

THE EASTERN CARIBBEAN SUPREME COURT:

IN THE HIGH COURT OF JUSTICE
CIVIL DIVISION

SAINT LUCIA

Claim Number: SLUHCV2023/0369

BETWEEN:

VERNE E. EMMANUEL

Claimant

-and-

[1] CHERRY ANN GAILLARD-WILLIAMS
[2] JASMINE DUNCAN
[3] PATRICK SMITH
[4] NICHOLS SMITH
[5] HOT FM COMMUNICATION LTD Trading as Hot 7 TV also
known as Caribbean Hot 7 TV

Defendants

Before the Honourable Mr. Justice Alvin S. Pariagsingh

Appearances: Mr. Peter A.H. Marshall and Ms. Ann-Alicia Fagan for the Claimant
Mr. Leslie P. K. Prospere for the First, Second, Third and Fifth Defendants

2025: January 28 – Trial
March 21, 31– Submissions
April 29 – Decision

JUDGMENT

Claim for Defamation, Libel.

**"The purest treasure mortal times afford is spotless reputation."
– William Shakespeare, Richard II**

[1] **PARIAGSINGH, J:** - This is a defamation claim relating to two publications. The Claimant seeks general damages for libel and slander, aggravated damages as well as an injunction restraining the Defendants jointly and severally from publishing any further

defamatory words about the Claimant. The Defendants contend that the statements made were true and made in the public interest.

- [2] The claim is defended by the First, Second, Third and Fifth Defendants. The Fourth Defendant has not been involved in these proceedings from the commencement. As such, reference to the Defendants in some instances, will *de facto* be reference to the First, Second, Third and Fifth Defendants only.

THE PLEADINGS:

- [3] This is a claim in defamation brought by Mr. Verne Emmanuel, the Director of the Saint Lucia Bureau of Standards (“the SLBOS”), against several Defendants connected with Hot FM Communications Ltd, who operate under the name Hot 7 TV or Caribbean Hot 7 TV.
- [4] Apart from being the Director of the SLBOS, the Claimant also holds positions on seven other boards and is a very well-respected member of the engineering society and the wider society.
- [5] Mr. Emmanuel’s complaint arises out of two news broadcasts published by the Fifth Defendant on 21 September 2022 (“the first broadcast”) and 11 October 2022 (“the second broadcast”), wherein the Claimant alleges that he was referred to by his name and as Director of the SLBOS. He alleges that the First Defendant, the News Editor of the Fifth Defendant (a company registered under the Companies Act of Saint Lucia), was the editor of the news article published by the Third Defendant on the said dates. The Second Defendant was the news reporter of the Fifth Defendant who read the news to the public on both occasions, which was published on social media platforms and website of the Fifth Defendant. The Claimant alleges that the Third and Fourth Defendants, being the directors and shareholders of the Fifth Defendant, would have given their consent or approval for the publication of the two news broadcasts.

- [6] In the first broadcast, the Claimant was accused of poor management, tyranny, corruption, and incompetence in his role as Director of the SLBOS. Specific allegations included unlawful staff suspensions, mishandling of negotiations with the Civil Service Association (CSA), implementation of a vehicle inspection programme said to be improperly based on a code of practice rather than a standard, and misrepresentation of a tyre inspection standard.
- [7] In response to the first broadcast, the Chairman of the Standards Council, Mr. Thomas Edmund, issued a press release on behalf of the SLBOS on 21 September 2022, denying the allegations stated in the first broadcast. It also states that the first broadcast sought the compromise the integrity of the Claimant, who “will take the appropriate measures to address such miscalculations”.
- [8] The Defendants thereafter published the second broadcast. The second broadcast reiterated that a longstanding dispute between staff and management continued, despite efforts by the SLBOS to “suppress” these grievances, and made reference to the intervention of the Minister for Commerce. It repeats comments by the Minister on the issue and includes verbatim segments of the press release issued on 21 September 2022.
- [9] The Claimant alleges that the second broadcast was defamatory of him because it accused him of using his position as Director of the SLBOS to suppress the outstanding matters between the management and staff of the SLBOS. Further, that the “outstanding matters” concerned the same allegations levelled against the Claimant in the first broadcast.
- [10] In addition, the Claimant alleges that the Defendant acted with malice as they had no honest belief in the truth of the defamatory statements made.
- [11] Mr. Emmanuel alleges that the broadcasts were false, highly damaging to his professional and personal reputation, and published in a manner that demonstrated a

disregard for responsible journalism. He also alleges that he has undergone extreme embarrassment and hurt feelings, and has been held up to odium, ridicule and contempt. He maintains that the SLBOS's programmes fully comply with the Standards Act, that the allegations are unfounded, and that the Defendants did not seek his comment before publishing.

[12] The Defence of the First, Second, Third and Fifth Defendants deny that the first broadcast was defamatory. They say they simply reported on genuine grievances raised by employees of the SLBOS over the Claimant's mismanagement of the SLBOS. They also argue that the statements made therein were true or, alternatively, that they were published in the public interest. They plead that they took reasonable steps to verify the information, made attempts to seek comment, and had a duty to inform the public about the conduct of a public statutory body.

[13] With respect to the second broadcast, the Defendants claim that they reasonably believed that it was in the public interest and was subject to a verification process prior to publishing.

[14] Additionally, as Chief Executive Officer of the Fifth Defendant, the Third Defendant had no knowledge and played no role in the creation, review, approval, editing and/or the publication of the first and second broadcasts.

[15] In reply, Mr. Emmanuel denies the truth of the allegations and challenges the availability of the truth and public interest defences. He maintains that there was no misconduct on his part, that the Defendants' verification processes were inadequate, and that publication occurred maliciously.

ISSUES:

[16] The following issues arise for determination:

- 1) Whether the broadcasts complained of were defamatory of the Claimant.

- 2) Whether the Defendants have established, on the balance of probabilities, that the allegations conveyed by the broadcasts, including claims of mismanagement, corruption, tyranny and incompetence, were substantially true, in accordance with section 2 of the Defamation Act 2013.
- 3) Whether the Defendants reasonably believed that publication of the broadcasts was in the public interest, for the purposes of section 4 of the Defamation Act 2013, having regard to the sources of the allegations, the steps taken to verify the information, and the opportunity (or lack thereof) given to the Claimant to respond prior to broadcast.
- 4) Whether the Claimant has established that the conduct of the Defendants in publishing the broadcasts demonstrates a lack of belief in the truth of the allegations or was otherwise so irresponsible as to warrant an award of aggravated damages.
- 5) Whether the conduct of the Defendants, including the language used in the broadcasts, the failure to undertake adequate verification of the allegations, and the absence of any retraction or apology warrants an award of aggravated damages.
- 6) Whether there is a real risk of repetition of the alleged defamatory statements such as to justify the grant of a prohibitory injunction.
- 7) Whether the Claimant has established that the Third Defendant, Mr. Patrick Smith, played any role in authorising or facilitating the publication of the broadcasts sufficient to render him liable in defamation.

EVIDENCE AND FINDINGS:

Mr. Verne Emmanuel, the Claimant:

- [17] Mr. Emmanuel is a qualified professional of considerable standing, holding the post of Director of the SLBOS since 2018, and presently occupying a range of additional appointments both nationally and regionally. The additional appointments listed in his witness statement filed in 2024, are the same as those listed in his Statement of Claim filed in 2023. He gave his evidence in a measured manner and demonstrated a clear understanding of the organisational framework of the SLBOS. However, as will be seen, there were material respects in which his evidence either lacked sufficient support or was contradicted by contemporaneous documentation, and this affected the overall weight the Court felt able to place on certain assertions he made.
- [18] In his witness statement, Mr. Emmanuel accused the Third Defendant, Mr. Patrick Smith, of participating in and authorising the publication of the allegedly defamatory broadcasts aired by Hot 7 TV. This was said to be on the basis that Mr. Smith was a director and shareholder of the Fifth Defendant, the media house. However, under cross-examination, Mr. Emmanuel accepted that he had no personal knowledge of the editorial process, nor could he point to any direct involvement by Third Defendant in the creation or approval of the articles. He further conceded that he had not read the Defendants' defence recently and was unaware of any internal editorial workings.
- [19] The Court finds that Mr. Emmanuel's allegations against the Third Defendant were speculative and unsupported by any cogent evidence. The mere fact of Mr. Smith's directorship does not in and of itself establish his involvement in or endorsement of the specific broadcasts in question. In the absence of further evidence, the Court does not find that the Third Defendant authorised, secured, or participated in the publication in the sense advanced by Mr. Emmanuel.
- [20] A central feature of the claim was the handling of the disciplinary matter involving an employee, Ms. Jillian King-Portland. Mr. Emmanuel maintained that the decision to

suspend the employee was made by the HR Committee of the SLBOS, not by him personally. Yet, it emerged under cross-examination that the letter of suspension was authored and signed by Mr. Emmanuel, with no reference therein to the committee. The suspension letter itself referred to alleged misconduct arising from a WhatsApp message that made disparaging remarks about the SLBOS, albeit without naming it.

[21] The Labour Commissioner, upon review of the matter, found procedural shortcomings, particularly a failure to give the employee adequate opportunity to respond, and the suspension was ultimately rescinded with back pay.

[22] In these circumstances, the Court finds that there was indeed a basis for concern regarding the employee's conduct. However, the process followed fell short of the standards required under section 140 of the Labour Code. The Court does not accept Mr. Emmanuel's attempt to distance himself from the decision. The evidence shows that he took a leading role in initiating disciplinary action, and the SLBOS's handling of the matter was found wanting by the competent authority. The Defendants' description of the suspension as premature and procedurally flawed therefore had some grounding in fact.

[23] In relation to the Collective Bargaining Agreement negotiations between the SLBOS and the CSA, Mr. Emmanuel sought to portray the CSA as dilatory and uncooperative. He stated that the SLBOS had consistently engaged in good faith and that delays were due to factors beyond its control. However, during cross-examination, it became apparent that Mr. Emmanuel had failed to disclose several key letters from the CSA which criticised the Bureau for delayed submissions and failure to respond to occupational health matters.

[24] The Court finds that these letters, some of which were addressed to Mr. Emmanuel personally, were relevant and ought to have been disclosed. Their omission raises concern about the completeness of the factual narrative put forward. The CSA's own documentation, coupled with public statements by the Minister for Commerce

acknowledging the existence of disputes between staff and management, supports the view that the negotiations were not as one-sidedly delayed as Mr. Emmanuel contended.

[25] It follows that the Defendants' report of there being unresolved grievances between the SLBOS's staff and its leadership was not without basis. While the Claimant may dispute the characterisation, the underlying facts confirm that such discontent did exist and had attracted the attention of the relevant Minister.

[26] Mr. Emmanuel contended that the broadcasts caused him reputational harm, distress, and embarrassment. However, he produced no independent evidence to substantiate the extent of such harm. He did not call any witnesses to speak to the impact, nor did he provide any social media commentary or professional repercussions flowing from the broadcasts. Indeed, under cross-examination, he confirmed that he continued to hold his post and that his other public appointments remained intact.

[27] Moreover, the Court notes that despite criticising the Defendants' conduct, Mr. Emmanuel accepted that he did not know any of them personally and could not say with certainty whether they had his contact details. He conceded that they had previously interacted with the SLBOS and had access to general press contact details. He also acknowledged that, following the broadcasts, the SLBOS issued a press release, the language of which he endorsed, that responded robustly to the allegations.

[28] Having reviewed the witness statements of the First and Second Defendants, the Court finds that they relied on the source within the SLBOS. There is no clear evidence that they knowingly published falsehoods or acted with a lack of honest belief in the truth of the allegations. The evidence does not support a finding of improper motive or bad faith.

[29] The Court notes that Mr. Emmanuel invited members of the press, including the Defendants, to the SLBOS for a site visit after the broadcast, and that the engagement

was amicable. He had the opportunity, but did not take steps at that time to address or correct the statements of which he now complains.

[30] Additionally, his witness statement includes broad claims concerning employee resignations and internal satisfaction, but no resignation letters, exit interviews, or supporting documentation were produced, even though such evidence would have been available to the SLBOS. The Court accepts that concerns raised by staff, whether rightly or wrongly, formed the backdrop to the Defendants' reporting.

Cherry Ann Gaillard-Williams:

[31] Ms. Gaillard-Williams is an experienced journalist, who, at the material time, held the position of News Editor at Hot FM Communications Ltd., the Fifth Defendant. She gave her evidence clearly and calmly. Her credentials in journalism and media management are not in dispute. However, as with any evidence offered in support of a public interest defence, the Court must scrutinise whether the steps taken by the journalist were adequate to ensure responsible reporting, particularly in the context of a report containing serious allegations against a public official.

[32] Ms. Gaillard-Williams confirmed that the first broadcast was initially prompted by information received from a single anonymous source who claimed to be an employee of the SLBOS. This source alleged industrial unrest, high-handed conduct by the Claimant, and mismanagement within the SLBOS. The source also referred to perceived irregularities in the SLBOS's tyre inspection programme and accused the Claimant of stalling negotiations with the CSA.

[33] The Court notes that this source was never identified, and that Ms. Gaillard-Williams had no personal knowledge of the source's identity beyond their self-identification as a staff member. No independent verification of the source's employment status was undertaken prior to publication of the first broadcast. No supporting material was provided by the source at the time, and no other staff members were interviewed before the initial article was aired.

[34] In cross-examination, Ms. Gaillard-Williams accepted that she received no corroborating documentation prior to the first broadcast's publication on 21 September 2022. The documentary material exhibited to her witness statement, "CAG1" through "CAG11" was obtained only after the article had been broadcast. The Court finds that these documents, while relevant to the broader picture, could not have formed the basis of the first broadcast.

[35] Further, although Ms. Gaillard-Williams suggested that her team attempted to contact the CSA before publication, she conceded that the CSA's grievance officer was unavailable, and no messages or emails were left or sent. Nor were any contact efforts made to the Claimant directly. When asked if the Claimant's communications officer was approached, Ms. Gaillard-Williams admitted that while contact was made, no comment was obtained, and no follow-up attempt was pursued.

[36] In these circumstances, the Court finds that the decision to publish the report was taken without the benefit of balanced or adequately verified input. It was based solely on an anonymous source whose claims, though not necessarily false, had not been corroborated.

[37] The first broadcast used strong and emotive language. Phrases such as "tyranny", "corruption," and "incompetence" were repeated throughout. Yet, under cross-examination, Ms. Gaillard-Williams admitted that none of these terms appear in any of the documentary exhibits "CAG1" to "CAG11". She also confirmed that no external source, other than the anonymous informant, used such language prior to the airing of the first broadcast.

[38] While she defended the article as "listing the staff's grievances", it became evident during questioning that the description of events, particularly the use of highly pejorative language, was not drawn from a plurality of voices or any publicly available record, but

rather stemmed from a single, unverified source. The Court finds this to be a critical weakness in the Defendants' case.

[39] The article's wording gave the impression of multiple sources ("sources close to the situation told our news team..."), yet Ms. Gaillard-Williams admitted that, to her knowledge, only one individual had come forward. She conceded that the use of the plural may have overstated the number of sources and that she could not confirm whether the Second Defendant, Ms. Jasmine Duncan, had spoken to anyone else.

[40] The Court notes that following the first broadcast, Ms. Gaillard-Williams received several documents from the CSA and other parties, including correspondence between the SLBOS and the CSA, and internal reports. These materials gave further context to the industrial unrest at the SLBOS. However, none of these pre-dated the publication of the first broadcast. As such, they cannot cure any deficiencies in the initial verification process, though they may speak to the presence of ongoing tensions within the SLBOS.

[41] The Defendants also conducted a follow-up interview with the Minister for Commerce, Ms. Emma Hippolyte, which was broadcast on 11 October 2022 (the second broadcast). The Minister's comments were measured, acknowledging negotiations between staff and management and expressing hope for a resolution. The Court finds that this interview did not support the more strident assertions made in the first broadcast, such as tyranny or corruption, but did indicate that the industrial concerns had come to the attention of government.

[42] The Claimant's press release, issued shortly after the first broadcast, was presented as an attempt to refute the first broadcast. Ms. Gaillard-Williams accepted that the Claimant did not threaten legal action expressly, although the tone of the statement suggested that legal redress was being contemplated.

[43] Later, the Claimant invited the Defendants to the SLBOS for a follow-up engagement to showcase remedial steps taken in response to staff concerns. Ms. Gaillard-Williams

acknowledged that this meeting was cordial and constructive. The Court accepts that by then, the Defendants were aware of the Claimant's objections, though no formal clarification or retraction was issued.

[44] The Court accepts that Ms. Gaillard-Williams acted with general professionalism and in good faith. She did not appear to bear personal animus toward the Claimant and seemed to believe in the public interest dimension of the story. However, the Court is not satisfied that the necessary steps were taken to ensure the first broadcast's accuracy before publication.

[45] Regarding the first broadcast, the lack of source corroboration, the absence of balanced comment, the emotive language, and the failure to verify the source's credentials, all before publishing serious allegations, fall below the expected standard of responsible journalism. While Ms. Gaillard-Williams later sought and obtained supporting material, this was done only after the fact. The Court does not find that Ms. Gaillard-Williams acted with knowledge that the allegations were false or with a lack of belief in their truth. Nonetheless, her conduct did not meet the expected standard of responsible journalism.

[46] The Court does not find express malice in the legal sense. The evidence does not show that Ms. Gaillard-Williams knew the allegations were false or acted with reckless disregard for their truth. However, the standard for establishing a defence of responsible journalism under Reynolds-type principles (or analogous standards in local law) would likely not be met on these facts.

Jasmine Duncan:

[47] Ms. Jasmine Duncan, the Second Defendant, gave evidence before the Court in support of her role in the publication of the first broadcast on 21 September 2022. She had been employed as a news reporter with the Fifth Defendant from December 2021 until November 2022. She described herself as relatively new to the profession at the material time and was under the direct supervision of Ms. Cherry Ann Gaillard-Williams.

[48] According to Ms. Duncan's evidence, she was contacted on the morning of 21 September 2022 by a caller who identified themselves as a disgruntled employee of the SLBOS. The caller requested urgent media attention at the Bureau's offices in Bisee, stating that industrial action was taking place in response to staff dissatisfaction with the leadership of the Claimant. The source alleged delayed negotiations, threats against employees, and a recent suspension which had become a flashpoint.

[49] Ms. Duncan stated that she went immediately to the SLBOS with a camera crew. While there, she attempted to speak with either the Human Resource Manager or Communications Manager but was advised that no comment would be given, and that the Director (the Claimant) was overseas. She then attempted to contact the CSA to verify the claims but was unable to reach the Grievance Officer. She and her team visited the CSA's office but were informed he had stepped out.

[50] The Court notes that Ms. Duncan conceded in cross-examination that, other than the anonymous caller, she spoke to no one else at the SLBOS on that day. She did not obtain any written statements or formal confirmation from staff members, nor did she receive any documentation to support the allegations made. The CSA did not confirm any details of the industrial action before the report was published. She acknowledged that the article was based entirely on the anonymous source's claims.

[51] Accordingly, the Court finds that the first broadcast was constructed on the basis of a single anonymous informant, whose identity was not verified beyond their own assertion that they were a SLBOS employee. There was no independent corroboration of the claims prior to publication.

[52] Ms. Duncan confirmed that she co-authored the report with the First Defendant. While she could not recall how long the article took to write, she estimated the entire process, from site visit, interviews, and write-up, would have taken a few hours. She accepted that the language used in the broadcast, including words such as "tyranny", "corruption", and "incompetence", originated from the source. These terms were repeated multiple

times. However, she also admitted that she had no evidence that anyone else at the SLBOS had used such language.

[53] She acknowledged that she did not attempt to contact the Claimant directly and that no efforts were made to verify the accuracy of the allegations through official documentation or independent witnesses. Although she insisted that steps were taken to investigate the matter, she conceded under questioning that those steps were not demonstrated in the evidence placed before the Court.

[54] The Court finds that the first broadcast lacked balance and relied heavily, indeed, exclusively, on the anonymous source. The Defendants' failure to include any meaningful verification of the claims or to obtain input from the Claimant or other relevant parties at the time of publication indicates a significant shortcoming in journalistic due diligence.

[55] Following first broadcast, the SLBOS issued a press release refuting the allegations and criticising the broadcast. Ms. Duncan acknowledged that this statement did not threaten legal action in express terms but was interpreted as defensive. She did not attempt to follow up with the Claimant after this publication and agreed that there was no evidence of any contact with him after the press release was issued.

[56] Ms. Duncan later received further information from the anonymous source, including updates concerning additional industrial action and a letter from the CSA dated 1 December 2022 (JD3). However, she admitted that this letter post-dated the first broadcast and could not have served to verify its contents.

[57] The Court accepts that Ms. Duncan developed a rapport with the source and that this facilitated ongoing communication. Nonetheless, the absence of any verification of the source's employment or reliability before the first broadcast weighs heavily. She could not confirm whether the source was in fact an employee of the SLBOS, beyond their own representation.

[58] While Ms. Duncan appeared earnest and sincere in her belief that the contents of the first broadcast was newsworthy and in the public interest, the evidence suggests that she placed too much reliance on a single source. She candidly admitted in cross-examination that her report was based entirely on the words of that individual. Despite training on responsible journalism and the need for verification, these standards were not met in the preparation of the first broadcast.

[59] The Court finds that Ms. Duncan did not act with improper motive or any intent to defame. She appears to have been inexperienced and overly reliant on her source and the direction of her senior colleague. Her failure lay in process rather than intent.

[60] The Court is not persuaded that adequate steps were taken by Ms. Duncan to verify the truth of the serious accusations made against the Claimant prior to publication of the first broadcast. The language of the first broadcast was strikingly accusatory, and the reliance on a single unverified source did not meet the standards of fairness or balance expected of a public-facing news report.

[61] Nonetheless, the Court does not find that Ms. Duncan acted in bad faith. Rather, she appears to have been inexperienced and perhaps overly reliant on her source and the direction of her senior colleague. Her failure lay in process rather than intent, and while this does not absolve liability in a defamation context, it is relevant to any assessment of damages or malice.

Casilda Peters:

[62] Ms. Casilda Peters, was at the material time the Assistant Manager of the Fifth Defendant, Hot FM Communications Ltd. She gave her evidence in support of the Defendants' case, focusing in particular on the station's managerial operations, the role of the newsroom, and the editorial judgment applied to the publication of the impugned reports.

[63] Ms. Peters appeared confident and professional in her presentation. Her background in legal support and compliance, as well as her managerial role at a media house, was apparent. However, the nature of her role as an executive rather than a frontline journalist limited the direct relevance of some of her assertions concerning the factual basis for the reports.

[64] In her witness statement, Ms. Peters emphasised that she had overall oversight of the station's operations, including the newsroom, although the responsibility for news content rested primarily with the First and Second Defendants at the material time. She did not herself conduct journalistic investigations, interview sources, or edit content, but relied on the editorial team to uphold journalistic standards.

[65] She confirmed that the station is commercially funded through advertising and sponsorship and acknowledged, when pressed in cross-examination, that the timely and engaging presentation of news is essential to retaining viewership and attracting advertisers. She also agreed that topical and even controversial issues tend to draw public interest, and that such interest feeds into the commercial viability of the media house.

[66] While this is not unusual, the Court notes that the commercial incentive to publish fast-moving or provocative content must be weighed carefully against the obligation to ensure accuracy and fairness, especially where reputations are at stake.

[67] Ms. Peters asserted in her statement that the reports aired by the Fifth Defendant concerning industrial unrest at the SLBOS were responsibly researched and fell within the bounds of public interest journalism. She relied on her understanding that the First and Second Defendants, who authored the reports, undertook steps to verify the anonymous source's claims and sought input from both the SLBOS and the CSA.

[68] However, under closer scrutiny, it became clear that Ms. Peters had no first-hand involvement in the vetting of the source or the editorial decision-making behind the first

broadcast. She was not present at the SLBOS on the day in question, did not speak with the source, and did not participate in the drafting of the article.

[69] Her conclusions as to the reliability of the report and the adequacy of verification were therefore derivative of the assurances given to her by her staff. She was not able to explain what documents, if any, were available to the newsroom prior to publication, nor could she identify any evidence that the source's employment had been confirmed, or the more serious allegations independently corroborated at the time of airing.

[70] The Court finds that while Ms. Peters believed that the newsroom operated with due diligence, her belief was based on general confidence in her team rather than any direct engagement with the facts or editorial process relevant to the reports at issue.

[71] Ms. Peters was emphatic that the first broadcast concerned matters of public interest, including the internal operations of a statutory body and employee welfare. The Court accepts that the SLBOS, as a public entity, is subject to public scrutiny, and that the conduct of its leadership is of legitimate concern, particularly where staff unrest and union involvement are alleged.

[72] However, the finding that a matter is of public interest does not absolve a publisher from the duty to verify the facts and ensure that the publication is not defamatory. The question is not whether the topic is important, but whether the handling of the information, including the choice of language and the substantiation of allegations, meets the requisite standard of care.

[73] It was accepted that the second broadcast included a brief comment from the Minister and that the Claimant subsequently invited the station to the SLBOS's premises to observe remedial efforts. These later developments were not, however, in the public domain at the time the first broadcast was published.

[74] The Court notes that Ms. Peters presented these later interactions as evidence of the Bureau's responsiveness to criticism, yet they do not provide *ex post facto* justification for publishing serious and potentially defamatory allegations without verifying their accuracy beforehand.

[75] The Court finds that Ms. Peters' evidence was honest and measured but ultimately second-hand. Her managerial position gave her general oversight of editorial standards, but she did not engage with the specific steps taken, or not taken, prior to the publication of the first broadcast. Her evidence supports the view that there was no personal ill-will or improper motive behind the publication, but it does not establish that the standards of responsible journalism were met.

[76] The Court accepts that Ms. Peters was not herself involved in any defamatory conduct, nor did she act with malice. However, her confidence in the sufficiency of the process appears, on balance, to have been misplaced, as the underlying editorial work fell short of what was required in the circumstances.

Patrick Smith:

[77] Mr. Patrick Smith, the Third Defendant, was the longstanding Chief Executive Officer of the Fifth Defendant, Hot FM Communications Ltd. His role in the organisation is managerial in nature, with no editorial or journalistic functions assigned to him.

[78] Mr. Smith gave unchallenged evidence that he has held the position of CEO of the Fifth Defendant for approximately twenty-four years. He resides primarily in the United States and conducts the bulk of his responsibilities remotely. These include setting organisational strategy, overseeing financial decisions, and building the management team. He stated unequivocally that he has never been involved in the editorial process whether in researching, reviewing, approving, or publishing news articles.

[79] The Court accepts that evidence. It was neither contradicted nor shaken, and no attempt was made to establish that Mr. Smith had a hand in the creation or dissemination of the

reports forming the subject of this litigation. The Claimant's own evidence, under cross-examination, acknowledged that Mr. Smith was named in the proceedings solely by virtue of his directorship and shareholding in the Fifth Defendant.

[80] It is also evident from Mr. Smith's account that he only became aware of the impugned broadcasts sometime in 2023, after a letter of complaint was sent by the Claimant to the Fifth Defendant. He was informed of this at a management meeting and had no prior knowledge of the reports. He was formally served with the claim during a visit to Saint Lucia later that year.

[81] There is no evidence before the Court that Mr. Smith played any role in the preparation of the articles, directed any employee to publish them, or had advance knowledge of their contents. No document, email, directive, or editorial comment from Mr. Smith was tendered in evidence. He was not involved in the day-to-day news operations of the station, which were clearly delegated to the First Defendant and the newsroom team.

[82] The Court finds that Mr. Smith's position as CEO and director does not, without more, ground liability in a defamation claim for editorial content that he neither created, reviewed, nor approved. This is particularly so in a media organisation where operational roles are clearly separated from corporate governance.

[83] The Court is satisfied that Mr. Patrick Smith did not participate in the publication of the reports complained of, nor did he authorise or ratify them. His name appears in these proceedings by virtue of his corporate office only. On the evidence before the Court, there is no basis for attributing liability to him, whether directly or vicariously.

[84] Accordingly, the Court finds that Mr. Smith played no role in the defamatory conduct alleged and is not liable in this matter.

The Fourth Defendant:

[85] The Fourth Defendant, Nichols Smith, was unrepresented and did not participate in these proceedings. None of the parties, during cross-examination, raised the role of the Fourth Defendant in the publishing of the two broadcasts. There is therefore no evidence before the Court, for it to consider regarding the Fourth Defendant's involvement in the broadcasts.

REASONING ON LIABILITY:

[86] The claim arises out of two televised broadcasts aired by the Fifth Defendant, Hot FM Communications Ltd., in September and October 2022, relating to industrial unrest and alleged mismanagement at SLBOS, where the Claimant, Mr. Verne Emmanuel, serves as Director. The Claimant contends that the statements made were defamatory, untrue, and have caused serious harm to his reputation. The Defendants, while accepting publication, deny liability, asserting that the reports were on matters of public interest and that they either reflected the truth or were published with a reasonable belief that publication was justified.

Whether the Statements Were Defamatory

[87] According to **section 1(1)** of the **Defamation Act 2013** ("the Act"), a statement is not defamatory unless its publication has caused or is likely to cause serious harm to the reputation of the claimant. Whether the tort is made out would therefore be determined by reference to the actual facts about its impact and not just to the meaning of the words: **Lachaux v Independent Print Ltd**¹. Lord Sumpton states further at page 491 of **Lachaux** (supra):

"The reference to a situation where the statement 'has caused' serious harm is to the consequences of the publication, and not the publication itself. It points to some historic harm, which is shown to have actually occurred. This is a proposition of fact which can be established only by reference to the impact which the statement is shown actually to have had. It depends on a combination of the inherent tendency of the words and their actual impact on those to whom they were communicated. The same must be true of the reference to harm

¹[2019] All ER 485 at 491

which is 'likely' to be caused. In this context, the phrase naturally refers to probable future harm.”

[88] Lord Sumpton further considered the application of the law by the trial judge at paragraph 21 of the judgment. He stated as follows:

“[21] On the footing that (as I would hold) Mr Lachaux must demonstrate as a fact that the harm caused by the publications complained of was serious, Warby J held that it was. He heard evidence from Mr Lachaux himself and three other witnesses of fact, and received written evidence from his solicitor. He also received agreed figures, some of them estimates, of the print runs and estimated readership of the publications complained of and the user numbers for online publications. He based his finding of serious harm on (i) the scale of the publications; (ii) the fact that the statements complained of had come to the attention of at least one identifiable person in the United Kingdom who knew Mr Lachaux; and (iii) that they were likely to have come to the attention of others who either knew him or would come to know him in future; and (iv) the gravity of the statements themselves, according to the meaning attributed to them by Sir David Eady. Mr Lachaux would have been entitled to produce evidence from those who had read the statements about its impact on them. But I do not accept, any more than the judge did, that his case must necessarily fail for want of such evidence. The judge's finding was based on a combination of the meaning of the words, the situation of Mr Lachaux, the circumstances of publication and the inherent probabilities. There is no reason why inferences of fact as to the seriousness of the harm done to Mr Lachaux's reputation should not be drawn from considerations of this kind. Warby J's task was to evaluate the material before him, and arrive at a conclusion on an issue on which precision will rarely be possible. A concurrent assessment of the facts was made by the Court of Appeal. Findings of this kind would only rarely be disturbed by this court, in the absence of some error of principle potentially critical to the outcome.”

[89] Thus, under the Act, “a statement is defamatory only if and to the extent that its publication causes serious harm to reputation or is likely to do so, and not otherwise”: **Banks v Cadwalladr**² at paragraph 46. In assessing the seriousness of the harm to reputation, Lord Justice Warby noted at paragraph 52 of **Banks** (supra) that, “It is common ground that a relevant and potentially significant factor when deciding whether publication has caused serious harm to reputation is the scale of publication or, putting

² [2023] EWCA Civ 219

it another way, the total number of publications”. Commenting on the trial judge’s finding of serious harm, Lord Justice Warby goes on to say at paragraph 67 that, “In these circumstances the inference that serious harm was caused flows from the inherent gravity of the allegation and its natural tendency to cause serious reputational harm, coupled with the judge’s own findings as to the scale of the publication in this phase taken at its lowest”.

The First Broadcast:

[90] In their pleadings, the First, Second, Third and Fifth Defendants disputed that the first broadcast was intended to defame the Claimant. Rather, they alleged that it was meant or understood to highlight the grave concerns of the SLBOS’s employees. Yet, the first broadcast included explicit accusations of “tyranny”, “corruption” and “incompetence”, as well as references to alleged misconduct in the handling of staff suspensions, collective bargaining delays, and the operation of a vehicle inspection programme, all attributable to the Claimant. The Claimant correctly notes that the allegations, taken at their plain and natural meaning, impute criminal and professional wrongdoing and therefore satisfy the threshold of defamatory meaning. I accept the Claimant’s submissions that these allegations are serious in nature and capable of lowering him in the estimation of right-thinking members of the public.

[91] The Defendants did not seriously contest this during cross-examination, although they submitted that their broadcast reflected concerns raised within the SLBOS and were intended to give voice to those grievances. While that may bear upon public interest and motive, it does not alter the fact that the words published were defamatory and constituted libel.

[92] The Defendants argue that the Claimant has not demonstrated that the first broadcast caused or was likely to cause serious harm to his reputation, as required by section 1 of the Act. They point to the fact that he retained his position at the SLBOS and has even been appointed to other public roles since. In reply, the Claimant refers to paragraphs 27 and 28 of his statement of claim and paragraphs 55 to 57 of his witness statement,

which speak to the ridicule, commentary, and distress he experienced because of the broadcasts. The decisions of **Lachaux** and **Banks** demonstrate that that serious harm may be inferred from the serious nature of the allegations and the extent of publication.

[93] I accept that the publication was wide-reaching. It was broadcast on television, shared across digital platforms, and continued to circulate after the initial airing. The allegations themselves, suggesting criminal conduct, maladministration, and suppression of staff are of a kind likely to cause reputational harm, especially when directed at a public official.

[94] Moreover, the Claimant's statements that he was and continued to be subjected to widespread verbal attacks, abuse and ridicule by the general public who have repeatedly called the radio programs and on social media to vilify and condemn him for the so-called tyranny, dictatorship and corruption, was unchallenged. The Court accepts his evidence in this regard.

[95] In my judgment, and applying the reasoning in **Lachaux** and **Banks**, the seriousness of the allegations, combined with their reach and the absence of any retraction, permit the inference that serious harm was caused or is likely to be caused. The Claimant need not prove specific examples of individuals whose estimation of him was lowered. This element of the claim is also satisfied.

The Second Broadcast:

[96] Regarding the second broadcast, the Court notes that focus of the parties' cross-examination, was on the first broadcast. Counsel for the Claimant, during his cross-examination, only narrowed in on the use of "suppress" in the second broadcast by the Defendants and sought to establish that a defamatory meaning could be attributed to it, in that, the Claimant was threatening to silence the Defendants. The First Defendant accepted that she subjectively interpreted the statement in the press release of the SLBOS, that the Claimant "will take the appropriate measures to address such miscalculations", as the Claimant taking legal action against the Defendants.

[97] Further, at the time of the second broadcast, the Defendants did have in their possession, correspondence regarding the matters contained in the second broadcast, written by the CSA and the SLBOS. The second broadcast is widely worded with respect to the ongoing industrial action and its wording is significantly tapered in comparison to the first broadcast. Whilst it makes brief reference to the Claimant as Director, the second broadcast is directed to the SLBOS, the body, as opposed to the Claimant.

[98] From the Claimant's pleadings, it is evident that he sought to piggyback off the first broadcast, in establishing defamatory meanings to the statements made in the second broadcast. However, it is apparent that although both broadcasts speak of the ongoing unrest, both were separate publications, with the latter focusing on the comments of the Minister and the contents of the SLBOS press release.

[99] The Court therefore finds that the Claimant was unable to establish that the statements made in the second broadcast were defamatory of the Claimant. The remainder of the judgment will therefore deal with the first broadcast.

Defence of Truth:

[100] The Defendants assert a defence of truth under section 2 of the 2013 Act, arguing that the broadcasted statements were substantially true. Their submissions rely heavily on documents attached to the witness statement of the First Defendant (Ms. Gaillard-Williams), including internal correspondence, CSA letters, and press materials. However, as highlighted in the Claimant's submissions, those documents, marked "CAG1" to "CAG11", were obtained after the first broadcast aired and therefore could not have served as a basis for the report.

[101] The Claimant's legal team, relying on their detailed evidentiary analysis, submit that none of the documents substantiate the core allegations. For example, "CAG4", an email referencing inspection fees, was said to evidence corruption, but the Claimant provided uncontroverted evidence in his witness statement explaining that the SLBOS follows

applicable standards and the fees are set out transparently. The allegation of corruption, as it relates to the tyre inspection programme, was not supported by any material comparing fees, identifying improper benefit, or linking the Claimant personally to misconduct. The First Defendant admitted in cross-examination that she had no training in standardisation and was relying entirely on what the anonymous source had said.

[102] The claim of “tyranny” also finds no evidential support. While there was internal discontent, the only document produced in support of the suspension of staff was a letter signed by the Claimant. The Claimant explained that the decision had been made by the HR Committee and not by him personally. The language used in the broadcasts overstated what the underlying documentation (if any) could support.

[103] As the Claimant submits, a mere collection of post-publication correspondence is insufficient to ground the truth of allegations of criminality or oppression. The evidence does not rise to the level required to establish that the sting of the allegations was true in substance. Accordingly, the statutory defence under section 2 fails.

Public Interest Defence – Section 4 of the Defamation Act 2013:

[104] The central plank of the Defendants’ case is the statutory public interest defence under section 4. It requires the Defendants to show:

- 1) that the statements were on a matter of public interest; and
- 2) that they reasonably believed that publication was in the public interest.

[105] The first limb is satisfied. The operation of a statutory agency, its treatment of staff, and the expenditure of public funds are plainly matters of public interest.

[106] However, the crux of the matter lies in whether it was reasonable for the Defendants to believe that publication was in the public interest in the circumstances that then existed.

[107] The Claimant's counsel relies heavily on the principles set out in **Economou v de Freitas**³ and **Serafin v Malkiewicz**⁴, which require courts to consider the full context, including the gravity of the allegations, the status and credibility of the source, and whether the claimant was given a fair opportunity to respond.

[108] Here, the Defendants' witnesses accepted under cross-examination that no attempt was made to directly contact the Claimant before publication. The First Defendant could not confirm whether the anonymous source was in fact an employee of the SLBOS. The Second Defendant had only been working in journalism for under a year at the time and had no formal training. Both admitted that the decision to publish was made within hours of receiving the source's call and was based entirely on what that single source had said.

[109] The Claimant's team rightly point out that the first broadcast presented the allegations as though they came from multiple sources and with the weight of widespread staff unrest, when in fact it was all relayed by a single individual. There was no effort to verify, no balanced presentation of the Claimant's side, and no editorial caution applied to soften the tone of the piece.

[110] Having regard to all the circumstances, including the gravity of the allegations, the status and reliability of the anonymous source, and the complete failure to seek comment from the Claimant, the Court finds that the Defendants did not hold a reasonable belief that the publication of the first broadcast was in the public interest. The statutory defence under section 4 of the Defamation Act 2013 is therefore not made out.

Conclusion on Liability

[111] The Claimant has succeeded in proving that the words published in the first broadcast were defamatory of him. The Defendants have not satisfied the statutory

³[2018] EWCA Civ 2591

⁴[2020] UKSC 23

requirements for the public interest defence, and the defence of truth is not supported by the evidence before the Court.

[112] Liability is therefore established in defamation against the First, Second, and Fifth Defendants in respect of the first broadcast. The Third Defendant, Mr. Patrick Smith, played no editorial role in the publication and the claim against him is dismissed.

[113] At the hearing of the decision on 29 April 2025, Counsel for the Claimant indicated for the first time in these proceedings that the Fourth Defendant was deceased, and an oral application was made for the claim against this litigant to be withdrawn. This application was granted.

DAMAGES:

[114] The Claimant having succeeded in establishing liability in defamation against the First, Second, and Fifth Defendants, the Court must now turn to assess what, if any, compensation ought to be awarded.

[115] The guiding principle in an award for defamation is that damages are intended to vindicate the Claimant's reputation, to compensate him for the harm caused including any distress or humiliation suffered and to take account of the manner and extent of publication. The award must also reflect the gravity of the libel, the credibility of the claimant, and any aggravating or mitigating features. At the same time, the damages must be proportionate and not punitive.

Seriousness of the Allegation:

[116] The allegations published in the first broadcast were serious. The use of language such as "tyranny", "corruption", and "incompetence" conveyed imputations of criminal and oppressive conduct. The story went beyond reporting industrial unrest and presented, as fact, assertions that the Claimant had personally engaged in misconduct and had acted in disregard of legal and procedural norms. These were not statements

of mere criticism or opinion, they struck at the core of the Claimant's professional reputation, particularly given his role as the head of a statutory body.

[117] I accept the Claimant's submission that allegations of corruption carry a particularly grave sting, especially when made against a public official. These were not incidental or passing references. The accusations were listed in detail and structured in such a way as to appear credible and authoritative, even though, as the Court has found, they were based on a single anonymous source whose credibility had not been tested.

Extent of Publication:

[118] The broadcast aired on Hot 7 TV and was disseminated electronically via social media and the station's website. The Claimant submitted that the station has a significant reach in Saint Lucia and the diaspora. While no formal viewership statistics were provided, the Court is entitled to take judicial notice of the fact that televised reports, when coupled with online republication, can spread rapidly and widely. The evidence supports the inference that the allegations received substantial exposure.

[119] Moreover, the material remained online for some time, and there is no evidence that the Defendants took any steps to correct, clarify, or retract the statements, even after the Claimant issued a press release and served a letter before action. That failure to respond in a measured or conciliatory manner, even after notice, weighs in the Claimant's favour.

Harm to Reputation and Distress:

[120] The Claimant asserts that he was subjected to public ridicule and gossip, both in professional and online circles, and that the effect of the publication was to undermine his reputation and standing. He has not led third-party evidence to confirm this, nor has he identified specific consequences in terms of job loss or financial impact. The Defendants argue that he continues to serve as Director of the Bureau and has since been appointed to other boards, which, in their submission, shows that his reputation has not suffered real damage.

[121] That argument has limited weight. As the Claimant submitted in reliance on **Lachaux**, the fact that a claimant retains his post does not negate reputational harm, particularly where the allegations concern the claimant's integrity and where the publication was significant. Reputational harm need not manifest in dismissal or demotion. It is enough that the publication was of a kind that would reasonably be expected to diminish the Claimant's reputation among right-thinking members of society. I am satisfied that this threshold is met.

[122] That said, the absence of any independent witnesses or documentary evidence of reputational fallout does limit the extent of compensable harm. While the sting of the publication is serious, and while I accept the Claimant's account that the experience was distressing and humiliating, I am not persuaded that the impact was lasting or professionally ruinous.

Aggravation:

[123] The Claimant did not expressly seek aggravated damages, and the conduct of the Defendants does not rise to a level that would justify such an award. There is no evidence of improper motive, personal animus, or conscious disregard for the truth. While the broadcasts employed strong language and were based on a single unverified source, there is no indication that the Defendants acted dishonestly or in bad faith. The public interest defence failed on the basis of deficient process, not intentional wrongdoing.

Mitigation and Conduct:

[124] The Court notes that the Fifth Defendant did accept the Claimant's invitation to attend a follow up session at the Bureau after the stories aired, and that the encounter was cordial. That gesture of cooperation, albeit limited, weighs slightly in mitigation. On the other hand, the failure to engage the Claimant before publication, or to include his side of the story in any meaningful way, detracts from any mitigating value the

Defendants might otherwise have claimed. The Court also notes that the Defendants have failed to offer any public apology to the Claimant.

Appropriate Award:

[125] Taking all these matters together: the seriousness of the allegation, the extent of the publication, the absence of direct evidence of long-term harm, and the lack of aggravation, the Court considers that a modest but meaningful award is appropriate. It must vindicate the Claimant's reputation, acknowledge the seriousness of the false allegations, and reflect the harm suffered, but without overstating the case.

[126] In my view, a global award of EC \$35,000.00 is fair and proportionate. This sum reflects both the gravity of the libel and the absence of substantial proof of lasting reputational or financial harm.

COSTS:

[127] The general rule is that costs follow the event. The Claimant shall have his costs of the claim against the First, Second and Fifth Defendants.

ORDERS:

[128] For the reasons above, I make the following orders:

- 1) Judgment is entered for the Claimant against the First, Second and Fifth Defendants.
- 2) The First, Second and Fifth Defendants are jointly and severally ordered to pay to the Claimant general damages in the sum of EC \$35,000.00 for injury to reputation, distress and humiliation suffered by reason of the first broadcast together with pre-judgment interest at the rate of 3% per annum from the date of the filing of the claim to today's date (587 days \$1,688.63) and at the rate of 6% per annum from today's date to the date of satisfaction.

- 3) The First, Second and Fifth Defendants shall pay the Claimant's prescribed costs on this claim on the value of the awards made (inclusive of pre-judgment interest) in the sum of \$7,337.73.
- 4) The claim against the Third Defendant, Patrick Smith, is dismissed. The Claimant shall pay the Third Defendant's costs of this claim quantified at 25% of the prescribed costs recoverable on the value of the award made (inclusive of pre-judgment interest) in the sum of \$1,834.43.
- 5) Permission is granted to the Claimant to withdraw the claim against the Fourth Defendant with no order as to costs.



Alvin S. Pariagsingh
Judge

By the Court,

Registrar