

# SUPREME COURT OF QUEENSLAND

CITATION: *Dupois v Zuanetti; Dupois v Qld and Television Ltd & Ors*  
[2013] QSC 60

PARTIES: **CHARLES DUPOIS**  
(plaintiff)  
v  
**THERESE ZUANETTI**  
(first defendant)

and

**CHARLES DUPOIS**  
(plaintiff)  
v  
**QUEENSLAND TELEVISION LIMITED**  
(ACN 009 674 373)  
(first defendant)

and

**OTHERS**  
(second to eighth defendants)

FILE NO/S: 2753 of 2012  
2754 of 2012

DIVISION: Trial

PROCEEDING: Application

ORIGINATING COURT: Supreme Court of Queensland

DELIVERED ON: 18 March 2013

DELIVERED AT: Brisbane

HEARING DATE: 14 December 2012

JUDGE: Dalton J

ORDERS:

- 1. Order that the statement of claim in proceeding 2754 of 2012 be struck out.**
- 2. Order that the amended statement of claim in proceeding 2753 of 2012 be struck out.**
- 3. Grant the plaintiff in proceeding 2754 of 2012 leave to re-plead the statement of claim.**
- 4. Direct that insofar as proceeding 2753 of 2012 concerns a claim for defamation arising out of, or related to, the broadcast of the program A Current Affair, the plaintiff is to make those allegations in proceeding 2754 of 2012 and give him leave to amend**

**the claim in that proceeding to the extent necessary to do so.**

**5. Order that the plaintiff pay the defendants' costs of and incidental to this application on a standard basis to be assessed, or agreed, in both proceedings 2753 and 2754 of 2012.**

COUNSEL: R Anderson for the applicants/defendants

SOLICITORS: Johnson Winter & Slattery for the applicants/defendants  
The respondent/plaintiff appeared on his own behalf

- [1] In these two proceedings the plaintiff sues for defamation. The defendants in each proceeding apply to strike out the statements of claim (in the Zuanetti proceedings the amended statement of claim). The plaintiff has at all material times acted for himself and has apparently drafted his own pleadings, a difficult endeavour in such a technical area of the law. Both proceedings complain about the broadcast of an episode of A Current Affair.

**2754/12: Queensland Television Limited**

- [2] The defendants complain that paragraph 2 of the statement of claim does not set out the words published in the broadcast. Instead the statement of claim pleads a mixture of words published and interpretation of them. This is plainly correct.
- [3] As a result, it is said that the pleading of defamatory imputations which follows the pleading of publication cannot be supported because, as the publication itself is not precisely pleaded, the imputations cannot be seen, on the face of the pleading, to flow from the publication. Again, I think that criticism is correct.
- [4] Independently of that criticism of the pleading of defamatory imputations, the defendants say that some of the imputations pleaded cannot be shown to arise from the pleading of the publication. When paragraph 5(q) of the statement of claim is compared with 2(q) and when paragraph 5(t) of that pleading is compared with 5(s) of that pleading, this can be seen to be so. The pleading of the imputations goes beyond what can fairly be taken from the publication and involves argument and comment, see also, for example, paragraphs 5(n), (o) and (u) of the same pleading.
- [5] Paragraphs 7, 8 and 9 of the pleading allege knowledge, malice and other states of mind on the part of the defendants which the plaintiff has refused to particularise – cf UCPR 150(l), (k) and UCPR 157. This defect is significant where serious allegations are made, and made against eight defendants, although no grounds for making the allegations against any of the particular defendants is pleaded.
- [6] Paragraph 13 of the pleading is particularly difficult because it seems to allege further publication of the television broadcast. The further publication seems to be alleged to have been on “the Global Goggle [sic] Websites and the A Current Affair Website”. It is not said that the entire broadcast was republished on these websites but that “reference to that broadcast” was placed on the sites. There is no particularisation of the “Global Goggle [sic] Websites” and there is no proper pleading of what was the further publication on the websites. This second

publication – on websites – seems, according to the pleading, to have been very significant in producing the economic loss claimed. The pleading of this second publication, on websites, is markedly deficient.

### **2753/12: Zuanetti Proceedings**

- [7] In a separate proceeding the plaintiff has sued his sister, Therese Zuanetti, who co-operated in the broadcast which is the subject of the Queensland Television Limited proceeding. The connection between the defendant Zuanetti and the Current Affair broadcast is not as clear as it ought to be – see paragraphs 2 and 4 of the Zuanetti amended statement of claim.
- [8] Of more concern are paragraphs 3 and 14 of that pleading which allege that Zuanetti placed “dozens of defamatory statements both audio and visuals on the Global Internet including Google and Youtube ...” and claim very significant damages flowing from that. These publications are not properly pleaded, nor are the defamatory imputations which flow from them pleaded.
- [9] The defendants also say that by reason of s 8 of the *Defamation Act 2005 (Qld)*, these allegations against Ms Zuanetti and the allegations made in the Queensland Television Limited proceeding should all be made in one proceeding. Section 8 provides that a person has a single cause of action for defamation in relation to the publication of defamatory matter, even if more than one defamatory imputation about the person is carried by the matter. The defendants say that there should only be one proceeding in which all allegations arising out of the Current Affair broadcast and/or the internet publications are dealt with. The plaintiff did not make any specific argument about there only being one proceeding. Without deciding that s 8 of the *Defamation Act* requires this, it seems to me convenient in the circumstances of this case that there be only one proceeding, particularly when for the reasons I have already given, my view is that the statements of claim in both matters should be struck out pursuant to UCPR 171(1)(a) and (b).
- [10] I make the following orders and directions:
- (a) I order that the statement of claim in proceeding 2754 of 2012 be struck out;
  - (b) I order that the amended statement of claim in proceeding 2753 of 2012 be struck out;
  - (c) I grant the plaintiff in proceeding 2754 of 2012 leave to re-plead the statement of claim.
  - (d) I direct that insofar as proceeding 2753 of 2012 concerns a claim for defamation arising out of, or related to, the broadcast of the program A Current Affair, the plaintiff is to make those allegations in proceeding 2754 of 2012 and give him leave to amend the claim in that proceeding to the extent necessary to do so.
  - (e) I order that the plaintiff pay the defendants’ costs of and incidental to this application on a standard basis to be assessed, or agreed, in both proceedings 2753 and 2754 of 2012.
- [11] I was asked to make a costs order on an indemnity basis. Prior to the bringing of this application the defendants had attempted to convince their plaintiff of the need to re-plead. That was unsuccessful, thus it was necessary that the application be

brought. I attribute the plaintiff's poor pleading, and his attitude to amending it, to nothing more than his being without legal representation, in proceedings which are notoriously technical and difficult. I am not convinced that his claim is utterly without merit. In those circumstances I am not willing to make a costs order on an indemnity basis.