



IN THE SUPREME COURT OF TASMANIA

AT HOBART

No. 2093 of 2018

NATASHA LAKAEV

Plaintiff

BETWEEN: - and -

CARLI MCCONKEY

Defendant

**SECOND FURTHER AMENDED DEFENCE PURSUANT TO AN ORDER OF HIS
HONOUR THE ASSOCIATE JUDGE DATED 18 FEBRUARY 2022**

The defendant relies on the following facts in defence of the Amended Statement of Claim:

1. The defendant admits paragraph 1.
2. With respect to paragraph 2, the defendant admits she is a writer and author.
3. With respect to paragraph 3, the defendant admits to authoring and publishing a work entitled “The Cult Effect: A True Story of Mind Control in Australia 1996 – 2010” (the Book).
4. With respect to paragraph 4, the defendant admits the Book is available for purchase to the general public and remains available on several websites including: (a) www.angusrobertson.com.au; (b) www.amazon.com.au; (c) www.booktopia.com.au; (d) www.bookdepository.com; (e) www.foyles.co.uk; and (g) www.thriftbooks.com.
5. The defendant denies that the Book is available at the website www.kisslibray.com (typo) or www.kisslibrary.com in respect of paragraph 4 (f).
6. The defendant admits the Book contains in its main text, the following publications of and concerning the plaintiff: 5 (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m), however, the text is incorrect at:

- a. paragraph 5(a) line 1: “Group members would single out and bring up Issues with the “weak” or...”;
 - b. paragraph 5 (b):
 - i. line 1: “Once we had completed...”;
 - ii. line 6: “Natasha proceeded to ask one of her Support Team members to bring out...”;
 - iii. line 8: “whom they had bought from previously...”;
 - c. paragraph 5 (c) line 1: “No Carli! Natasha screamed...”;
 - d. paragraph 5 (e) line 4:” hospital one day with Natasha, bringing along paperwork that I had been...”;
 - e. paragraph 5 (i) line 1: “Soon after this incident, Jeremy ran away again...”;
 - f. Paragraph 5 (j) line 17: “him these lessons, not just us. Discipline him now, otherwise he’s going to be...”.
7. The defendant admits the Book also includes by way of annexures, the following of and concerning the plaintiff: 6 (a) (i – vii), and 6 (b) (i – iii).
 8. The defendant admits her website: <https://www.carlimcconkey.com> contains the following publications of and concerning the plaintiff: 7A (a), (b), (c), and (d).
 9. The defendant admits her webpage: <https://www.carlimcconkey.com/book-reviews> contains the following publications of and concerning the plaintiff: 7B (a), and (b).
 10. The defendant admits her webpage: <https://www.carlimcconkey.com/news> contains the following publications of and concerning the plaintiff: 7C (a) (i - ii), and (b) (i - ii).
 11. The defendant admits her Twitter account: https://twitter.com/carli_mcconkey?lang=en contains the following publication of and concerning the plaintiff: 7D (a).
 12. The defendant admits her Facebook account: <https://www.facebook.com/carlimcconkey> contains the following publications of and concerning the plaintiff: 7E (a), and (b).

13. The defendant agrees that the content of paragraphs 7 (a), (b), (c), (d), (e), (f), (g), (h), and (i) and 7F (a), (b), (c), (d), (e), (f), and (g), of the Amended Statement of Claim bears the natural and ordinary meanings of the imputations stated.
14. With respect to paragraph 8, the defendant denies that by reason of the publication of the Book containing Book Passages and the Article Passages, and by reason of the publications pleaded at paragraphs 7A, 7B, 7C, 7D and 7E of the Amended Statement of Claim, the plaintiff has been greatly injured in her personal and professional reputation and by reason of those publications persons are likely to be induced to shun, avoid, ridicule or despise the plaintiff, as the plaintiff's personal and professional reputation was such that she was already likely to be shunned, avoided, ridiculed or despised due to being adversely featured in past media articles, a TV program, blogs published on the internet, reporting amongst ex cult members and cult organisations, and has a 'bad' reputation with her extended family, in the Psychology field, universities, and past workplaces, including The Rock School, Philadelphia where she worked at her son's dance school (please refer to the matters set out in Annexure D, pages 133 – 135).

DEFENCES

Justification - Section 25 of the *Defamation Act 2005 (Tas)*

15. In relation to the matters set out in paragraphs 5 (a – m), 6 (a) (i – vii), 6 (b) (i – iii), 7A (a – d), 7B (a – b), 7C (a) (i – ii), 7C (b) (i – ii), 7D (a), and 7E (a - b), the defendant says for the purpose of s.25 of the *Defamation Act 2005 (Tas)*, the defendant is entitled to a defence of Justification, as the imputations outlined in paragraphs 7 (a – i) and 7F (a - g), are substantially true.

Particulars of the facts, matters, and circumstances relied upon in support of the defence
of Justification:

See Annexure A attached.

Qualified Privilege - Section 30 of the *Defamation Act 2005 (Tas)*

16. Further, if which is denied, the defendant published matters of and concerning and defamatory of the plaintiff, then she says that as a consequence of the foregoing, the

defendant is entitled to a defence of qualified privilege pursuant to s 30 of the *Defamation Act 2005* (Tas):

- a. the publications are of and concerning matters of public interest (“the subjects”);
- b. the publications’ content is substantially true;
- c. the defendant took care to publish material that was accurate;
- d. the defendant’s accounts are based primarily on her own first-hand experience and observations, and that of experts, authors, book reviewers, the Government, legislation, and governing bodies’ code of ethics;
- e. the publications were made for providing the information in the public interest on the subjects;
- f. further, as set out below, to the extent the publication was the expression of opinion, that opinion was honestly held;
- g. in the circumstances:
 - i. recipients of the publication had an interest in, or apparent interest in receiving information on the subjects;
 - ii. the defendant believed on reasonable grounds that the recipients had that interest;
 - iii. the conduct of the defendant, in publishing the publications, was reasonable.

Particulars of the facts, matters, and circumstances relied upon in support of the defence of Qualified Privilege:

See Annexure B attached.

Qualified Privilege at Common Law

17. Further, or alternatively, for the reasons aforesaid, the publication of any meaning found to be defamatory of the plaintiff (which is denied) in the matters in paragraphs 5 (a – m), 6 (a) (i – vii), 6 (b) (i – iii), 7A (a – d), 7B (a – b), 7C (a) (i – ii), 7C (b) (i – ii), 7D (a), and 7E (a - b), was made on an occasion of qualified privilege at common law in that it was made by the defendant, who had a duty or interest in publishing it, to the recipients, who had a corresponding interest or duty to receive it for reasons as outlined in Annexure B, paragraphs 1 (a – o), 2 (a – g) and 6 (a – k).

Honest Opinion - Section 31 of the *Defamation Act 2005* (Tas)

18. Further or in the alternative, the defendant says that insofar as, and to the extent it may be found that, the matters complained of were published of and concerning the plaintiff and were defamatory of her (which is denied), the matters complained of were published on occasions of fair comment and/or are the subject of a defence of honest opinion pursuant to s 31 of the *Defamation Act* (Tas) in that:

- h. the publications were an expression of the defendant's opinion, an expert's opinion, an author's opinion, a book reviewer's opinion, the Government's opinion, or a governing body's opinion, rather than a statement of fact;
- i. the opinions were honestly held by the defendant, an expert, an author, a book reviewer, the Government, or a governing body;
- j. the opinions were expressed on a matter of public interest for the reasons set out in 15 (e) and Annexure B; and
- k. the comments were fair and based on proper material.

Defence of Contextual Truth

19. In further and alternative answer to the amended statement of claim, the defendant says that, to the extent that it may be found that the matters in paragraphs 5 (a – m), 6 (a) (i – vii), 6 (b) (i – iii), 7A (a – d), 7B (a – b), 7C (a) (i – ii), 7C (b) (i – ii), 7D (a), and 7E (a - b), and the plaintiff's imputations outlined in paragraphs 7 (a – i) and 7F (a - g), were defamatory of the plaintiff (each of which is denied), then:

- a. the matters carried, in addition to the defamatory imputations of which the plaintiff complains, one or more other imputations ("contextual imputations") are substantially true:
 - i. the plaintiff is an unreliable witness in legal proceedings;
 - ii. the plaintiff is dishonest;
 - iii. the plaintiff was the leader of a doomsday cult;
 - iv. the plaintiff is likely to be a psychopath;
- b. therefore, by reason of the substantial truth of the Contextual Imputations, or so many of them as are proven true, publication of so many of the Plaintiff's Imputations as are found to have been carried and not to be substantially true, did not further harm the reputation of the Plaintiff.

Particulars of the facts, matters, and circumstances relied upon in support of the defence
of **Contextual Truth**:

See Annexure C attached.

20. In respect to paragraph 9, the defendant will, in mitigation of damages, costs, and any
injunctions as referred to at 9 (c) and (d) of the Amended Statement of Claim, rely upon:

- a. the substantial truth of the publications;
- b. the truth of such imputations and contextual imputations as are proved true;
- c. the fact the plaintiff had, at the time of the publications, the 'bad' reputation as
a person who was physically, psychologically, financially, and spiritually
abusive and who had led a cult.

Particulars of the facts, matters, and circumstances relied upon in support of the
mitigation of damages:

See Annexure D attached.

Signed:



Description:

Defendant

Dated:

4 MARCH 2022

NOTICE AS TO REPLY

You have twenty-one days within which to file and serve a reply to this defence. If you do not
do so, you may be prevented from adducing evidence in relation to allegations of fact made in
this defence.