

IN THE HIGH COURT OF JUSTICE
COMMONWEALTH OF DOMINICA
DOMHCV2009/0041
[CIVIL]

BETWEEN:

MARCUS ROMAIN

Claimant

and

JOY ADRIEN

Defendant

Before: The Hon. Justice Brian Cottle

Appearances:

Mrs. Dawn Yearwood Stewart for Claimant
Mr. Gerald Burton for Defendant

[2011: April 4th]
[2011: December 7th]

JUDGMENT

- [1] **COTTLE J:** At the trial of this claim the Defendant failed to appear. The Claimant led evidence which was unchallenged. The court entered judgment for the Claimant and invited both counsel to make written submissions on the quantum of an appropriate award to the Claimant.
- [2] No submissions were had from counsel for the Defendant. The Claimant's submissions were filed on 27th April 2011. The court office staff put the file away awaiting the other set of submissions. It was only when counsel for the Claimant enquired was it realized that the matter languished still incomplete. For this delay the court offers sincere apologies to the Claimant.
- [3] The Claimant is an employee of Ross University. The Defendant was also employed at Ross University. The Defendant spoke words of the Claimant to the effect that the Claimant had expressed an intention to shoot personnel at Ross University. The Claimant denies having uttered

such threatening language. As a result of the Defendant's report, the Claimant was suspended for two weeks from his job. He was escorted from the premises. He was forced to attend a disciplinary hearing where he was eventually exonerated.

- [4] Despite this, his employers required him to remain on suspension while he attended counseling sessions for anger management. It was not until he successfully completed the counseling sessions that he was permitted to return to work some two months and three weeks after he had been suspended from duty.
- [5] As a consequence of the stress involved the Claimant lost weight and became physically ill. He incurred legal costs in consulting counsel as to his rights. The Defendant's conduct in making the false report against the Claimant was actuated by malice. She was upset that the Claimant had appeared to be making fun of her transfer from an office to work in a shipping container modified to serve as an office.
- [6] The words complained of by the Claimant impute a criminal act to the Claimant. The Defendant said that he had committed the crime of using threatening language and while no criminal prosecution ensued, the Claimant was interviewed by the police and warned that the use of threatening language was a serious criminal offense.
- [7] Counsel for the Claimant cited the case of Dorset Mitchell v Keith Gurley GDAHCV2005/0060 where Price Findley J awarded the Claimant \$5,000.00 for slander. Although each case depends on its own facts, when I consider the circumstances of this defamatory remark and the reach of the publication as well as the fact that the Defendant has failed to apologize and took no steps to defend at the trial I consider that an award of \$8,000.00 is apt.
- [8] My award would have been higher but for the fact that the Claimant was able to keep his employment after attending the counseling mandated by his employers. In addition to the above award for general damages I will also award the Claimant \$2,230.60 as special damages. The Defendant will pay prescribed costs on the total award in the sum of \$1,535.00

Justice Brian Cottle
High Court Judge