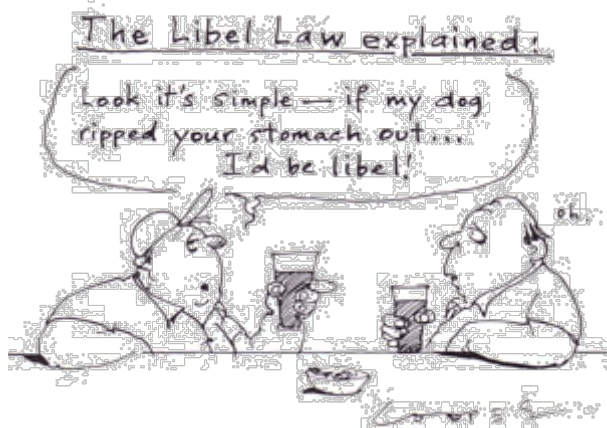


Petty sessions

Sunday, March 20, 2016

Justinian in Backyarder, Bar Talk, Defamatorium

Barrister's defamation case becomes a car crash ... Range Rover scraped by barrister's garage door ... Email to neighbours complaining about barrister's behaviour ... Jury goes for the truth defence



A District Court jury has rejected Sydney barrister Geoffrey Petty's defamation case against a neighbour, Ms Yocy Zhao. [Petty, of Sir James Martin Chambers](#), sued the defendant over an email she sent to other residents of Shore Terraces, described as an exclusive purpose-built *cul de sac* on Glebe's north-eastern shore.

[According to real estate agent blurb](#), the terraces offer "the ultimate in privacy and alfresco living ... [with] soaring ceilings with shadowline cornices".

In defamation terms this case was a backyarder, with a pretty sumptuous waterside backyard.

Judge Judith Gibson set out the matter complained of, and the plaintiff's objections to the pleaded defence, in [an interlocutory judgment in October 2014](#).

The matter complained of is an email Ms Zhao sent other residents of the terraces:

"Dear ... community members:

My name is Yocy Zhao from #27 the shore terraces, I recently had some extremely unpleasant experiences with my neighbor Mr. Geoffrey Petty from #25 who constantly parks his BMW X3 on the common driveway. This selfish and careless and unlawful action leaves me with a very narrow path to drive in/out causing me many troubles.

About 2 months ago, my Range Rover got hit and scratched by Mr. Petty's garage door when he was trying to open his door. It happened when we were driving pass his X3 to try to park into our garage.

Mr. Petty was aware the consequences of his action and agreed to compensate our damage.

The next day, my husband took the car to Range Rover's officially appointed workshop, they quoted \$1,200 (attached pic of the quotation), my husband tried to save him some money by taking the car to another workshop which we had our Porsche fixed at there before, we bargained and got a discount price of \$880 under the condition of to wait 3 weeks as they were fully booked.

We presented the both quotations to Mr. Petty and of course he chose the cheaper one. We waited 3 weeks to send our car to fix, and during the repairing period of one week, the workshop offered us a loan car for \$250/day which we are surely entitled, but we refused and borrowed a car from a friend. All because we were trying to HELP and SAVE his money as much as we could. I sincerely did the best a neighbor could have done.

We got our car back on the 8/April, we came to visit Mr. Petty on the 9th after I saw him drove back home in his X3, but he didn't open the door, so I swing by the next day and got told by his son that Mr and Mrs Petty went on holiday. I would be much

appreciated if Mr. Geoffrey Petty opened his door and explained to me in person than just hiding in his home escape from this matter.

Then we left a message to his son asking Mr Petty to come to see us when they come back.

We waited patiently until they got back home before the long weekend, we didn't bother him and were expecting him to visit us proactively on the next few days but he didn't show up, so my husband went to see him on the 28/April. He talked with bad attitude said he didn't have the cheque with him, and would come to see us the next day.

He didn't show up on the next day as he said, so I went to see him a day after, he was extremely rude and disrespectful to me, I asked him when to pay me, he wouldn't gave me a specific time then he shut his door before I finish talking. I had also told them to STOP parking his car on the driveway.

Until now, he is still parking his X3 there and not paying me nor apologize to me for his damage.

I truly don't understand if a decent person specially a barrister would knowingly violate the law, treat me rude and disrespectful especially after all the kind things we have done for him. I'm very furious and disappointed by having such a neighbour living next to me!!!

I have the authorization from #23 to represent for them and myself who are effected the most by Mr. Petty's unacceptable action, I request the strata and building manager to stop him parking his car on the common driveway immediately, to stop causing damages and problems to me and to other residents.

Kind regards.

Yocy Zhao."

Petty pleaded that the email carried imputations to the effect that he cannot be relied on to pay his debts; that he evaded paying an acknowledged debt owed to the defendant's husband; and that he knowingly violated the law.

The defendant pleaded truth and contextual truth:

- i. That the plaintiff is a selfish man;
- ii. That the plaintiff is a careless man;
- iii. That the plaintiff is cheap;
- iv. That the plaintiff is extremely rude;
- v. That the plaintiff is extremely disrespectful;
- vi. That the plaintiff is ungrateful;
- vii. That the plaintiff is infuriating;
- viii. That the plaintiff is extremely unpleasant;
- ix. By way of false innuendo, that the plaintiff is a bad neighbour.

In [a later judgment](#) (Feb. 25, 2015), Gibson allowed Petty to "plead back" the contextual imputations.

Judge Gibson said that many of the plaintiff's objections to the amended defence, "evaporated when counsel [Roger Rasmussen] stopped looking at the correspondence and instead considered the issues".

She also mentioned that there was a "strident tone adopted in the plaintiff's solicitors correspondence [Burston Cole & Associates] and indeed in the orders sought in this application".

"Solicitors should correspond with each other in a courteous fashion, whether or not there is provocation. Some of these issues could have been resolved by a simple telephone conversation between counsel."

The judge declined to strike out the particulars of defence, but ordered the defendant to provide further particulars of conversations with the building manager.

There were only 10 or 11 other residents in the terraces who might have received the email.

The defences were justification, qualified privilege and unlikelihood of harm. At last week's trial before Peter Whitford the jury of four found three imputations not to be conveyed and the remainder were conveyed and defamatory, but true.

The jury questions and answers are [here](#) (link restored)

There was no need for the jury to return findings on qualified privilege or triviality.

Matthew Richardson appeared for Petty and for Ms Zhao, **Alexander Nelson of the Queensland bar**.

Judgment was entered for the defendant along with costs on the standard basis, including reserved costs.