

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE

ANTIGUA AND BARBUDA

CLAIM NO. ANUHCV2005/0103

BETWEEN:

RONALD DRY

Claimant

AND

AARON BAPTISTE

Defendant

Before:

Master Cheryl Mathurin

Appearances:

Mr. Alfred McKelly James for the Claimant

No appearance of or for the Defendant

2007: February 22nd:

ASSESSMENT OF DAMAGES

- [1] **MATHURIN, MASTER:** This is an assessment of damages for a claim in defamation. The issue of liability was resolved on the 19th September 2005 when the defence of the 3rd May 2005 was struck out. The parties were directed to make submissions on the quantum of damages to be awarded to the claimant. The Claimant's submissions were filed on the 4th July 2006 and the defendant has not complied with the order requiring submissions.
- [2] The Claimant (Mr. Dry) was at the material time Chairman of the Board of Directors for Halcyon Heights Home Owners Association. On the 10th December 2004, Mr. Dry and Defendant (Mr. Baptiste) together with other members of the association met at the ABI Bank with a view to appointing Mr. Dry as a signatory to the Association's bank account. At the bank, in the presence of a bank employee and the other Directors of the Board, Mr. Baptiste uttered the offending words "*I do not trust Ron Dry*"

- [3] Mr. Dry alleged that the words implied that he was dishonest and unfit to act as Chairman of the Board and that the words were calculated to disparage him in his office as Chairman of the Board. He claims that he has been injured in his credit and reputation and has been brought into public scandal, odium and contempt. Judgment having been granted in Mr. Dry's favor, the Defendant having failed to file a recognizable defence to the tort of defamation or even one in accordance with Part 10 of the CPR 2000, the Claimant was directed to file witness statements on the issue of damage and submissions in support.
- [4] The affidavit of Lady Joyce Lockhart who was a director at the time and was present at the time of the incident states that she has always known Mr. Dry to be an honest, trustworthy, dependable and reasonable individual, "*a man of impeccable character*". She adds that as a result of the comment, resulted in the bank asking to receive an independent recommendation before they accepted Mr. Dry as a signatory on the account. The witness statement of Ms Andrea Becker also serves to verify the incident and validate the character opinion of Lady Joyce Lockhart.
- [5] Mr. Dry deposed to his feelings of embarrassment at the incident and states that Mr. Baptiste was venting his personal spite and ill will towards him and he was expressly malicious by uttering the words in the presence of the bank employee.
- [6] In assessing the quantum of damages in a case like this, the following words of Lord Reid in Cassell & Co v Broome (1972) 1 AER 801 must be borne in mind

"Where the injury is material and has been ascertained it is generally possible to assess damages with some precision. But that is not so where he has been caused mental distress or where his reputation has been attacked – where to use the traditional phrase, he has been held up to hatred, ridicule or contempt. Not only is it impossible to ascertain how far other people's minds have been affected, it is almost impossible to equate the damage to a sum of money. Any one person trying to fix a sum as compensation will probably find in his mind a wide bracket within which any sum could be regarded by him as not unreasonable – and different people will come to different conclusions. So in the end there will probably be a wide gap between the sum which on an objective view could be regarded as the least and the sum which could be regarded and the most to which the Plaintiff is entitled as compensation"

Mr. Justice Singh, as he then was, in the case of Simmonds v France et al Civil case No 34 of 1984 opined that "*the court must make an award that will go some way towards palliating the effect of the wrong and also act as a solatium to the particular Plaintiff*".

- [7] In all the circumstances, I am of the opinion that an award of \$15,000.00 would meet the justice of this case. Mr. Baptiste will also be responsible for the Claimant's costs of the action herein which are calculated at 55% of the prescribed costs.
- [8] Summary of order;

It is hereby ordered that;

- (a) General Damages be paid to the Claimant by the Defendant in the sum of \$15,000.00 with statutory interest until payment.
- (b) That the Defendant do pay prescribed costs in the sum of \$2,475.00

CHERYL MATHURIN
MASTER