurisdiction with reference to Rule 8.38 of the High Court Rules to order any party to answer interrogatories at any stage of the proceedings. The order being sought by Mr Blomfield is opposed by Mr Slater. Provided Mr

Slater has answered the interrogatories as I am given to understand that he has, then it is not for the Court at this time to consider the adequacies of those answers. There is, however, a further point. It is not a sufficient answer in defamation proceedings of this nature for the defendant to claim that his website is a "news medium", as defined by s 68(5) of the Evidence Act 2006. Whaleoil is a blog site. It is not a news medium within the definition of s 68(sub-section 5) of the Evidence Act. It is not a means for the dissemination to the public or a section of the public of news and observation on news.

[16] The cases relied on by the defendant's counsel, with the exception of *Police v Slater* [2011] DCR 6, involve the mainstream media, such as newspapers and television channels. Mr Williams points to the Law Commission report News Media Meets "New Media". That report, for the time being, at least, does not go as far as endorsing all blog sites as news medium. The Commission points out (page 53):

> "However, blog sites are not democratic forums; as noticed earlier, they are often highly partisan and blog posts and commentary can be highly offensive and personally abusive. Ultimately, the blog the administrator/author sets both the tone and the threshold for abusive speech. A person who is denigrated, or who has been subject to any false allegation on a blog site is entirely dependent on the blog's administrator for any redress or corrective measures".

[17] I can find no reference in the Law Commission report to support the contention that the defendant's blog site could be regarded as a news medium deserving of the protection afforded by s 68 of the Evidence Act. Neither do I consider that the sources of the material published on the defendant's blog site would be protected pursuant to Rule 8.46 of the High Court Rules. The rule applies where the defendant pleads that the words complained of are honest opinion on a matter of public interest or published on a privileged occasion. Whereas the defendant pleads "honest opinion", it is not claimed that the opinion was expressed on a matter of public interest. This is not surprising, having regard to the allegedly offensive nature of much of the material which the defendant admits that it published.

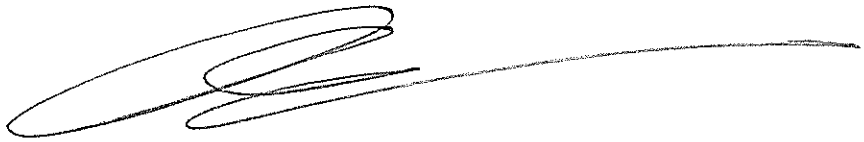
[18] I do not consider it necessary at this stage to make a formal order in relation to interrogatories. However, in order to comply properly with the notice as already

issued and served, the defendant is unable to rely on either the s 68 of the Evidence Act 2006 or Rule 8.46 of the High Court Rules.

Conclusion

[19] There will be an order for discovery as previously stated.

[20] There will be no further order in respect of interrogatories, save as to compliance with the existing notice stipulated with regard to sources.



C S Blackie
District Court Judge