

High Court dismisses fabricated slander claim (Rayner v Seabourne-Hawkins)

This analysis was first published on Lexis®PSL on 03/11/2020 and can be found [here](#) (subscription required)

TMT analysis: This claim concerned an action for slander in which the claimant alleged that the defendant had falsely accused him of sexual assault and of being under investigation for interfering with young girls, which in turn had led him to lose out on a job offer. Written by Yinka McKay Wood, associate, and Moritz Schirmeister, associate at Atkins Thomson Solicitors.

Rayner v Seabourne-Hawkins [\[2020\] EWHC 2895 \(QB\)](#)

What are the practical implications of this case?

The claim concerns statements allegedly made orally, which gave rise to claims in slander. As with all slander claims, in this case, the claimant, Mr Rayner, was required to prove the precise words used by the defendant, Mr Seabourne-Hawkins, and the names of the people to whom they were spoken. What will be of most significance to practitioners, and what the Judge was at pains to point out, was the failure of Mr Rayner to obtain relevant contemporaneous witness evidence shortly after the event. This is of particular importance in slander cases because, unlike in libel claims, there is often no recording of the words complained of. The stage at which witness statements are taken in defamation claims can often occur more than a year after the words sued over were published, during which time the memories of potential witnesses can diminish. It is therefore of the utmost importance for claimants to attempt to obtain witness evidence at as early a stage as possible.

Furthermore, it is imperative that a claimant is able to recall exactly the words which it is alleged were said to the publishees, and the events surrounding publication.

What was the background?

The case concerned a dispute in April 2018, which culminated in allegations that Mr Seabourne-Hawkins had twice slandered Mr Rayner.

Mr Rayner alleged that Mr Seabourne-Hawkins had on two separate occasions stated to two security guards that he (Mr Rayner) had ‘...sexually assaulted a member of our staff’ and that he was ‘...being investigated for interfering with young girls’. Mr Rayner also asserted that this had resulted in a job offer being rescinded.

The allegations allegedly stemmed from a breakdown in a friendship between Mr Rayner and Ms Kleina, who, at the relevant time, was an employee at Mr Seabourne-Hawkins’ wife’s shop in the Marlands Shopping Centre in Southampton.

Following a breakdown in the friendship, and Ms Kleina making clear that she did not want a romantic relationship, Ms Kleina had informed Mr Rayner that she did not want him to contact her anymore. An incident then allegedly ensued at the shop, although both parties put forward differing versions of events as to what actually occurred on.

Mr Seabourne-Hawkins maintained at all times that he did not use the words alleged by the Mr Rayner and that he was simply concerned that Mr Rayner had started to display ‘unwanted behaviour’ towards Ms Kleina and, on 6 April 2018, he had thrown a watch at her.

What did the court decide?

In the end, the court was left to determine only one allegation of slander. This followed Mr Rayner’s decision to drop his case in respect of the second allegation of slander, due in part to a lack of witnesses and the fact that both the publishee and Mr Seabourne-Hawkins denied that the words had been spoken. The court was therefore left to determine whether Mr Rayner had demonstrated, on the balance of probabilities, that Mr Seabourne-Hawkins had made the alleged statement in relation to the first allegation of slander.

Having considered the evidence, the court concluded that Mr Rayer had failed to prove, on the balance of probabilities, that Mr Seabourne-Hawkins had spoken the words at issue. The Judge went

on to say that, on the evidence available, he was satisfied that Mr Rayner had invented the claim that Mr Seabourne-Hawkins had alleged that Mr Rayner was guilty of sexual assault. The Judge also recorded in his judgment that he was satisfied that Mr Rayner had sought to manufacture evidence of the loss of a potential job at the florist shop.

The Judge rejected Mr Rayner's evidence and accepted Mr Seabourne-Hawkins' denial of the version of events and the alleged slander. Consequently, the claim was dismissed outright.

Case details

- Court: High Court of Justice, Queen's Bench Division, Media & Communications List
- Judge: Mr Justice Nicklin
- Date of judgment: 30 October 2020

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