

**IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

**I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKAURAU ROHE**

**CIV 2015-409-575
[2021] NZHC 2906**

BETWEEN COLIN GRAEME CRAIG
Plaintiff

AND JOHN STRINGER
Defendant

Hearing: 8 July 2021

Appearances: Plaintiff in person
Defendant in person (with J Simpson as McKenzie friend)
W Akel, counsel assisting the Court

Judgment: 29 October 2021

Reissued: 24 November 2021

JUDGMENT OF CAMPBELL J

*This judgment was delivered by me on 29 October 2021 and re-delivered by me on
24 November at 4:30 pm pursuant to Rule 11.5
of the High Court Rules*

Registrar/Deputy Registrar

Introduction

[1] Mr Craig sues Mr Stringer for defamation. Mr Stringer applies to strike out parts of Mr Craig's fourth amended statement of claim, primarily on the ground those parts have already been determined by an earlier judgment of this Court.

Factual background¹

[2] Mr Craig was the leader of the Conservative Party from 2011 until 2015. Two days before the general election in September 2014, Mr Craig's press secretary, Rachel MacGregor, suddenly resigned. Ms MacGregor privately alleged that Mr Craig had sexually harassed her during the three-year period she had been his press secretary. She also claimed she had not been fully paid. After Mr Craig denied these allegations, Ms MacGregor filed a claim with the New Zealand Human Rights Commission.

[3] In November 2014, Ms MacGregor confided in Jordan Williams that Mr Craig had sexually harassed her. Mr Williams was a lawyer, the co-founder and executive director of the New Zealand Taxpayers' Union and a supporter of the Conservative Party. Ms MacGregor disclosed to him in confidence some of the letters and cards Mr Craig had sent to her. Mr Williams assured Ms MacGregor that he would keep this information confidential as if he were her lawyer. However, in breach of that undertaking, Mr Williams made various statements to a number of leading figures associated with the Conservative Party, including that Mr Craig had sexually harassed Ms MacGregor and had sent sexually explicit text messages to her.

[4] Ms MacGregor's sexual harassment claim was not determined by the Human Rights Commission because the parties reached a confidential settlement of their disputes at a mediation in May 2015. This settlement was intended by Mr Craig and Ms MacGregor to be the end of the matter.

[5] However, Mr Williams decided to mount a campaign to remove Mr Craig as leader of the Conservative Party. In further breach of his confidentiality undertaking, Mr Williams told various leading figures associated with the Party, including Mr

¹ This background is taken from a judgment of the Court of Appeal in this proceeding, *Craig v Stringer* [2020] NZCA 260.

Stringer, a board member, that Mr Craig had sexually harassed Ms MacGregor and he showed them some of Mr Craig's letters to her. He also said Mr Craig had sent sexually explicit text messages to Ms MacGregor and falsely claimed he had copies of these. Mr Williams also claimed Mr Craig had made a large payment to Ms MacGregor to settle her claim.

[6] Following these disclosures, on 19 June 2015, Mr Craig agreed to stand down as Party leader to enable the board to undertake an investigation. That same day, Mr Williams sent a draft blog post to Cameron Slater for publication on his "Whale Oil" website. This draft contained allegations of sexual harassment by Mr Craig, including inappropriate touching and stated a pay-out had been made to a former staff member. Without Ms MacGregor's knowledge or consent, Mr Williams, using the pseudonym "Concerned Conservative", sent Mr Slater copies of some of Mr Craig's communications with Ms MacGregor. This blog was immediately published on the Whale Oil website.

[7] Mr Slater subsequently published a number of further defamatory statements about Mr Craig, some of which were instigated or drafted by Mr Williams. Mr Slater published these statements on the Whale Oil website and various other media platforms. The statements included that Mr Craig had sexually harassed Ms MacGregor, sent her numerous "dirty" sexually explicit text messages, "begged" her for an affair, put her under financial pressure to sleep with him, paid her a large sum of money running into six figures to settle her claims and seriously sexually harassed a woman other than Ms MacGregor. Mr Stringer made similar allegations as well as allegations of financial misconduct and electoral fraud. These were published on his own blogsite *CoNZervative* and through various media. Mr Stringer was also one of Mr Slater's sources of information for his Whale Oil website.

[8] On 29 July 2015, Mr Craig held a press conference and announced he intended to "fight back" against what he described as "the Dirty Politics Brigade" who had been "running a defamatory strategy" against him. He provided media representatives with copies of a 12-page booklet entitled "*Dirty Politics and Hidden Agendas*" (the booklet). He said he was preparing separate claims in defamation against Mr Williams, Mr Stringer and Mr Slater, all members of the so-called "Dirty Politics

Brigade”. He said they had mounted a “campaign of defamatory lies” against him, including that he had sexually harassed one or more persons, made pay-outs to silence supposed victims, and sent sexually explicit text messages. Mr Craig subsequently arranged for copies of this booklet to be delivered to some 1.6 million homes throughout New Zealand.

[9] Six separate defamation proceedings arising out of these various publications followed. Four proceedings were brought by Mr Craig, including the current proceeding against Mr Stringer. One proceeding was brought by Mr Stringer against Mr Craig, and one by Mr Williams against Mr Craig.

Some procedural history

A settlement and then a recalled judgment

[10] This proceeding was settled (or so it was thought at the time) at a judicial settlement conference held on 30 January 2017. The settlement was reflected in a judgment delivered by Associate Judge Osborne on 31 January 2017.² The Judge noted the parties had reached a full and final settlement. The operative terms of the judgment were in consent orders:

- [2] I order by consent:
- (a) There is judgment for [Mr Craig] against [Mr Stringer] in relation to the following publications alleging:
 - (i) that [Mr Craig] sexually harassed Rachel McGregor [sic];
 - (ii) that [Mr Craig] sexually harassed another woman or other women;
 - (iii) that [Mr Craig] has been fraudulent in his business dealings; and
 - (iv) that [Mr Craig] committed electoral fraud.
 - (b) [Mr Craig’s] claims are otherwise dismissed.

[11] Mr Stringer subsequently found that Mr Craig had failed to provide discovery of a relevant document in a list of documents Mr Craig verified in advance of the

² *Craig v Stringer* [2017] NZHC 50.

judicial settlement conference. The document was a 12-page letter from Mr Craig to Ms MacGregor. Having become aware of this letter, Mr Stringer applied to recall the consent judgment.

[12] The recall application was determined by Associate Judge Osborne in a judgment dated 19 December 2017. The Judge said the letter was, on any view of it, a most unusual document to have been written by an employer to his employee.³ He found it contained material from which conclusions could be drawn as to the nature of the relationship between Mr Craig and Ms MacGregor and on which Mr Craig might be cross-examined.⁴ The Judge was satisfied that Mr Stringer ought not to be held to account through the consent judgment to the extent the judgment contained concessions on the part of Mr Stringer “on matters of which he was not fully informed by reason of a failure of discovery”.⁵

[13] The Judge ruled that there would no longer be judgment for Mr Craig “in relation to the publication alleging that Mr Craig sexually harassed Ms MacGregor”. This also meant the terms of the judgment dismissing Mr Craig’s claims needed to be altered so that there was “no longer a conclusion in relation to that particular allegation”. The Judge said it would be for Mr Craig “to decide whether to discontinue that single, remaining aspect of his claims”.⁶

[14] The Judge therefore recalled the judgment. He amended the operative terms of the judgment to read:

I order:

- (a) There is judgment for [Mr Craig] against [Mr Stringer] in relation to the following publications alleging:
 - (i) [Mr Craig] sexually harassed one or more women other than Rachel MacGregor;
 - (ii) that [Mr Craig] has been fraudulent in his business dealings; and
 - (iii) that [Mr Craig] committed electoral fraud.

³ At [28].

⁴ At [47].

⁵ At [49].

⁶ At [50].

- (b) [Mr Craig’s] claims, save his claims in relation to publications alleging that [Mr Craig] sexually harassed Rachel MacGregor, are otherwise dismissed.

[15] Associate Judge Osborne issued a minute at the same time as delivering his recall judgment. In the minute the Judge said the recall judgment “leaves extant Mr Craig’s causes of action relating to statements as to sexual harassment of Ms MacGregor”. In a further case management minute dated 22 January 2018, the Judge noted that by reason of the recall judgment “the single group of alleged publications now remaining alive in the plaintiff’s defamation claim are those relating to alleged sexual harassment of Rachel MacGregor”.

A stay of proceedings and an appeal

[16] On 17 June 2019, Palmer J delivered a judgment in this proceeding and in the defamation proceeding brought by Mr Stringer against Mr Craig.⁷ Palmer J said that in this proceeding Mr Craig sued Mr Stringer “for saying Mr Craig sexually harassed Ms Rachel MacGregor” and in response Mr Stringer sued Mr Craig “for saying Mr Stringer lied about the sexual harassment”.⁸ He noted there were four other proceedings about the same subject. In his view it would be oppressive to either Ms MacGregor or Mr Stringer to allow Mr Craig’s proceeding to continue.⁹ He therefore stayed the current proceeding. He also stayed the aspect of Mr Stringer’s proceeding against Mr Craig about the same issue.¹⁰

[17] Mr Stringer did not appeal Palmer J’s stay judgment. His proceeding went to trial in August and September 2019. Palmer J dismissed all of Mr Stringer’s claims in a judgment delivered 3 April 2020.

[18] Mr Craig did appeal Palmer J’s stay judgment. His appeal was successful.¹¹

⁷ *Craig v Stringer* [2019] NZHC 1363.

⁸ At [1].

⁹ At [2].

¹⁰ At [2] and [67](b) and (c).

¹¹ *Craig v Stringer* [2020] NZCA 260.

Application to strike out

[19] Mr Craig's proceeding has survived a settlement and a stay. It now faces another test, Mr Stringer's application to strike out parts of Mr Craig's claim.

[20] Mr Craig's current statement of claim has seventeen causes of action. It runs to 49 pages. Annexed to it is a 64-page schedule of publications.

[21] Mr Stringer says parts of Mr Craig's pleading are not confined to publications by Mr Stringer alleging that Mr Craig sexually harassed Ms MacGregor. He says to that extent they go further than is permissible under the recall judgment. Mr Stringer also says that some of the publications sued on are not capable of bearing the meanings pleaded by Mr Craig. Finally, Mr Stringer says other parts of the pleadings are irrelevant, for instance because they plead statements made by third parties.

[22] Mr Craig agrees to remove a limited number of passages that Mr Stringer has challenged. Mr Craig otherwise opposes the application. He says Mr Stringer's application assumes the effect of the recall judgment was that Mr Craig could continue his claim only for publications by Mr Stringer alleging Mr Craig had sexually harassed Ms MacGregor. Mr Craig says that is an unduly narrow interpretation of the recall judgment. He says he can also plead other defamatory meanings, so long as those meanings are based on or related to the allegation Mr Craig sexually harassed Ms MacGregor. For example, Mr Craig says the defamatory meaning that Mr Craig was a liar was related to the issue of whether Mr Craig had sexually harassed Ms MacGregor.

[23] Mr Craig also says some of Mr Stringer's challenges are to paragraphs that plead facts and circumstances that are relevant context for determining the meaning of impugned publications. Other challenges are to paragraphs that Mr Craig says are relevant to his claim for aggravated or punitive damages.

[24] Mr Akel, counsel assisting the Court, provided helpful written and oral submissions on the issues raised by Mr Stringer's application. I am grateful to him for his assistance.

Issues

[25] The first issue on this application is the effect of the recall judgment. Does it, as Mr Stringer contends, prevent Mr Craig from suing for defamatory meanings other than the meaning that Mr Craig sexually harassed Ms MacGregor? Or does it, as Mr Craig contends, also allow the pleading of other defamatory meanings, so long as those meanings are based on or related to the allegation that Mr Craig sexually harassed Ms MacGregor? This is a matter of the interpretation of the recall judgment.

[26] The second issue is whether some of the challenged pleadings are defensible because they provide relevant context for determining the meaning of impugned publications.

[27] Once I have resolved those issues, I will address Mr Stringer's particular objections. As I do so I will consider whether any of the pleaded publications are incapable of bearing the meanings pleaded by Mr Craig.

What is the effect of the recall judgment?

[28] The focus is on the meaning of the order made at paragraph 66[2](b) of the recall judgment:

[Mr Craig's] claims, save his claims in relation to publications alleging that [Mr Craig] sexually harassed Rachel MacGregor, are otherwise dismissed.

[29] The effect of the recall judgment is that the only claims that Mr Craig may pursue in this proceeding are "his claims in relation to publications alleging that [Mr Craig] sexually harassed Rachel MacGregor". The parties disagree on the meaning of the quoted words.

[30] Those words must be interpreted in context. Context is provided not only by the recall judgment as a whole, but also by the orders made in the consent judgment (which orders the recall judgment amended) and the parties' settlement (relevant terms of which are set out in the recall judgment).

[31] For convenience, I repeat the orders in the consent judgment:

[2] I order by consent:

- (a) There is judgment for [Mr Craig] against [Mr Stringer] in relation to the following publications alleging:
 - (i) that [Mr Craig] sexually harassed Rachel McGregor [sic];
 - (ii) that [Mr Craig] sexually harassed another woman or other women;
 - (iii) that [Mr Craig] has been fraudulent in his business dealings; and
 - (iv) that [Mr Craig] committed electoral fraud.
- (b) [Mr Craig's] claims are otherwise dismissed.

[32] Those consent orders were themselves made in the context of Mr Craig's then pleading, a second amended statement of claim dated 30 August 2016. In that pleading Mr Craig claimed Mr Stringer had defamed him in 40 different publications. There were 40 causes of action, one for each publication. For all but two publications, Mr Craig pleaded that the publication conveyed multiple meanings. Those meanings were what each publication was (according to Mr Craig's pleading) alleging about Mr Craig.

[33] The consent orders did not identify with any particularity the causes of action or publications on which judgment was being entered in Mr Craig's favour, other than saying that judgment was entered "in relation to ... publications alleging" certain things. There was no need for particularity, as all of Mr Craig's claims were being determined, either by judgment or dismissal.

[34] Nonetheless, the consent orders must be interpreted in the context of a statement of claim that pleaded multiple meanings for 38 of 40 publications. Of those many pleaded meanings, only four were referred to in the consent order. In that context, neither the Judge nor the parties could have intended that, for any publication that alleged one of the pleaded meanings in the consent order, judgment was being entered for Mr Craig for *every* pleaded meaning alleged in that publication. For example, in his second cause of action Mr Craig pleaded that the second publication conveyed five meanings, including:

- (a) Mr Craig was suspended from the Conservative Party;
- (b) Mr Craig sexually harassed Ms MacGregor; and
- (c) Mr Craig lied about sexually harassing Ms MacGregor.

[35] The effect of the consent order, in my view, was that judgment was being entered for Mr Craig in relation to this publication only to the extent it alleged (meant) that Mr Craig sexually harassed Ms MacGregor or (as I will explain in a moment) that he lied about sexually harassing Ms MacGregor. It followed that Mr Craig's claim on this publication, to the extent that it alleged that Mr Craig was suspended from the Conservative Party, was dismissed.

[36] In summary, the orders meant that:

- (a) Judgment was being entered for Mr Craig:
 - (i) In relation to publications by Mr Stringer that (according to Mr Craig's pleading) meant that Mr Craig had sexually harassed Ms McGregor, had sexually harassed another woman or other women, had been fraudulent in his business dealings, or had committed electoral fraud; but
 - (ii) Only to the extent of those pleaded meanings; and
- (b) Mr Craig's claims were otherwise dismissed.

[37] I place one gloss on this. I am satisfied that in the consent orders the pleaded meanings were being used as a shorthand. In particular, the meaning "Mr Craig sexually harassed Ms MacGregor" included not only a pleaded meaning using those precise words but also a pleaded meaning to the same effect. I come back to this below.

[38] Returning to the recall application, Associate Judge Osborne set out the terms of the parties' settlement agreement.¹² Relevantly, the terms included:

Colin & John agree that by consent there will be orders that Mr Stringer defamed Mr Craig in various publications by alleging:

- a Mr Craig sexually harassed Rachel MacGregor;
- b Mr Craig sexually harassed another or other women;
- c Mr Craig has been fraudulent in his business dealings;
- d Mr Craig committed electoral fraud.

[39] These terms say that Mr Stringer defamed Mr Craig *by alleging* four different matters about Mr Craig. This reinforces that the consent order was intended to give judgment to Mr Craig only in respect of particular allegations (that is, meanings) in various publications.

[40] Associate Judge Osborne allowed Mr Stringer's recall application because the undiscovered letter contained material from which conclusions could be drawn as to the nature of the relationship between Mr Craig and Ms MacGregor.¹³ This indicates that the Judge's focus was on an alleged meaning (rather than on a publication as a whole).

[41] That focus is reinforced by the Judge saying he was satisfied Mr Stringer ought not to be held to account through the consent judgment to the extent the judgment contained "concessions on the part of Mr Stringer on matters of which he was not fully informed by reason of a failure of discovery".¹⁴ The "concession" from which the Judge released Mr Stringer was that there be judgment in relation to publications alleging that Mr Craig sexually harassed Ms MacGregor.¹⁵ So the undiscovered letter meant Mr Stringer was not fully informed on whether Mr Craig sexually harassed Ms MacGregor.

¹² At [9].

¹³ At [47].

¹⁴ At [49].

¹⁵ At [50].

[42] The Judge said the terms of the judgment dismissing Mr Craig’s claims needed to be altered so that there was “no longer a conclusion in relation to that particular allegation”¹⁶ – that is, the allegation that Mr Craig sexually harassed Ms MacGregor. Again, the focus was on an alleged (and specific) meaning. The specificity of the meaning is reflected in the Judge’s comment that it would be for Mr Craig to decide whether to discontinue the “single” remaining aspect of his claims.¹⁷

[43] All this provides the context for interpreting the words in the amended consent orders that saved some of Mr Craig’s claims from dismissal. The Judge saved Mr Craig’s claims “in relation to publications alleging that [Mr Craig] sexually harassed Rachel MacGregor”. I am satisfied this means Mr Craig can only pursue claims:

- (a) In relation to publications by Mr Stringer that (according to Mr Craig’s pleading) meant that Mr Craig sexually harassed Ms McGregor; and
- (b) Only to the extent of that pleaded meaning.

[44] This is subject to the same gloss noted earlier: the pleaded meaning does not have to be precisely “Mr Craig sexually harassed Ms MacGregor”. It can include a pleaded meaning that is to the same effect. For example, some of the pleaded meanings are that “Mr Craig molested Ms MacGregor”, that “Mr Craig harassed Ms MacGregor by sending her love poems, cards, and SXT messages that were unwanted”, and that Mr Craig lied when denying he had sexually harassed Ms MacGregor. I accept these are all to the same effect.

[45] Subject to that gloss, Mr Craig may not pursue Mr Stringer in respect of alleged meanings that are merely “based on” or “related to” the allegation Mr Craig sexually harassed Ms MacGregor. Associate Judge Osborne was specific about the scope of the claims that Mr Craig could pursue. The Judge was also careful in explaining why judgment was no longer going to be entered for Mr Craig on those claims. The Judge’s concern was that the undisclosed letter did not fully inform Mr Stringer about the alleged sexual harassment of Ms MacGregor. For that reason, it was not right to hold

¹⁶ At [50].

¹⁷ At [50].

Mr Stringer to judgment on that claim; he should have the opportunity to defend the claim. That meant Mr Craig had to be free to pursue the claim. The Judge said nothing about other related matters, such as settlements between Mr Craig and Ms MacGregor.

[46] Mr Craig pleads that many of the publications convey the meaning that he paid a large sum of money to Ms MacGregor to settle a sexual harassment claim. That is related to the meaning “Mr Craig sexually harassed Ms MacGregor”. But it is not to the same effect. To defend that claim Mr Stringer might have to prove the fact or amount of any settlement sum paid by Mr Craig to Ms MacGregor. The undisclosed letter sheds no light on such matters. There is nothing in the recall judgment to suggest the Judge thought such related claims should or could be resurrected. Mr Craig may not pursue related meanings such as these.

[47] In coming to this conclusion, I have considered the minutes of Associate Judge Osborne dated 19 December 2017 and 22 January 2018. The former minute, being contemporaneous with the recall judgment, could provide relevant interpretative context. But all the minute says is that the recall judgment “leaves extant Mr Craig’s causes of action relating to statements as to sexual harassment of Ms MacGregor”. This summary is understandably brief. It does not add any useful context. The latter minute does not assist in the interpretation of an earlier judgment.

[48] I record one other related submission made by Mr Stringer. He said an effect of Palmer J’s stay judgment was that he had been unable to pursue, at the trial of his defamation proceeding against Mr Craig, his causes of action relating to Mr Craig stating he did not sexually harass Ms MacGregor. Mr Stringer said it would be unfair if Mr Craig was not likewise subject to limitations in the meanings he could pursue in this proceeding. It is not necessary for me to engage with this submission, given that I have found that Associate Judge Osborne’s judgment does limit the meanings that Mr Craig can pursue.

Do some pleadings provide relevant context for determining the meaning of impugned publications?

[49] Mr Stringer objects to a number of paragraphs in the claim that plead statements made by third parties. For example, in the first cause of action Mr Craig

pleads statements made by Mr Slater. Mr Stringer says that because these statements were made by third parties, they are irrelevant to Mr Craig's claim against him.

[50] Mr Craig's response to this objection is that the statements by Mr Slater (and other pleaded third-party statements) formed part of the context in which Mr Stringer's statements were published. They are therefore, Mr Craig says, context for determining the meaning of Mr Stringer's publications. Indeed, that is essentially how Mr Craig pleads the third-party statements in his statement of claim.

[51] I accept Mr Craig's point. Mr Stringer's allegedly defamatory words will take their meaning from their context. There is nothing objectionable to pleading aspects of that context. Whether the third-party statements are in fact relevant context (and how that context informs meaning) is a matter for trial.

Mr Stringer's particular objections

[52] I now turn to Mr Stringer's particular objections. They are extensive.

First cause of action

[53] This cause of action is based on statements allegedly made by Mr Stringer in an interview on TV3's *The Nation* on 20 June 2015.

[54] Mr Stringer objects to paragraphs 9 to 12 on the basis they plead statements by third parties. I find those statements plead potentially relevant context to the statements allegedly made by Mr Stringer on *The Nation*. I reject the challenge.

[55] In paragraph 13, Mr Craig pleads ten passages that are allegedly from the interview. In paragraph 14, Mr Craig pleads four meanings from various of those passages. Mr Stringer challenges all but passages 9 and 10 of paragraph 13 and challenges the meanings pleaded at paragraphs 14.1 ("Mr Craig is guilty of abhorrent behaviour toward Ms MacGregor") and 14.4 ("There is documentary evidence that Mr Craig paid a "six figure sum" to Rachel MacGregor"). I find:

- (a) The meanings pleaded in paragraphs 14.1 and 14.4 are, for the reasons set out earlier at [45] and [46], outside the scope permitted by the recall judgment. In particular, “abhorrent behaviour” is much wider than sexual harassment. Those meanings are struck out.
- (b) Passages 4 and 8 are struck out (as they are pleaded as supporting only the meaning in paragraph 14.4).
- (c) Mr Craig accepts that passages 2 and 3 can be removed. They are struck out.

[56] Mr Stringer challenges all of paragraphs 19 to 24. In paragraph 19, Mr Craig pleads that the statements on *The Nation* were published with flagrant disregard for Mr Craig’s rights and warrant an award of aggravated and punitive damages. In paragraphs 20 to 24, Mr Craig then pleads the facts that he says warrant such an award. Mr Stringer challenges these paragraphs on the ground they are irrelevant. Subject to one exception, I do not accept Mr Stringer’s challenge. The matters pleaded by Mr Craig are capable of supporting a claim for aggravated or punitive damages.

[57] The exception is paragraph 22, in which Mr Craig pleads that subsequent court cases have established Mr Stringer was wrong on several points. Unless those other court cases estop Mr Stringer in some relevant respect (which Mr Craig does not plead), that pleading is irrelevant. I strike out paragraph 22.

Second cause of action

[58] The second cause of action is based on statements allegedly made by Mr Stringer in an interview on Canterbury Television on 6 July 2015.

[59] Mr Stringer objects to paragraph 26 on the ground it pleads statements by third parties. I find those statements plead potentially relevant context to Mr Stringer’s alleged statements on Canterbury Television. I reject the challenge.

[60] In paragraph 27, Mr Craig pleads four passages from the Canterbury Television interview. Mr Stringer challenges passages 1 and 2. The apparent ground of challenge

is that the passages are incapable of bearing the meanings pleaded by Mr Craig in paragraph 28 (which are that Mr Craig had sexually harassed Ms MacGregor or had lied about it).

[61] In passage 1, Mr Stringer allegedly said that Mr Craig had been untruthful. Seen in the context of the earlier statements by third parties and by Mr Stringer in *The Nation* interview (both pleaded in paragraph 26), passage 1 is capable of bearing the meaning that Mr Craig had sexually harassed Ms MacGregor or had lied about it. I reject Mr Stringer's challenge.

[62] Mr Craig accepts passage 2 can be removed. I strike it out.

Third cause of action

[63] The third cause of action is based on statements allegedly made by Mr Stringer on Radio New Zealand's *Morning Report* on 23 June 2015. Mr Stringer objects to three of the pleaded passages in paragraph 37 and to one of the pleaded meanings in paragraph 38.

[64] The pleaded meaning with which Mr Stringer takes issue is in paragraph 38.1: "Mr Craig has constantly lied about how much he paid Ms MacGregor". For the reasons given earlier, this is outside the scope permitted by the recall judgment. I strike it out.

[65] I see no basis for striking out the three passages in paragraph 37. In the context in which they were made, they are capable of bearing the meanings that remain in paragraph 38.

Fourth cause of action

[66] The fourth cause of action is based on an email of 19 June 2015 from Mr Stringer to members of the Conservative Party board. Mr Craig relies on five passages in the email and pleads three defamatory meanings from them. Mr Stringer objects to four of the pleaded passages in paragraph 47 and to one of the pleaded meanings in paragraph 48.

[67] The pleaded meaning to which Mr Stringer objects is in paragraph 48.2: that Mr Craig, as a reflection of the seriousness of his actions, settled Ms MacGregor's sexual harassment claim with a six-figure sum. For the reasons I have given earlier, it is beyond the scope permitted by the recall judgment, and I strike it out.¹⁸

[68] I do not strike out any of the passages to which Mr Stringer objects. It is true the passages do not expressly reference Ms MacGregor. But, given that the email was sent to board members, the passages are in context capable of bearing their pleaded meanings.

Fifth cause of action

[69] The fifth cause of action is based on statements allegedly made by Mr Stringer in an interview with *Stuff* on 27 June 2015. Mr Stringer does not object to any of the pleaded meanings in paragraph 59. He objects to two of the pleaded passages in paragraph 58. His objection is apparently that the passages are not capable of bearing the pleaded meanings. I do not accept that. The passages may be read in the context of the other publications that had recently predated the *Stuff* interview. In that context they are capable of bearing the pleaded meanings.

Sixth cause of action

[70] The sixth cause of action is based on statements allegedly made by Mr Stringer on 25 June 2015 in a blog post. Mr Craig alleges that in the blog post Mr Stringer republished *The Nation* interview by linking to a video and transcript of that interview.

[71] Mr Stringer objects to three of the pleaded passages in paragraph 67 and to one of the pleaded meanings in paragraph 68. The pleaded meaning to which he objects, in paragraph 68.1, is to the same effect as the pleaded meaning in paragraph 48.2, which I have addressed above at [67]. For the same reason, I strike out paragraph 68.1.

¹⁸ There are other pleaded meanings in the statement of claim that are similar to this, but which Mr Stringer did not challenge. I do not deal with them.

[72] The three passages to which Mr Stringer objects are all plainly capable of bearing the remaining pleaded meanings. I reject this challenge.

Eighth cause of action

[73] The eighth cause of action is based on statements allegedly made by Mr Stringer in another blog post, this time on 1 July 2015. Mr Stringer objects to pleaded passages 1 to 4 and 6 in paragraph 88 and to one of the pleaded meanings in paragraph 90.

[74] The pleaded meaning to which Mr Stringer objects is that there are reasonable grounds to suspect Mr Craig of facing a second sexual harassment case and of sexually harassing another woman, in addition to Ms MacGregor. The recall judgment gave judgment for Mr Craig in relation to publications alleging that Mr Craig sexually harassed one or more women other than Ms MacGregor. Mr Craig nonetheless defends this pleaded meaning on the basis that it clearly implies there has been a first victim of sexual harassment, namely Ms MacGregor. I agree that is the clear implication. But the same can be said of the pleaded meaning on which judgment has already been entered. Mr Craig cannot continue to litigate this claim. I strike out paragraph 90.1.

[75] As to the passages in paragraph 88, Mr Craig accepts passages 1, 3 and 4 should go. Passage 2 must fall with paragraph 90.1 being struck out. Passage 6 is capable of bearing the pleaded meaning that remains in paragraph 90. I therefore strike out passages 1 to 4 of paragraph 88.

Ninth cause of action

[76] The ninth cause of action is based on another blog post by Mr Stringer on 3 July 2015. Mr Stringer's only objection is to one of the pleaded passages in paragraph 98. This passage is capable (when read in context) of bearing the meaning pleaded in paragraph 99. I reject the challenge.

Tenth cause of action

[77] The tenth cause of action is based on a blog post by Mr Stringer on 9 July 2015. Mr Stringer objects to pleaded passages 1 and 4 in paragraph 107 and to one of the pleaded meanings in paragraph 108.

[78] The pleaded meaning to which Mr Stringer objects is in paragraph 108.3: “Mr Craig was sexually deviant and criminally exploitative like Graham Capill”. This is plainly beyond the scope permitted by the recall judgment. I strike out paragraph 108.3.

[79] Passage 1 in paragraph 107 is: “to correct Colin Craig’s blatant public untruths following his extraordinary ‘resignation’.” In context, this is capable of bearing the pleaded meanings that remain. I reject Mr Stringer’s challenge.

[80] Passage 4 in paragraph 107 is: “But both Graham Capill and Colin Craig destroyed their parties with acute personal hubris”. Even reading this in context, I do not see how it can bear the remaining pleaded meanings (which are, of course, to the effect that Mr Craig sexually harassed Ms MacGregor). I strike it out.

Eleventh cause of action

[81] The eleventh cause of action is based on a blog post by Mr Stringer on 21 July 2015. Mr Stringer objects to pleaded passage 1 in paragraph 117 and to one of the pleaded meanings in paragraph 119.

[82] The pleaded meaning to which Mr Stringer objects is in paragraph 119.2: “there are reasonable grounds to believe Rachel MacGregor went into \$20,000 in debt because Mr Craig failed to pay her for six months”. Mr Craig did not explain how this could survive the recall judgment. It is plainly beyond the scope permitted by that judgment. I strike out paragraph 119.2.

[83] Passage 1 in paragraph 117 says that Mr Craig is re-victimising Ms MacGregor, referring to Mr Craig having humiliated Ms MacGregor at a press conference over her credit card debt and to a rumour that Ms MacGregor was in debt on her credit cards

because Mr Craig had not paid her for six months. I do not see how this passage can bear the pleaded meaning that Mr Craig sexually harassed Ms MacGregor. I strike out passage 1 in paragraph 117.

Twelfth cause of action

[84] The twelfth cause of action is based on a blog post by Mr Stringer on 2 August 2015. Mr Stringer objects to pleaded passage 3 in paragraph 127. Mr Craig accepts that objection. I strike out that passage.

Thirteenth cause of action

[85] The thirteenth cause of action is based on a blog post by Mr Stringer on 13 August 2015. Mr Stringer objects to pleaded passages 1, 5 and 6 in paragraph 137 and to the pleaded meaning in paragraph 138.1.

[86] The pleaded meaning to which Mr Stringer objects is that Mr Craig “pretends he is sexually faithful to his wife when in fact he is not”. This is plainly beyond the scope permitted by the recall judgment. Mr Craig did not explain how it could survive that judgment. I strike out paragraph 138.1.

[87] Mr Craig accepts that passage 1 in paragraph 137 should be removed. He resists Mr Stringer’s challenge to passages 5 and 6. In passage 5, Mr Stringer said Mr Craig could have paid as much as \$100,000 to his former media adviser. This is outside the scope permitted by the recall judgment. I strike it out. In passage 6, Mr Stringer said “we can’t trust anything [Mr Craig] says”. This is capable of bearing the remaining pleaded meanings. I reject Mr Stringer’s challenge to it.

[88] I record that Mr Stringer also challenged the pleaded meaning in paragraph 138.7. This paragraph cross-references the meanings pleaded in the first and third causes of action. Mr Stringer says that to the extent I strike out pleaded meanings in those causes of action, I also need to strike out, in part, paragraph 138.7. I disagree. I have struck out some pleaded meanings in the first and third causes of action. Those strike-outs automatically reduce the scope of the pleaded meanings to which paragraph 138.7 refers.

Fourteenth cause of action

[89] The fourteenth cause of action is based on an email that Mr Stringer sent to board members of the Conservative Party on 11 October 2015. Mr Stringer applies to strike out the entire cause of action.

[90] In paragraph 146, Mr Craig pleads seven passages from the email: (1) “Colin has molested more than one woman”; (2) “Colin has been unfaithful to Helen and offered to divorce her to be with someone else”; (3) “Colin did deliberately falsify his electoral returns, and others knew this and will testify to that”; (4) Colin is embroiled in seven court cases, and has threatened more litigation to ‘shut down’ accountability”; (5) “I have seen the evidence and there are now court papers and documents – I cannot share – that prove everything I’ve said above”; (6) “He oppresses, bullies and intimidates with his money”; and (7) “One staff member he bullied to ill-health felt so sick she couldn’t even drive past the castle for years.”

[91] In paragraph 147, Mr Craig pleads that these passages conveyed two meanings:

- (a) Mr Craig molested Ms MacGregor; and
- (b) The allegations Mr Stringer has made about Mr Craig (set out in the first 13 causes of action) are provable facts and everything Mr Stringer has said is true.

[92] The first of these pleaded meanings is to the same effect as Mr Craig sexually harassed Ms MacGregor. It is within the scope permitted by the recall judgment. Passage 1 of paragraph 146 is, in context, capable of bearing this meaning. I therefore decline to strike out this passage or this pleaded meaning.

[93] The passages in paragraph 146 are not capable of bearing the second pleaded meaning. Reading the passages and the email as a whole, they convey the meaning that the allegations Mr Stringer makes *in the email* are provable facts. They do not convey the meaning that all the earlier statements made by Mr Stringer, in thirteen different publications spread over four months, are provable facts. I strike out paragraph 147.2 and passages 2 to 7 of paragraph 146.

Fifteenth cause of action

[94] The fifteenth cause of action is based on an email Mr Stringer sent to a senior member of the Conservative Party on 11 February 2016. Mr Craig pleads, at paragraph 154, 11 passages from the email. At paragraph 155, Mr Craig pleads that the passages conveyed five meanings.

[95] Mr Stringer objects to two of the pleaded meanings: Mr Craig is a sexual deviant (paragraph 155.1) and Mr Craig has committed criminal offences against Ms MacGregor (paragraph 155.2). These are both very different from the permitted pleaded meaning that Mr Craig sexually harassed Ms MacGregor. I strike out these paragraphs.

[96] Those two paragraphs were the only meanings that relied on passages 1, 2 and 4. I therefore strike out those passages.

[97] Mr Stringer objects to passage 3. This passage suggests Mr Craig committed election fraud. Mr Craig already has judgment on that matter. He cannot pursue it further. I strike out passage 3 of paragraph 154.

[98] Mr Stringer objects to passages 7 and 11. I do not have to set these out. It suffices to say that the remaining pleaded meanings are not said to arise from these passages (and in any event the passages are not capable of giving rise to those meanings). I strike out passages 7 and 11.

Seventeenth cause of action

[99] The seventeenth cause of action is based on an email that Mr Stringer sent to Mr Slater's Whale Oil website on 12 December 2015. Mr Stringer applies to strike out the entire cause of action.

[100] In paragraph 170, Mr Craig pleads that in the email Mr Stringer said:

- (a) That his "allegations" were statements of fact that were supported by evidence and the testimony of many people;

- (b) That he had reiterated factual accounts that were supported by documentary evidence; and
- (c) That he looked forward to a proceeding where all of these matters could be tabled openly, so that the public and media could determine the truth which is easily established.

[101] At paragraph 171, Mr Craig pleads that the passages in the email conveyed these meanings:

- (a) Mr Stringer's allegations about Mr Craig made prior to December 2015 (set out in the first to sixteenth causes of action) were all true and provable by testimony of witnesses and documentary evidence;
- (b) Mr Craig has in fact:
 - (i) Sexually harassed Ms MacGregor for many years;
 - (ii) Paid a large sum of money (a six-figure sum) to settle her sexual harassment claim; and
 - (iii) Has committed a legion of misdeeds many of which were against Ms MacGregor; and
- (c) All the meanings in the first to sixteenth causes of action.

[102] The pleaded meanings I have set out in [101](b)(ii) and (iii) are outside the scope permitted by the recall judgment. I strike out paragraphs 171.2(b) and (c).

[103] The pleaded meanings set out in [101](a) and (c) are permitted, but only to the extent that any pleaded meanings in the first to sixteenth causes of action are permitted. In this judgment I have struck out some of those earlier pleaded meanings.

[104] I reject Mr Stringer's objection to the particular passages in the email pleaded by Mr Craig at paragraph 170. Those passages are capable of giving rise to the pleaded meanings that remain in paragraph 171.

Other pleaded meanings outside scope permitted by recall judgment

[105] This judgment deals only with the objections raised by Mr Stringer. I note that there are other pleaded meanings in Mr Craig's claim that are outside the scope permitted by the recall judgment. This judgment does not deal with them.

Result

[106] Parts of Mr Craig's fourth amended statement of claim are struck out, as identified in this judgment. In summary, they are:¹⁹

- (a) Passages 2, 3, 4 and 8 of paragraph 13;
- (b) The meanings pleaded in paragraphs 14.1 and 14.4;
- (c) Paragraph 22;
- (d) Passage 2 of paragraph 27;
- (e) Paragraph 38.1;
- (f) Paragraph 48.2;
- (g) Paragraph 68.1;
- (h) Passages 1 to 4 of paragraph 88;
- (i) Paragraph 90.1;
- (j) Passage 4 in paragraph 107;

¹⁹ If there is any discrepancy between this summary and the earlier paragraphs of this judgment, the earlier paragraphs prevail.

- (k) Paragraph 108.3;
- (l) Paragraph 119.2;
- (m) Passage 1 in paragraph 117;
- (n) Passage 3 in paragraph 127;
- (o) Paragraph 138.1;
- (p) Passages 1 and 5 in paragraph 137;
- (q) Passages 2 to 7 of paragraph 146;
- (r) Paragraph 147.2;
- (s) Passages 1, 2, 3, 4, 7 and 11 of paragraph 154;
- (t) Paragraphs 155.1 and 155.2; and
- (u) Paragraphs 171.2(b) and (c).

[107] Mr Stringer has succeeded on the most significant issue raised by the application (the effect of the recall judgment) and has succeeded on many of his objections. Mr Craig is to pay 75 per cent of Mr Stringer's reasonable disbursements on this application.

Campbell J