

**IN THE DISTRICT COURT
AT WELLINGTON**

**I TE KŌTI-Ā-ROHE
KI TE WHANGANUI-A-TARA**

**CIV-2018-085-000258
[2021] NZDC 20011**

UNDER THE	DEFAMATION ACT 1992
IN THE MATTER OF	CLAIMS UNDER PART 4 OF THE ACT
BETWEEN	VIVIENNE KAREN HOLM Plaintiff
AND	GRACE HADEN First Defendant
AND	TRANSPARENCY NEW ZEALAND LIMITED Second Defendant

Hearing: 4 – 8 October 2021

Appearances: Plaintiff appears in Person
Defendants appear in Person

Judgment: 12 October 2021

DECISION OF JUDGE D G SMITH

[1] The plaintiff (Ms Holm) is a lawyer who was admitted to the Bar on 22 May 1996.

[2] The first defendant (Ms Haden) is an individual who states that she is a public investigator.

[3] Ms Haden was also the sole director of the second defendant and owner of a website, <https://www.anticorruption.co.nz>.

[4] The second defendant was a duly incorporated company having its registered office in Napier. It has now been removed from the register. The second defendant was the owner of the website <https://www.transparency.net.nz>.

[5] Ms Holm has brought 23 claims of defamation against Ms Haden based on blogs posted on the two websites set out above. The posts arose out of Ms Holm's involvement with a Mr Neil Wells and a trust called the Animal Welfare Institute of New Zealand (AWINZ). To put this proceeding into context it is necessary to set out Ms Haden's involvement with Mr Wells and the actions she has taken since.

Ms Haden's association with Mr Wells

[6] In late 2005 Ms Haden had three children aged 13, 15 and 17 in 19 Squadron of the Auckland Air Cadet Trust (AACT). Ms Haden was Secretary of 19 Squadron. Mr Wells was Chairman of 3 Squadron. Mr Wells was also Chairman of the AACT.

[7] Mr Wells, on Ms Haden's evidence, had arranged for barracks from the "defunct Hobsonville" to be placed at Unitec for the cadets of both 3 and 19 Squadrons to use as a parade base.

[8] Ms Haden testified instead of the normal activities of flying and tramping, the building ensured the children were washing cars to pay for the loan and parents were engaged in endless working bees.

[9] When a vacancy occurred on AACT's Board, Ms Haden applied and became Treasurer. Ms Haden's evidence was the AACT accounts were a mess and AACT was making a "massive" loss. Ms Haden discovered other groups were using the "buildings and facilities without making proper compensation or billing."

[10] Ms Haden suggested the AACT monitor the alarms for building usage and bill accordingly. This, in Ms Haden's view, led to her being removed from the AACT Board by Mr Wells.

[11] Ms Haden began making enquiries to find out why she was removed. Ms Haden stated Mr Wells' plan was to use the buildings for training of animal welfare officers. There was, she said, no "declaration of conflict".

[12] Through a Waitakere City Council dog control officer, Ms Haden learned about AWINZ.

[13] In Ms Haden's affirmation of 20 September 2021, she stated:

70 Neil Wells (now deceased) was a barrister and had been chairman of the Auckland SPCA before Bob Kerridge, he was frustrated with incorporated society structure of the organisation, as it gave no security to his position.

71 After being voted out of his role he developed a business plan to amalgamate dog and stock control with animal welfare, i.e. combining central and local government obligations.

72 He came up with a business plan which was going to involve him, in return for financial rewards, teaching council officers to become animal welfare inspectors and overseeing the functions of councils in the central government role.

73 To facilitate this, he volunteered to draft new legislation and did so without declaring his conflict of interest. In a parallel move, he secure premises at Unitech funded by the children in the Auckland Air Cadets where he could present his fee-based lectures to would-be animal welfare inspectors.

74 In January 2000, the Act became law, [*presumably the Animal Welfare Act*] and it now contained a new provision under s 121 for "approved" organisations, meaning that organisations other than the RNZSPCA could hold the coercive public law enforcement powers if they qualified under s 122 of the Act.

75 In November 1999, anticipating the Act becoming law, Mr Wells made an application for AWINZ (Animal Welfare Institute of New Zealand) to be an approved organisation, he passed himself off as a trustee of a fictional trust and attached an unexecuted trust deed.

76 He made false claims about the status of the trust, the existence of a deed and the false allegation that it was "being incorporated".

77 He falsely told the Minister in a letter dated 25 March 2000, "A signed copy of the deed to trust will follow. The original is being submitted to the Ministry of Commerce for registration as charitable trust in accordance with Clause 20(a) of the deed".

(a) Neither MAF nor Waitakere City Council had a trust document, one was to appear the day after the lawyer's letter.

- (b) When I was taken to Court, two trust deeds appeared, I was provided with a copy and later obtained a copy from MAF by way of OIA.
- (c) The MAF copy was a forgery which had the original first and last two pages and the guts swapped out with unsigned pages.
- (d) There is no section 20(a) in either deed. Both deeds were dated 2 March 2000.
- (e) Wells knew the process of incorporating a trust. He had incorporated the Ark Angel Trust and the National Animal Welfare Trust in July 1999 and the Auckland Air Cadet Trust in 2001 and knew that the original was not sent, hence he could have sent a copy to the Minister.

78 After more deceptions regarding its existence, AWINZ which had no legal existence or identity in any manner or form, became and [sic] approved organisation and was gazetted in early 2001 as an approved organisation to undertake public prosecutions an [sic] law enforcement.

[14] When Ms Haden learned of AWINZ, she says the Waitakere City Council dog control officer put her in touch with others who were concerned with the apparent lack of existence of this organisation, which had a law enforcement role but did not exist. Her evidence was that they failed to find any legal existence of AWINZ. The RNZSPCA was registered as an incorporated society but there was no evidence of AWINZ.

[15] Ms Haden's evidence was:

Section 15 of the Charitable Trusts Act prohibits the registration of any board in the identical name of another. Since the registers were hard to search and seeking conclusive of the legal existence of AWINZ, we formed a trust and incorporated as a board under s 12 of the Act and our successful incorporation on 27 April 2006 proved conclusively that the approved organisation was a fiction and established by fraud.

[16] If her intention had been to establish that AWINZ was a non-entity or an illegal entity run by Mr Wells, then on the basis of her reasoning she had proven that by the successful incorporation of the trust that she incorporated under the Charitable Trusts Act 1957 on 27 April 2006. But she went further than that. She published on a website that hers was the only legal entity and that Mr Wells' group (her words) had no legal standing. She then went on to say:

Is it possible that the money you give intending it to be for animals in Waitakere is actually going to other causes that you may not wish to support?

By donating to a New Zealand registered legal trust, you can have those assurances. By donating to a group of people who hide behind a veil of secrecy and no obligations to disclose their financial accounts, you can never be certain of what you are supporting.

TO DONATE to the only LEGAL AWINZ CHARITY [Click here](#).

[17] Ms Haden's website contained assertions that the charity that she had set up under the name AWINZ had performed work. That work had been carried out by the AWINZ that Mr Wells was operating. By her statements, she sought to take credit for the work that had been done and for the experience and reputation that the unregistered AWINZ had earned.

[18] The actions by Ms Haden could not be ignored by Mr Wells' AWINZ and he sought advice as to what could be done about it. His first approach was with Ms Holm, who undertook to assist him on a pro-bono basis. Her then husband was a partner in Brookfields and through her, Brookfields were instructed to undertake to prevent Ms Haden trading on the reputation of Mr Wells' AWINZ.

[19] Ms Holm's involvement was extremely limited. She telephoned the number given on Ms Haden's AWINZ website at 9.45 pm on Friday 2 June 2006. Her evidence was she had assumed this was a business number and she intended to leave a message for Ms Haden concerning these matters.

[20] The telephone number on the website was in fact Ms Haden's personal home phone number. She spoke to Ms Holm and that call, and some following emails were the genesis of the blogs against Ms Holm which led to this proceeding.

[21] The purpose of the call was to tell Ms Haden that she was clearly trading on Mr Wells' AWINZ reputation and that she should change the name of her trust and desist from seeking to interfere with his business. Ms Haden has maintained that this was intimidation.

[22] On 8 August 2006, Ms Holm separated from her husband and had no further involvement with Brookfields or its proceedings against Ms Haden on Mr Wells'

behalf. Her involvement in the matters relating to AWINZ was only in the order of 10 to 12 weeks.

[23] Following the telephone conversation on 2 June 2006, Brookfields sent a letter to Ms Haden dated 26 June 2006 addressed to the Trustees of Animal Welfare Institute of New Zealand, (referred to as the Haden Institute or the Haden AWINZ in this judgment to prevent confusion) for the attention of Helen Wenley, Robert Frittmann and Grace Haden. It set out its understanding of what had occurred as related above, that the Haden Institute had been registered as a charity under the Charitable Trusts Act and that there was a website under the name of AWINZ (being the Haden AWINZ). The letter made clear Brookfields were of the view that certain material published on the Haden Institute's website breached the laws of passing off, while other material published by Ms Haden and Verisure's Investigations Limited on the website of the Haden AWINZ was defamatory of AWINZ and Mr Wells.

[24] The letter states Brookfields had been asked to try and achieve an amicable resolution to the solution. It invited the Haden Institute trustees to consider the issues raised in the letter and to discuss them with their legal advisors.

[25] Of prime importance in the letter was the paragraph headed "The legal existence of AWINZ". The letter stated:

As a point preliminary to a discussion to follow, we understand that you dispute that AWINZ was or is a "legal entity". The point in that regard is to the fact AWINZ is not registered under the Charitable Trusts Act.

Your view in this respect is not well conceived. No charity is obliged to register under the Charitable Trusts Act. An organisation is entirely capable of legal existence, and of carrying on business as a charitable trust, without any form of registration. All that is required at law is to create a trust (whether it be a charitable one or otherwise) is the execution of an appropriate trust deed. This, we believe, was clearly set out in a letter to you dated 29 March 2006 from Denise Sherard, Solicitor of Waitakere City Council, a copy of which we attach, for your ease of reference.

Of course, as you are aware, AWINZ has been carrying on various activities of a charitable nature since its inception and has secured, to facilitate the undertaking of those activities, approval from the Minister of Agriculture pursuant to the Animal Welfare Act 1999. It has also established a website to raise the public profile of AWINZ, advertised the services that it offers, and seek contributions from the public.

In combination, all of these actions have served to generate what is legally referred to as “good will”, a tangible asset which is subject to stringent legal protection, specifically under the law relating to “passing off” and defamation.

[26] The letter then sets out why, in their view, the actions of Ms Haden’s AWINZ constituted passing off and why some of her actions and posts were defamatory. The letter refers to ISP liability and the Fair Trading Act. The letter seeks from the trustees of Ms Haden’s AWINZ:

- (a) undertakings that they would change the name of their charity to a name not resembling AWINZ;
- (b) that they would close the website awinz.co.nz and deactivate the domain name;
- (c) not open a website by a similar of the same name; and
- (d) cease defamatory communications in relation to AWINZ and Neil Wells and not further publish any material concerning Neil Wells and AWINZ which goes to reputation.

[27] Ms Haden’s AWINZ did none of the matters requested of it in the Brookfields letter.

[28] On 18 July 2006, Neil Wells, together with his co-trustees of Animal Welfare Institute of New Zealand, an unincorporated charitable trust, as first plaintiffs and Neil Wells the second plaintiff, brought proceedings against Grace Haden, Verisure’s Investigations Limited and Animal Welfare Institute New Zealand, an incorporated charitable trust as third defendant.

[29] Those proceedings were heard before his Honour Judge Joyce QC with his decision issuing at the end of July 2008.

[30] His Honour found the claims for passing off proved and damages totalling \$57,500 were award against Ms Haden and Verisure. An injunction was granted against Ms Haden or her servant or agents from using the name Animal Welfare

Institute of New Zealand or AWINZ and required her to close the website www.awinz.co.nz and to deactivate the domain name.

[31] In his Honour's decision, he addressed the issue of establishment of AWINZ by Mr Wells beginning at para [239]:¹

[239] I do not propose to rehearse the already made obvious misapprehensions and misconceptions under which Ms Haden has laboured as regards the requisites for the creations of a trust.

[240] I simply note – so as to illustrate one misapprehension that although (and presumably because of her fixation about things being in writing) Ms Haden does not think so, a trust can, of course, be created orally; unless, that is (which is not identified to be the case here), there is some particular statutory obstruction to that informal course.

[241] That said, I acknowledge (and have in fact found) that the sequence of events between in or around October 1999 and in or around March 2000 were such as to indicate that, in unfortunate fashion, Mr Wells got ahead of himself and his correspondence with officials and ministers.

[242] As regards an accurate identification of how far matters were along the requisite road to the establishment of a formally established and documented trust, his communications were distinctly presumptive.

[243] But there is no evidence at all that, in the result, any harm was occasioned in the terms of the due engagement and pursuit of the object of the AWA.

[244] It is particularly significant here that AWINZ did not achieve "approved organisation" status until the end of 2000 by which time its establishment as a trust had been formally recognisable fact for nigh on 10 months.

[245] Nor is there any evidence that here there has been a problem for anyone genuinely interested, as a watchdog or otherwise, in the due implementation of the AWA.

[246] Nowhere is there any presumption even to suggest that what was an imprudent piece of presumption did any harm at all – save, that is, for the harm created out of it for Mr Wells by Ms Haden who had turned it into a weapon for retribution for perceived air training corps wrongs – "wrong" having no connection at all to the AWA and its administration.

[247] Fundamentally, so far as damages in the proceeding are concerned, Ms Haden's activities have swamped out of any relevance the presumptive acts I have identified.

¹ *Wells v Haden* [2008] DCR 859.

[32] Throughout the course of the hearing before me, Ms Haden made the repeated point that she had been deprived of presenting any defence to the hearing before Judge Joyce. I do not have a copy of the proceedings but on Ms Haden's advice she had a counterclaim which was struck out and costs were awarded against her of \$19,000. She accepts that she did not pay those costs and consequently her statement of defence was struck out. The hearing before Judge Joyce proceeded as a formal proof hearing.

[33] Judge Joyce addressed the consequences of strikeout:²

[166] Seemingly never minding that she was the author of the supposed misfortune, Ms Haden would claim that striking out of her defence (and Verisure's) has prevented her from making their case.

[167] Even if the defences had not been struck out, I find it impossible to see how or where (save the presumptive approach taken by Mr Wells in 1999 in commencing endeavours to obtain "approved organisation" status) Ms Haden could ever have succeeded in making more of a case than, in de facto terms, she has sought to make using, in the end, the damages hearing as a vehicle.

[168] The strikeout notwithstanding, she has undoubtedly taken free reign in her web published affidavit (itself made under the cloak of absolute privilege conferred by s 14 of the Defamation Act) again to rehearse (and this time in what is obviously the best and most complete account that she can muster) her catalogue of contentions.

[169] And she has done this without identifying a skerrick of evidence to support claims that criminality which, bereft of any such evidence, self-identify as wicked.

[170] It is therefore deeply ironic that Ms Haden should identify her weapons of choice as "truth and honesty" and, in doing so, make plain (as variously she does) that Verisure's very name is a play on the importance of sheer factual accuracy.

[34] And further:

[172] She also says, correctly, that defamation is only defamation if the statements are untrue and that she stands by everything she has said and published has to the best of her knowledge the truth, the whole truth and nothing but the truth.

[173] And at the very end she says:

² Ibid.

(59) I hope that you can take the time to read this rather lengthy affidavit in full, it is what the plaintiffs have done that have made it lengthy, *I have merely reported the facts.*

The facile nature of that last assertion will, by now, be altogether obvious.

[35] Judge Joyce QC stated Ms Haden was given the opportunity when in the witness box to add anything and she took the opportunity to do so. His Honour stated:

[175] Under cross-examination, little more emerged save of a kind making plain how strongly Ms Haden holds her views, arising as they do from quite black and white conclusions reached in consequence of no better than her own, idiosyncratic, preconceptions and misconceptions. Logic does not enter into it. Instead she allows her emotions unchecked reign.

[36] Ms Haden's approach to this proceeding has been identical to that which was presented to Judge Joyce QC and the comments which he has made and which I have quoted aptly apply to this proceeding.

[37] I also support the statement made by Judge Joyce QC at para [148]:

I find it sad that, so far as the Court can see, Mrs Haden has lost all balance in her life by focussing, as now she does, on this litigation (and her quite unrealistic expectations of vindication) to the inevitable detriment of the positive investment of her energies in her own life – energies that could (if otherwise engaged) surely accomplish much that was good.

[38] Notwithstanding that Ms Haden's defence in her proceeding with Mr Wells' AWINZ was struck out, it is clear she was given full opportunity to put her views before the Court. The outcome of that proceeding would not, as Judge Joyce QC noted, have been any different had the statement of defence remained.

[39] Judge Joyce QC's decision may be taken note of by this Court where relevant. It is not to be dismissed out of hand as Ms Haden has attempted before me.

[40] Ms Haden appealed Judge Joyce QC's decision. His Honour Rodney Hansen J dismissed the appeal.³

³ *Haden & Anor v Wells* CIV-2008-404-5500, Auckland High Court, Rodney Hansen J, 20 November 2009.

[41] Of importance are the findings by Judge Joyce QC concerning the legality of the creation of AWINZ by Mr Wells. As his Honour found, it was not done in a strictly appropriate way but the effect of that created no illegality. At the relevant times when the organisation was appointed an approved organisation, the documentation was complete.

[42] Ms Haden has attempted to use this proceeding to continue the matters litigated before his Honour Judge Joyce QC, seeking a different outcome. During the hearing she intimated she is unlikely to succeed because it is clear Ms Holm has connections with people in the law. That is an outrageous position to take. Regrettably it is indicative of the statements Ms Haden makes on no evidence whatsoever.

[43] Ms Haden's actions have all flowed from the hurt that she felt when she was removed as a treasurer of Auckland Air Cadet Trust. This has now morphed into a crusade for exposing corruption in New Zealand society. She contends the reason New Zealand features well in having low corruption is that all corruption in this country is covered up and therefore is not taken account of in surveys.

[44] Ms Haden's actions appear to be born of a desperate need to vindicate her beliefs. It has become an obsession. She stated as a result of these proceedings and others, she has lost her marriage and been alienated from her now adult children. She puts the blame of that on Ms Holm and others involved in the saga. This Court knows nothing of Ms Haden's marital situation, now or in the past, but suggests she look within herself for the reasons for those outcomes.

The plaintiff's claims

[45] Ms Holm became aware of one of the blog posts in around 2014. It had first been published on 29 April 2011 and was entitled "Intimidation by Vivienne Holm (Vivienne Parre) (Vivienne Wright)". The post states Ms Holm identified herself as a lawyer. Ms Haden says in the blog she checked with the Law Society and found Ms Holm did not have a practicing certificate but got one the day after Ms Haden asked Ms Holm about it.

[46] In 2016, Ms Holm approached NetSafe under the Harmful Digital Communications Act 2015 to convince Ms Haden to stop publishing other claims concerning her not having a practicing certificate.

[47] On 8 December 2016, NetSafe sent Ms Haden an email attaching a letter from the New Zealand Law Society which confirmed that the plaintiff held a practicing certificate throughout 2006 and invited Ms Haden to contact New Zealand Law Society directly for confirmation of Ms Holm's status.

[48] As a result, on 8 December 2016, Ms Haden published a further post on www.transparency.net.nz entitled "Vivienne Holm seeks help from NetSafe", which repeated the claims of practicing without a certificate.

[49] On 16 March 2018, a further blog was posted by Ms Haden on the same website, entitled "Open letter to Vivienne Holm, policy analyst for land information NZ concealment of corruption".

[50] Ms Holm pleads that the defendants published numerous further defamatory statements about her, including blog posts and emails to her employers.

[51] Ms Haden stated in one of the posts that the practicing certificate claims will continue to be published until Ms Holm contacted Ms Haden to "help her".

[52] Twenty-three causes of action have been pleaded.

[53] The first statement for claim was filed on 4 April 2018. It contained 17 causes of action. While there are some differences between that statement of claim and the preamble to the specific claims pleaded to the amended statement of claim filed on 30 November 2020, the first 17 claims of the amended statement of claim are identical to those filed in 2018.

[54] Ms Haden has taken the approach the proceedings commenced on the date of the amended statement of claim was filed. That is not correct as to the first 17 causes of action. Those causes of action were pleaded on 4 April 2018 and have continued in the amended statement of claim. It is not open to Ms Haden to plead, as she has done,

that the causes of action have no grounds because references to Ms Holm have, since these proceedings first began in 2018, been removed prior to the amended statement of claim being filed. If it was correct, the references have been removed that is a matter which goes to quantum of damages only should the statement(s) be found to be defamatory.

[55] The statement by Ms Haden as to removal of reference to Ms Holm is incorrect. Ms Haden states she conducted a search of her blogs and removed any reference to Ms Holm that she found. That process was flawed as the hyperlinks to other articles or statements within the blogs themselves identify Ms Holm, though not necessarily by name, and remain. Ms Holm advised the Court there are still six blogs currently published which identify her by name.

[56] The additional six new causes of action run as from the date of the amended statement of claim, i.e. 30 November 2020 and even again if the matters have been taken down or removed from the website, provided that was within the two year period prior to 30 November 2020, there is still the basis for a cause of action to be pleaded by Ms Holm.

[57] The effect of Ms Haden's pleading to the amended statement of claim as to the first 17 causes of action, is to acknowledge the various posts were made containing the words complained of by Ms Holm.

[58] Notwithstanding, Ms Haden has pleaded honest opinion and/or truth to all matters. Section 40 of the Defamation Act 1992 requires the defences of truth and honest opinion to be pleaded separately. That was not done. To succeed on a defence of honest opinion, Ms Haden was required to plead the facts upon which the opinion was based. That was not done. Further, and obviously, the facts which Ms Haden relies upon must be true.

[59] It is open to the Court to dismiss Ms Haden's defence for noncompliance with the Defamation Act and the District Court Rules. Ms Holm has not sought to do so, though she makes the point in her legal submissions the defences relied on were made after the close of pleading date and did not comply with r 5.50.

[60] Each individual cause of action is dealt with separately below. As can be seen, Ms Haden has only in some cases made cursory reference to the basis for her opinion, and in some cases, not at all. Further, the facts on which she has relied have not been proved to the Court to be true. In relation to the legality of the Wells AWINZ, Judge Joyce QC has already ruled it was not illegal. That is totally ignored by Ms Haden.

First cause of action

[61] Ms Holm pleads that on or about 29 January 2010, three and a half years after Ms Holm had an involvement with AWINZ, Ms Haden published or arranged to publish a blog posted on <https://anticorruptionnz.wordpress.com> entitled “About AWINZ – Animal Welfare Institute of New Zealand”. The blog included the statement:

I was intimidated by Vivienne Parre, wife of Nick Wright, who later was to take the matter to court as a solicitor from Brookfields. Parre did the work pro-bono according to an email sent by Wright but despite this the costs in court were crippling.

[62] Further, there is the statement:

The action taken against me has been a legal process taken for an improper purpose – the lawyers involved had a duty to ensure the proceedings had been taken for a proper purpose, and that the people making the claim could do so.

[63] Ms Holm pleads the statement *I was intimidated by Vivienne Parre* meant or was meant to imply Ms Holm had behaved in an intimidating manner towards Ms Haden. Ms Holm pleads the statement is defamatory.

[64] The statement is defamatory of the plaintiff if it is not true. Ms Holm in her submissions referred the Court to *Newton v Dunn & Others*.⁴ At paragraph [252], Collins J sets out the traditional tests as to what constitutes a defamatory statement. Applying those to this matter:

- (a) Did the statement as to intimidation tend to lower Ms Holm in the estimation of right-thinking members of society;

⁴ *Newton v Dunn & Others* [2017] NZHC 2083.

- (b) the statement was false and discredited Ms Holm;
- (c) the statement was calculated to injure Ms Holm's reputation by exposing her to hatred, contempt or ridicule; or
- (d) the statement tended to make others shun and avoid Ms Holm.

[65] Ms Holm is a lawyer working for a Government Ministry. Any suggestion she intimidates people will lower her in the estimation of right-thinking members of society. The statement discredits her and can only have been calculated to injure her reputation exposing her to contempt. It would tend to make others shun her and avoid her.

[66] These tests are applied in determining all the causes of action.

Was the statement untrue?

[67] The blog does not set out any basis for a statement that Ms Haden had been intimidated by Ms Holm.

[68] In the documents put before the Court, Ms Holm includes copies of the correspondence, which commenced on 2 June 2006, approximately one and three quarter hours after the telephone call (see para [19] et all above), where she simply requests a website info@awinz.co.nz to advise of their ISP contact details in order that she can "lodge a complaint against you".

[69] Further, on 2 June 2006, approximately 40 minutes later, Ms Holm asks for details of Ms Haden's registration as a private investigator as she intends discussing the ethics of her activities with the registry next week and advises that she has already contacted the Ministry of Economic Development to arrange for AWINZ to be removed from the registry pursuant to s 15 of the Charitable Trusts Act. She invites the website "that should you wish to discuss these matters, please advise of a time suitable for you".

[70] There is then a response from Ms Haden:

If the answers are so important last night, why can't you get back to me. Should I call in and see you tomorrow? Would hate to think that something's troubling you and not give you a chance to discuss it.

Looking forward resolving whatever the issue is, shall I just call in or is there any particular time more suitable?

[71] Ms Holm replied:

You asked me not to contact you outside of business hours which includes the weekend. Therefore I didn't phone you back. I apologise for disturbing you at home. I had no idea the phone number given on the website was for a residence, and had expected to leave a message.

[72] The reply states Ms Holm strongly advised Ms Haden take legal advice, advising that she is working in a voluntary capacity and ends with a paragraph saying:

I wish you good luck in pursuing your concerns for pet owner's interests in a more appropriate manner. As a cat owner, I can emphasise over the varied circumstances in which Chloe was euthanised without her owners having an opportunity to say goodbye.

[73] Ms Haden responded requesting proof that back up the allegations, saying:

If you can show me that another organisation exists with that name and that there is a conflict here I will gladly review matters and if I am wrong will set things right.

[74] She stated that her domain name was registered, and the trust was legally registered as a charity. She sought advice as to whether Ms Holm was acting for someone or if she was on a private mission. If she was acting for someone, whom and which law firm she is with. Ms Haden requested, "Could you also please declare what you mean by AWINZ has received a legal opinion, are you associated with AWINZ in any manner? If so what?" Further, "Why is the situation urgent?"

[75] Ms Holm responded:

I have given you the information you need. I suggest you read it and discuss it with your lawyer. Information on internet ethics can be obtained from your ISP on Great Barrier. I am not the decision maker here and I have no obligation to supply you with proof. In fact, I only advised you of my concerns to give you an opportunity to rectify the situation yourself before the authorities step in. It would obviously be in your interests to do so. Any member of the public can call a breach of law to the attention of authorities. My personal circumstances are beside the point. You will be able to state your point of view to the authorities before they action my complaints. You have

no need to contact me again and given your past confrontations with police and others, I would be grateful if you did not do so. Again, I wish you luck with pursuing your concerns in a lawful manner in future.

[76] Ms Haden's response was:

Can you please advise what you mean with "your past confrontations with the police"? I really do think that you are intimidating. Can you please tell Neil Wells that I can tell that this is coming from him as he has made such assertion in the past. My experience with Neil is he does not place the same value on Truth as I do. I do have need to discuss this further with you obviously you have had malicious slander fed to you. I will call by soon to discuss your allegations are of concern to me.

[77] Ms Haden was advised in response:

If you attend my home again uninvited, you will be trespassing and I will be making a complaint to the police. I will be sending you a trespass notice tomorrow.

[78] Ms Holm advised that she would not be reading Ms Haden's emails further and requested her not to contact her again in any way.

[79] Ms Haden's affirmation of 20 September 2021 states:

At 9.45 pm on Friday 2 June 2006, I received a phone call from Ms Holm posing as a lawyer. She made threats against my private investigator's license if I did not change the name of our trust.

[80] Ms Haden refers to the correspondence which I have set out above. She states that the action on the day went beyond an "accidental" phone call which could have been terminated with a "sorry, wrong number" instead of a threat followed up with more threatening emails, that it was an intentional threat and one that has continued on into its 16th year.

[81] Ms Haden accepts that she called to see Ms Holm at her home, saying that her address was available in the public realm.

[82] Ms Haden has never given evidence that it was Ms Holm's tone of voice or her choice of words which lead to her claim of intimidation. During cross-examination she stated it was the content of the discussion which was intimidating. Her evidence

was when anyone tells you they are going to take away your income and close you down, that is intimidation.

[83] Notwithstanding that Ms Haden was clear to the Court that having been a policewoman rising to sergeant in prosecutions she does not intimidate easily.⁵

[84] Going to Ms Holm's home is not the action of an intimidated person. The tone of the correspondence is not intimidating. Being direct as to the illegality of Ms Haden's AWINZ, as later proved, is not intimidation.

[85] Ms Holm had no further contact with Ms Haden for the following 10 years. The dispute between AWINZ and Ms Haden was continued by Brookfields as lawyers.

[86] The statement Ms Haden was intimidated was and is untrue and for the reasons above, defamatory. The first cause of action succeeds.

Second cause of action – publication of material defaming the plaintiff

[87] In blog posted on or about 22 February 2010, the first defendant published entitled: "How to get your litigation funded through the public purse" and contains the following statement:

Then Wyn and another barrister and a JP called Graeme Coots take legal action after intimidating phone calls by Their lawyers wife .. Vivienne Parre (Wright) now Vivienne Holm of Bell Gully failed to have the desired effect.

[88] The plaintiff pleads that the statement meant or was meant to imply that the plaintiff had behaved in an intimidating manner towards the first defendant.

[89] For the reasons given above for the first cause of action, the statement is defamatory. The second cause of action succeeds.

⁵ Notes of Evidence, p 28, lines 20-27.

Third cause of action – publication of material defaming the plaintiff

[90] On or about 28 April 2011, Ms Haden published a blog entitled: “Brookfields – How to win with no evidence – the background”. The blog contained the following statement:

You have to wonder how a group which informally formed on 10 May 2006 without documentation, can have a claim to having used their name prior to 27 April 2006 ... Never fear, Brookfields is here. They are so efficient that they can do anything and on this occasion they used Vivienne Parr, a partner’s wife (Nick Wright) who did not hold a practicing certificate ... to commence the intimidation.

[91] Ms Holm pleads the statement meant or was meant to imply Ms Holm had behaved in an intimidating manner towards Ms Haden. Ms Holm pleads the statement is defamatory of the plaintiff.

[92] For the reasons given above for the first cause of action, the statement is defamatory. The third cause of action succeeds.

Fourth cause of action – publication material defaming the plaintiff

[93] On or about 29 April 2011, Ms Haden published a blog entitled: “Intimidation by Vivienne HOLM (Vivienne Parre) (Vivienne Wright)”.

[94] Ms Holm pleads the following paragraphs from the blog:

I was stilling [sic] at home at 9.45 on Friday 2 June 2006 when the phone rang. The caller identified herself as Vivienne Parre.

She said she was a lawyer and that we should give up our website and change our name. She would not say who she was representing. The phone call was nothing but bullying in my opinion, she said it was urgent that we complied with her demands, I asked if we could meet to discuss the matter.

Emails from Vivienne Parre sent immediately after wards [sic] she made threats against my Private investigator’s license ...

This reply gave an avenue for legal address – we have to wonder why this was ignore and why was there no affidavit filed with the statement of claim. was [sic] it because intimidation was better than an application which relied on proof?

... I had cause to speak to a previous colleague of mine, Inspector Dave SIMPSON, of the New Zealand Police, he told me that Neil Wells had engaged

a woman lawyer who was working for him pro-bono (after receiving information, I checked with the Law Society and found that Vivienne Parre/Wright did not have a practicing certificate. I asked about it and she got one the next day 15th August 2006). Vivienne Holm was now employed by the ministry for the environment. Her former Husband [sic] Nick Wright is a resource management lawyer no doubt a very useful connection for both.

I find it somewhat Ironic [sic] that on a Bell Gully document it said of Vivienne Holm “Vivienne’s key practice areas include resource management and planning, with particular expertise in local government matters”.

Does that expertise mean covering up for private enterprises such as AWINZ which leaches onto public funds for private pecuniary gain?

[95] Ms Holm pleads that the statements mean or meant to imply that:

- (a) the plaintiff behaved in a bullying, threatening and intimidating towards the first defendant;
- (b) the plaintiff obtained a practicing certificate on 15 August 2006 in response to communications from the first defendant asking her about it (i.e. when threatened with exposure have purportedly describing herself as a lawyer when she was not entitled to do so);
- (c) the plaintiff had used her position at the Ministry for the Environment to benefit her ex-husband; and
- (d) the plaintiff had knowingly covered up corruption.

[96] Unless true, the statements made are defamatory of Ms Holm.

[97] Ms Haden pleads that the claim that the blog identifies Ms Holm as false, as her name would have been removed a very long time ago. Ms Haden stated, “I removed the name to attempt to appease her but standby the statements as previously pleaded”.

[98] For the reasons given, the removal of the name after the proceedings were commenced in 2018, goes to the question of the damages not the question of proof of claim.

[99] The statement of defence to the original statement of claim stated:

21. The defendants plead honest opinion to each [cause of action] based on the evidence set out in annexures A – G each annexure references the documents we rely on additionally we rely on the documents hyperlinked in each post referred to in the respective claims.
22. It must be pointed out that many of these blogs are not about the plaintiff but about the wider issue of corruption and identity fraud, particularly the fictional AWINZ. The Plaintiffs' involvement was crucial, she did not check to validate the existence of the so-called trust which instructed her, as a law clerk she would have known that she could not be instructed by two barristers, or any one for that matter. Her lack of standing allows the entire matter to be placed on false and unverified footing.

[100] That statement of defence was dated 12 May 2018, almost 10 years after Judge Joyce QC's decision which determined the legality of AWINZ. Notwithstanding, Ms Haden continues as though that decision was never made.

[101] Ms Holm's evidence is that in early June 2006, she was employed on a casual basis by Brookfields Lawyers with whom she had worked on a casual basis since 13 November 1995 doing legal research, drafting and other tasks that do not require a practicing certificate.

[102] In early August, she left Brookfields and began work as a barrister sole. She requested her practicing certificate for a barrister sole on 22 June 2006. She was invoiced by the Auckland District Law Society on 29 June 2006 and her practicing certificate was issued on 3 August 2006.

[103] There had been confusion about when the practicing certificate was issued. When these matter arose, there was advice in September 2016 from the New Zealand Law Society saying that Ms Holm had had a practicing certificate from 13 February 2006 until 15 August 2006. On 24 January 2018, New Zealand Law Society confirmed that, but on 12 December 2018 it emailed to say that the earlier correspondence had been incorrect.

[104] The plaintiff attests that Ms Haden had not asked her about her practicing certificate. She attests that she did not hear from the defendant between 7 June 2006

and 2016 because she had blocked her emails. It was clear Ms Haden knew this had been done as she was sent an email on 7 June 2006 at 3.20 pm stating:

I will not be reading emails from you sent to either my email addresses, and ask you once again to refrain from contacting me in any way.

[105] On Ms Holm's evidence, there was no communication with her on 14 August 2006. On that date, she already had a practicing certificate. A copy of it is produced in the plaintiff's bundle of documents dated 3 August 2006.

[106] The plaintiff rejects any implication she ever practiced law without a practicing certificate. She states that none of the work she did for AWINZ required a practicing certificate and that was confirmed by the New Zealand Law Society in its decision on Ms Haden's complaint in 2011. A copy of the Law Society's decision dated 4 July 2011 was included in the plaintiff's bundle.

[107] One of the allegations Ms Haden made to the New Zealand Law Society was that Ms Holm was not (or was no longer) employed by Brookfields and did not have a practicing certificate entitling her to give legal advice. The decision records that in 2006, Ms Holm worked at Brookfields as a law clerk. She did not have a practicing certificate until 15 August 2006, when she became an employed solicitor of that firm. The committee, after deliberating, noted:

..that Ms Holm had been employed by Brookfields as a law clerk at the time in question and that the preliminary and research she carried out under supervision was appropriate and permissible work to be undertaken prior to her obtaining a practicing certificate. The Committee did not consider that Ms Holm's role had been pivotal to the defamation proceedings and accepted her explanation about the circumstances of her phone call to Ms Haden.

[108] This decision issued less than two and a half months after the blog had been published. There was no evidence that Ms Haden took immediate steps to rectify the blog in that regard. Ms Haden's original statement of defence ignores the Law Society's ruling as though it never occurred. There was no evidence from Ms Haden which shows that Ms Holm used her position at the Ministry for Environment to benefit her ex-husband and there is no evidence that Ms Holm knew of corruption, let alone knowing covered up corruption. The allegations that Ms Holm has behaved in a bullying, threatening and intimidating manner is really an enlargement on the

intimidating behaviour argument, which has been dismissed already and the statements in relation to Ms Holm obtaining a practicing certificate in response to communications from Ms Haden, are clearly false.

[109] The annexures to Ms Haden's first statement of defence are self-produced statements reiterating, for the large part, her own beliefs as to what has occurred. They do not provide supporting evidence of anything.

[110] The statements in paragraph 22 of the statement of defence ignores both Judge Joyce QC's decision and the determination of the Law Society.

[111] The statements made are defamatory of the plaintiff and the fourth cause of action succeeds.

Fifth cause of action – publication material defaming the plaintiff

[112] On or about 1 May 2011, the first defendant published a blog: "Did David Neutze check the facts before he acted?" The blog contained the following statement at para 36:

It appears however, that winning at any cost is the intention. That in the end Brookfields Lawyers through Neutze, Parre and Wright saw it fit to conceal corruption.

Neutz involvement began by him signing a letter which we believe had been written by Vivienne Holm (aka Parre) and he signed after what he claims having satisfied himself that the contents were accurate ...

In this letter and through the Court proceedings, Mr Neutze and his fellow Brookfields Lawyers misled the Court as the nature and structure of AWINZ, their client AWINZ or whoever was using that name at that particular time, had no right to the use of the name without identifying who it represented.

[113] The plaintiff pleads that the statements meant or were meant to imply that she had knowingly covered up corruption and that she had deliberately misled the Court.

[114] Unless true, the statements are defamatory of the plaintiff.

[115] Ms Haden provides neither a pleading nor evidence to justify the post. The only evidence she refers to is the phone call discussed above and stating that it is

bullying in her opinion without giving any basis for why she should believe the phone call was bullying. That is not bullying for the reasons given above in relation to intimidation. There is nothing to suggest that there has been malpractice or corruption.

[116] Ms Haden's pleading again ignores the decisions of Judge Joyce QC and the Law Society's determination.

[117] For the reasons given previously, the statements are defamatory. There is no evidence put forward by Ms Haden which substantiates those statements and the fifth cause of action succeeds.

Sixth cause of action

[118] On 1 May 2011, the first defendant published a blog entitled: "Open letter to Wyn Hoadley, counsellor TCDC". It contains the following:

Before I even knew you were involved, I was intimidated by Vivienne Holm, who as it transpires was an unregistered lawyer ...

You stated that the Trustees of AWINZ decided to instruct legal counsel Brookfields. Why then go to a lawyer Vivienne Holm who did not have a practicing certificate.

Did you instruct Vivienne Holm to intimidate us?...

... Wyn the past five years of litigation have hardly been on a level playing field, me a lay litigant up against a number of barristers namely Wyn Hoadley, Neil Wells, David Neutze, Vivienne Holm and Nick Wright. You could say that the playing field was not level.

The litigation has given me great experiences for writing a book on dirty tricks lawyers play, I would have thought that so many officers of the Court would have won hands down without dirty tactics ... but I guess that only happens if you have a real case.

You have had me in bankruptcy courts, skipped the formal proof hearing for defamation, filed a statutory demand on my business while claiming to be an incorporated trust, oppose every application I have made for appeal, your lawyers have misled the courts and blocked a judicial review. Is this justice?

I may have had a sporting chance if each of the lawyer had upheld their obligations to the Court, an officer of the Court and conducted themselves according to the rules, in particular rule 13:

13. The overriding duty of a lawyer acting in litigation is to the court concerned.

- 13.1 A lawyer has an absolute duty of honesty to the court and must not mislead or deceive the court.
- 13.2 A lawyer must not act in a way that undermines the processes of the court or the dignity of the judiciary.

[119] Ms Holm pleads the statements meant or were meant to mean:

- (a) the plaintiff behaved in an intimidating manner towards the first defendant;
- (b) the plaintiff has behaved in an unethical way while using “dirty tricks”;
and
- (c) the plaintiff has misled the Court.

[120] Unless true, the statements are defamatory of the plaintiff.

[121] The blog was published almost three years after the decision of Judge Joyce QC. It also ignores that Ms Holm was not involved with the proceedings against Ms Haden by Mr Wells from 8 August 2006.

[122] There is no evidence from the defendant which substantiates the statements that she has made. The statements are not true, including the references to Ms Holm, who was only involved at the early stages, and irrational.

[123] The sixth cause of action succeeds.

Seventh cause of action – publication material defaming the plaintiff

[124] On 3 May 2011, the first defendant published a blog entitled, “How could A non-existent private law enforcement authority survive for so long? Why condone corruption in Waitakere City?”

[125] The blog incorporated a letter Ms Haden had sent to Rodney Hide MP. Both the blog post and the letter to Rodney Hide MP included the following statement: “By first having me and my fellow board members intimidated by Vivienne Holm”.

[126] Ms Holm pleads the statement meant or was meant to imply that she had behaved in an intimidating manner towards the first defendant.

[127] This is repetition of the publications referred to above. It is the same material. There is no evidence supporting the statement. It ignores Judge Joyce QC's decision.

[128] The statements are defamatory of Ms Holm. The seventh cause of action succeeds.

Eighth cause of action – publication material defaming the plaintiff

[129] On 1 March 2012, the first defendant published a blog entitled, "Talking works Tom Didovich!" The blog includes the following statement:

Wyn Hoadley, Neil Wells and Graeme courts to legal action which started with a legal executive, now lawyer Vivienne Holm, harassing me to force us to give up the name of the incorporated entity in which I was a trustee.

[130] Ms Holm pleads that the statement meant or was meant to imply that she had harassed the first defendant. Unless true the statement is defamatory of the plaintiff.

[131] There is no evidence supporting the statement made by Ms Haden and for the reason previously given the statement is not true.

[132] The eight cause of action succeeds.

Ninth cause of action – publication material defaming the plaintiff

[133] On or about 5 May 2012, Ms Haden published a blog entitled, "Do Brookfields' lawyers support corruption – a formal complaint."

[134] The blog includes the following statement:

First two barristers make a complaint to a law clerk, the dedicated law clerk springs into action afterhours and attempts to secure a result through intimidation.

[135] Ms Holm pleads that the statement meant or was meant to imply that she had behaved in an intimidating manner towards the first defendant.

[136] The words “complaint to a law clerk” in the article has a hyperlink and it is noted “hyperlinks reveal each segment of the story”.

[137] For the reasons previously given, the statement as to Ms Holm is untrue and defamatory.

[138] The ninth cause of action succeeds.

Tenth cause of action – publication material defaming the plaintiff

[139] On or about 20 August 2012, Ms Haden published a blog post entitled, “Do Brookfields’ lawyers take their obligations to the law seriously?”

[140] The blog post includes the following statement which identifies and is about Ms Holm:

It appears odd to me that a law firm such as Brookfields should use late night initiating phone calls through a legal secretary to kick off proceedings.

[141] The statement set out in the paragraph above, included a hyperlink to <http://www.transparency.net.nz/2011/04/29/Vivienne-Holm>, which is the web address for the blog post referred to in the fourth cause of action.

[142] Ms Holm pleads the statement meant or was meant to imply that she had made multiple late-night phone calls to Ms Haden and that during those phone calls she behaved in an intimidating manner towards Ms Haden.

[143] The inclusion of the hyperlink is to republish the blog which established the fourth cause of action. For the reasons given under the fourth cause of action, the publication on 20 August 2012, is a republication of the allegations of intimidation.

[144] As previously determined, the statements are untrue and defamatory.

[145] The 10th cause of action succeeds.

Eleventh cause of action – publication material defaming the plaintiff

[146] On or about 20 January 2013, Ms Haden published a blog post entitled, “Is Wyn Hoadley fit to be a lawyer, a trustee or councillor?”

[147] The blog incorporated an email Ms Haden had sent to the councillor of the Thames/Coromandel District Council. The blog and letter including the following statement which identifies and are about Ms Holm:

My 2011 question was the legal action you took against me and the legal entity AWINZ was to force us to give up the name and the website. You have stated that the trustees of AWINZ decided to instruct legal counsel Brookfields. Why then go to lawyer Vivienne Holm who did not have a practicing certificate?

You have never answered this. More has come about this through the Law Society, why ask a legal exec to phone me late at night and intimidate me? Is that how it's done?

... My 2011 question was you always said it (the legal action) was urgent, is that why intimidation was the chosen method? Do you condone the intimidation, you certainly did nothing to stop it.

You have never answered this. I did phone you and asked if we could talk. You said that you were not the messenger. Wouldn't talking have resolved it easily and quickly ... why not talk?

My 2011 question was did you instruct Vivienne Holm to intimidate us ...?

[148] Ms Holm pleads that the statements meant or was meant to imply that she had behaved in an intimidating manner towards Ms Haden and that the statements are defamatory.

[149] The post and the statements referred to above are a reiteration of the accusations that have been made in the past.

[150] For the reasons previously given, the statements are untrue. There is no evidence to support it. They are defamatory of Ms Holm.

[151] The 11th cause of action succeeds.

Twelfth cause of action – publication material defaming the plaintiff

[152] On or about 23 August 2013, Ms Haden published a blog entitled, “OIA requested to Charities Commission”.

[153] The blog contained the statement:

Vivienne Parre, Legal Executive for Brookfields, harasses me, how was she instructed, the Trust has no mandate! No meeting have occurred to allow her to be acting for the Trust.

[154] It is pleaded that the statement meant or was meant to imply that Ms Holm had harassed the first defendant.

[155] Unless true, the statement is defamatory of Ms Holm.

[156] For the reasons previously given, the statement is not true. It ignores the determination of both Judge Joyce QC and the New Zealand Law Society. There is no evidence put forward by the defendant which supports the statement.

[157] The 12th cause of action succeeds

Thirteenth cause of action – publication material defaming the plaintiff

[158] On or about 27 September 2013, Ms Haden published a blog entitled, “Is David Neutze making a Silk purse from a sow’s ear?”

[159] The blog incorporated an email Ms Haden had sent to the partners of Brookfields Lawyers.

[160] Both the blog and letter including a statement which identifies and is about Ms Holm:

[David Neutze] stood by while his legal executive at the time, Vivienne Parre, used intimidation tactics to coerce a solution.

[161] Ms Holm pleads that the statement meant or was meant to imply that she had behaved in an intimidating manner towards Ms Haden.

[162] The publication is a repeat of the claims of intimidation previously made and as determined above.

[163] For the reasons previously given, the statement is defamatory of Ms Holm and the 13th cause of action succeeds.

Fourteenth cause of action – publication material defaming the plaintiff

[164] On or about 8 December 2016, Ms Haden published a blog entitled, “Vivienne Holm seeks help from NetSafe”.

[165] The blog included the following statements:

[NetSafe] said that ... Vivienne after holding a practicing certificate for the past 10 years suddenly can't get one because of something that was written many years ago. Vivienne is seeking changes to the blog. We are happy to make corrections but there is nothing to correct. We are interested, however, in addressing injustices and if she feels that the comment is an injustice then she can assist in correcting a far greater injustice before we look at the perception she has of a tiny little one.

... Vivienne Holm @ Vivienne Parre @ Vivienne Wright phoned me late at night and made threats against my private investigator's license and thereby my income and livelihood. She demanded that we had to give up the name AWINZ. When intimidation did not work, her then husband, Nick Wright, then took over the matter as Vivienne at the time was working as a law clerk.

... why was her first port of call be an intimidating phone call on a Friday night ... I thought that a legitmaley [sic] instructed person would use more transparent means rather than acting like a thug.

... So now 10 ten years down the track and after having had held many practicing certificates Vivienne wants a different type of practicing certificate because she's going to work for Paul Cavanagh who retired exactly a year ago

... The good news is is that I am happy to work with anyone helps put things right. When the AWINZ matter has been addressed and is history I can take down all the posts but while the injustice exists it requires exposure of the facts and the facts will remain in the public realm.

I cannot understand why she claims that she cannot get a practicing certificate on this occasion.

The plaintiff may wish to help address the AWINZ injustice. Once that's been sorted I can look at removing/altering blogs.

But getting back to Vivienne, I am happy to remove anything minor when a greater injustice has been resolved, she only needs to contact me and help me right the wrongs of the past that she was instrumental in kicking off ...

[166] Ms Holm pleads that the statements meant or was meant to imply that:

- (a) She had difficulty in obtaining a practicing certificate due to revelations made in one of Ms Haden's previous blog post.
- (b) Ms Holm had behaved in an intimidating manner towards Ms Haden.
- (c) Ms Holm had acted like a thug.
- (d) Ms Holm had acted maliciously in making a complaint against Ms Haden.
- (e) There is more damaging information about Ms Holm.

[167] Unless true, the statements are defamatory of Ms Holm.

[168] No evidence has been provided by Ms Haden which would substantiate any of the statements made. At the time of publishing the blog, Ms Haden had been in receipt of the New Zealand Law Society's decision of 4 July 2011 and there was no evidence to show that she had any further information or contact from New Zealand Law Society after that date.

[169] The statements are untrue and defame Ms Holm.

[170] The 14th cause of action succeeds.

Fifteenth cause of action – publication material defaming the plaintiff

[171] On or about 9 May 2017, Ms Haden published a blog entitled, "Why am I a danger to society ... I must not lift rugs".

[172] The blog includes the following statement, which identified and is about Ms Holm:

An identically named trust was formed by Wells and was switched for the fictionalisation, classic identity fraud. The people involved were Wyn Hoadley, Graeme Coutts, JP Tom Didovich and Neil Wells, supported by

Brookfields law firm, David Neutze and former lawyer Nick Wright and former wife Vivienne Holm.

No one checked the facts, the dates, the applications, a two-year-old can tell you there is no integrity in what they claim but detail apparently does not matter when you have the right people on board.

[173] Ms Holm pleads that the statements meant or was meant to imply that she had participated in fraud and that the statement is defamatory.

[174] At the time of the post in 2017, Ms Haden had the decision of Judge Joyce QC for nearly nine years. Her statement totally ignores the determinations made in that decision.

[175] There is no evidence put forward by Ms Haden which supports the statements made. They are untrue and defamatory.

[176] The 15th cause of action succeeds.

Sixteenth cause of action – publication material defaming the plaintiff

[177] On or about 11 August 2017, Ms Haden published a blog entitled, “The state of corruption: New Zealand”.

[178] The blog includes a paragraph which identifies and is about Ms Holm:

... Nick Wright, a resource management lawyer started the proceedings by having his then wife harass me, they then ensured that my defence of truth and honest opinion was struck out, the [sic] fed the Court a lot of BS and voila a judgment which they could wave around to discredit me and use to apparently legitimise AWINZ.

[179] Ms Holm pleads that the statements meant or was meant to imply that she had harassed Ms Haden and that the statements are defamatory.

[180] For reasons given previously and noting that there is no evidence provided by Ms Haden in support of the statement, the statement of harassment is untrue and is defamatory.

[181] The 16th cause of action succeeds.

Seventeenth cause of action – publication material defaming the plaintiff

[182] On or about 16 March 2018, Ms Haden published a blog entitled, “Open letter to Vivienne Holm policy analyst for Land Information NZ ... concealment of corruption”.

[183] The post includes the following statements, which identifies and are about Ms Holm:

Vivienne, you could have made a massive difference to many lives in asking questions in 2006, instead you chose to bully to conceal the corruption that was AWINZ ... AWINZ ... did not exist, you covered it up and you 12 years later are still on the attack. I have had enough.

The purpose of this letter is to get some issues into the open, you are a policy analyst employed by the government directly as a contractor and apparently as an employee for LINZ.

You’re reportedly a lobbyist and as such I see the connection between you and Wells.

... As such it is in the public interest that you act with integrity and that your actions are exposed. As to integrity, it is my professional provision that you have none, it is my considered opinion that a person with integrity would seek damages someone’s reputation so that corruption could be concealed.

I am no longer a private investigator. You are very much the reason for this. By giving up my career I am free from the constraints of the Private Security Personal Licensing Authority (PSPLA) which I believe you and your associates have been stirring up for years in attempt to discredit me.

Your complaint in January was totally malicious and vexatious. You know I was supposed to travel to Wellington next week so you could have a go at me in person in a disciplinary hearing.

In short, your actions with the PSPLA has been for no other reason than to bully and intimidate me.

I have never met you Vivienne, but for the past 12 years you have been beeping away in the background to conceal serious government corruption. I suspect the link with Neil Wells was that you both advised on policy and there appears secrets which need to be kept, like protecting corruption rather than exposing it.

Last year I suspect that Neil Wells was the corrupt barrister who was mentioned in the decision for ripping off his client and then charging seven grand to find the money he took, perhaps that unsettled you because you’ve gone all out to defend him and spent years with your former husband persecuting me, taking me to court for defamation when I was speaking the truth but denying me the right to a fair trial and an offence you influenced the Court in a most defamatory judgement of me emerged when the

Judge believed the spin the lies and misinformation Nick Wright put to the Court.

The resulting judgment has served you well and has been rolled out by you and your mates for 12 years to show what a nasty person I am and why they should not believe my allegations of corruption. It has worked so far but then you thought I would have given up by now, no I have not. With the spotlight on rape and sexual violation you'll be next this is like I have been abused for 12 years.

I suspect that its fearing that the tide was turning, you made a complaint against my private investigator's license, it was malicious, vexatious and as a result I have given up y [sic] license as it was obviously a draw card for ongoing attacks by those I suspect you've encouraged to make complaints about me. Free from the PSPLA I have eliminated that avenue for harassment.

You first approached me at 9.45 pm on Friday 2 June 2006. You rang my home number and told me change the name of the legal trust which I was trustee of or you would make certain I would lose my private investigator's license. You followed this up with an email at 11 pm making similar threats.

You're working from your home as a law clerk at the tie [sic] for Brookfields which your then husband Nick Wright was partner of.

You now falsely claim that you had a practicing certificate but the Law Society investigations Here [sic] and the decision here prove otherwise.

You lied to the PSPLA when you said I was not working as a law clerk in 2006 [sic] I was a lawyer. I had bene [sic] a lawyer for about 10 years since late 1996. Your ability to tell lies reflects on your lack of integrity. [The post here quotes an extract from the Standards Committee decision which the New Zealand Law Society confirmed was factually incorrect and the letters refer to it in para 17].

One has to wonder why Neil Wells a barrister and Wyn Hoadley a barrister would instruct a resource management law clerk working from home on an alleged defamation matter and why she is now lying about her status as a law clerk ... smells rotten to me?

The trust which I was a trustee of was the Animal Welfare Institute of New Zealand now called the Animal Owners Support Trust we had incorporated to prove conclusively that no other legal entity existed by that name. The purpose of this was to support our suspicions that the approved organisation by the same name was a fraud. See here lifting the lid on lobbying and politics ... when lobbyists re-handed control.

You and Nick Wright contorted what has to be something quite sinister alleging that we were competitors trading on the name and seeking to deprive Wells of donations. You had the ability to twist facts then that your skill you've apparently have retained. It makes you a lying bitch in my honest opinion.

Vivienne Holm claims "there is nothing unusually in my phone call or emails to Ms Haden. In fact, forewarning people about your action against them unless it's the ethical ting [sic] to do." Really! 9.45 pm at night when this

was Law Society reported in their finding [the post here quotes another extract from the Standard Committee's decision]. So why not simply hang up when I answered then say sorry wrong number but you went onto intimidate and followed it up by threatening emails at 11 pm on Friday night? You used that name as Vivienne Parre and Vivienne Wright at the time, you now use Vivienne Holm and he [sic] email address karen161970@hotmail.com which I presume is your middle name and date of birth ... all these tings [sic] have been pointed out to you and Nick Wright over the years but you and him continued your vexatious attacks on me.

Have you not read section 4 of the Lawyers and Conveyancers Act ... Your duty is to the rule of law, you were an officer of the Court, but you have stayed out of tings [sic] so that would not reflect on your practicing certificate, you are cunning.

You prepared the statement of claim and Nick Wright your ex-husband another resource lawyer took the matter to court with the intention to get me to shut up and to change the name of our trust so that Neil Wells could cover it up. It did not work. I won't be bullied.

In my book that's using the law for an improper purpose. The law society did not deal with you because it all happened in 2006 when the old legal practitioners legislation was still in place. See the decision here, Holm decision.

.. Whatever you submit more information you introduce more misinformation and childish action ...

You apparently cannot read the Private Security Act and have failed to take into consideration the definition of private investigator or perhaps you do but it suits your intimidation, so I am giving it transparency.

.. Intimidation. Intimidation ... is that your only methodology.

... I will not give up until you are convicted as a lawyer obligation was the rule of law, you have been a lawyer off and on since 1996. You cannot plead ignorance and I have every reason to believe that you have coordinated the tax on me to discredit me.

... You gave the fictional AWINZ life by calling it AWINZ 2000. In terms of corruption you take the cake.

... The tool of resolution was intimidation, your speciality ...

By writing this open letter I will give the opportunity to increase the malicious attack on me which you state in paragraphs 22 and 23 of your complaint ...

The skill you have in my opinion in being a corrupt former lawyer specialising in intimidation and discrediting people to win at any cost.

[184] Ms Holm pleads that the statements meant or was meant to imply that:

(a) That she had behaved in a bullying way towards Ms Haden.

- (b) That Ms Holm had acted to conceal corruption.
- (c) That Ms Holm had been involved in attacks on Ms Haden spanning 12 years.
- (d) That Ms Holm had no integrity.
- (e) That Ms Holm's complaint to the Private Security Personal License Authority was malicious and vexatious.
- (f) That Ms Holm has been working to conceal serious government corruption for 12 years.
- (g) Ms Holm has persecuted Ms Haden.
- (h) Ms Holm is a rapist and behaves in the manner akin to a rapist.
- (i) Ms Holm lied to the Private Security Personal License Authority.
- (j) Ms Holm held herself as a lawyer when she is not entitled to do so (which is an offence).
- (k) Ms Holm is untruthful (a lying bitch).
- (l) Ms Holm has behaved in an intimidating and threatening way to Ms Haden.
- (m) Ms Holm has acted in an evasive way to avoid losing her practicing certificate (she is cunning).
- (n) Ms Holm has used the law for an improper purpose.
- (o) Ms Holm was a criminal (she should be convicted)

[185] Unless true, the statements are defamatory of the plaintiff.

[186] The blog post can only be described a vitriolic. No evidence has been put forward by Ms Haden which supports any of the statements made there.

[187] There was discussion of the complaint made to the PSPLA during the course of cross-examination. It became apparent that Ms Haden had completely misunderstood as to who had laid a certain complaint with the authority and it was confirmed by the authority that it was not from Ms Holm.

[188] On being pointed out to Ms Haden that she had misunderstood who had laid information with the authority, she still did not resile from the statements made.

[189] There is no evidence from the defendant which supports any of the statements and they are untrue.

[190] The 17th cause of action succeeds.

Eighteenth cause of action – publication material defaming the plaintiff

[191] On or about 19 March 2018, Ms Haden published a blog entitled, “Vivienne Holm avoids important questions”.

[192] The blog included the following statements, which identified and are about Ms Holm:

... My contact with you was in 2006 when you phoned me and intimidated me and attempted to blackmail me by making threats ...

... Why did you go all out and sustain an attack on me for a further 12 years to keep this fraud concealed ...

... In December 2017, you again contacted me. You made threats against my PI license ... each time you come at me in the most aggressive manner. Every contact contains a threat of one sort or the other...

... You made a complaint to the Private Security Personal Licensing Authority alleging very serious wrongdoing for which you did not provide any evidence.

It is this fraud which you have strived so hard to cover up.

... [You] never provided the contents of the statement of claim. It is full of lies and seriously misleads the Court ... I call that dirty law as it is against the rule of law and only ethical lawyers act in that way, the Law Society

investigated because this transition over the implementation of new legislation you got out of it.

[193] Ms Holm pleads that the statements meant or were meant to imply:

- (a) That she had blackmailed Ms Haden.
- (b) That she acted to conceal fraud.
- (c) That she had been involved in a tax on Ms Haden spanning 12 years.
- (d) That Ms Holm's complaint to the Private Security Personal Licensing Authority was not supported by evidence and was therefore frivolous and vexatious.
- (e) Ms Holm has persecuted Ms Haden.
- (f) Ms Holm had misled the Court.
- (g) That Ms Holm was a dirty and unethical lawyer.
- (h) The only reason Ms Holm would have been discipline by the New Zealand Law Society but for a technicality.

[194] Ms Haden has not produced any evidence which supports any of the statements that have been made and in attempt to do so under cross-examination it is clear she has misunderstood what has occurred and who has done what and to whom.

[195] For the reasons set out above, the statements are untrue and are defamatory.

[196] The 18th cause of action succeeds.

Nineteenth cause of action – publication material defaming the plaintiff

[197] On or about 23 July 2018, Ms Haden published a blog entitled, "Vivienne Holm – the perfect fairy story, when fact is simply unbelievable".

[198] The blog published contained the following statements, which identifies and is about Ms Holm:

Ms Vivienne Wright (Holm) enters ... and takes in upon herself to rings the wicked witch ... and threatens her PI license if she does not change the name of the trust which she and others had legally incorporated. (Blackmail in most people's books).

... We were told that Vivienne Holm prepared the statement of claim which was a wonderful piece of fiction ...

... You guessed it, she wants \$\$\$\$ about \$30,000 worth, \$20,000 as compensation ... for what? Because the truth hurts ...

If the truth hurts and you want to remove it from Google, you need to take defamation action and you can continue to ensure the bad spotlight fixes on others while you conceal the truth about yourself ...

[199] Ms Holm pleads that the statements meant or were meant to imply that:

- (a) She had blackmailed Ms Haden.
- (b) She had prepared a misleading statement of claim.
- (c) Ms Holm was taking court action to conceal the truth about herself.

[200] Unless true, the statements are defamatory of Ms Holm.

[201] The defendant has not provided any evidence of any part other than her self-generated statements based on not extraneous evidence to support any of the statements made.

[202] The statements are defamatory.

[203] The 19th cause of action succeeds.

Twentieth cause of action – publication material defaming the plaintiff

[204] On or about 7 January 2019, Ms Haden published a blog entitled, “Open letter to Vivienne Holm, Solicitor for FMA”.

[205] The blog includes the following statement, which identifies and is about Ms Holm:

You have blocked all email communications, are using in the court process to cause me stress and duress and waste my time, I'm totally over it.

On 2 June 2006, Vivienne Holm, claiming to be lawyer, phoned me late at night and simply told me if I didn't change the name of the trust that I was trustee of, she go after my private investigator's license. I call this intimidation ...

It was this action that Vivienne Holm was up to her neck in concealing this corruption by attacking me and 12 years later after having contributed to breaking up family, my marriage, causing me over \$300,000 in losses and forcing the sale of the family home, she is still at it and wants a chunk from my pension ...

[206] Ms Holm pleads that the statements meant or were meant to imply:

- (a) That Ms Holm is abusing the Court process to cause Ms Haden stress and duress.
- (b) Ms Holm untruthfully describes herself a lawyer (which is an offence).
- (c) Ms Holm is up to her neck in concealing corruption.

[207] As with all the other matters in this proceeding, Ms Haden has not produced any evidence that supports the statements made in the blog. They are untrue and are defamatory.

[208] The 20th cause of action succeeds.

Twenty-first cause of action – publication material defaming the plaintiff

[209] On or about 4 January 2019, Ms Haden published a blog entitled, “The RNZSPCA and ground making decision from the Canadian Courts ... will it impact on us?”.

[210] The blog included the following statement, which identified and is about Ms Holm:

Those involved in the cover up being ... Vivienne Holm.

... Another point of contention is whether or not she was a lawyer, I have lots of evidence that she did not have a practicing certificate and therefore could not be a lawyer, she has evidence that she did not have a practicing certificate but never lets a good document stand in the way of a bad argument.

[211] Ms Holm pleads that the statement meant or was meant to imply that Ms Holm was involved in a cover up and that Ms Holm has a pattern of pursuing unfounded or/and spurious legal action.

[212] Unless true, the statements are defamatory of Ms Holm.

[213] Ms Haden has not produced any evidence which supports the statement made. Indeed, at the time that she published the statement on 4 January 2019, she was in receipt of both the decision of Judge Joyce QC and the New Zealand Law Society's determination on her complaint to it.

[214] The 21st cause of action succeeds.

Twenty-second cause of action – publication material defaming the plaintiff

[215] On or about 11 January 2019, Ms Haden published a blog entitled, "Hey! New Zealand looks like your corruption is showing?"

[216] The blog included the following statement, which identified and is about Ms Holm:

Ms Vivienne Holm, who now works for the FMA but at the time was a resource management clerk for Brookfields, phoned me late at night and told me to change the name of my trust, this was so that they could conceal the fraud.

[217] Ms Holm pleads that the statement meant or was meant to imply that Ms Holm was involved in fraud.

[218] Unless true, the statements are defamatory of Ms Holm.

[219] There is no evidence put forward by Ms Haden which substantiates the statements made. They are false and defamatory.

[220] The 22nd cause of action succeeds.

Twenty-third cause of action – publication material defaming the plaintiff

[221] On 16 December 2019, Ms Haden emailed Eileen Fisher. The email contained the following statement, which identified and is about Ms Holm:

It is a very serious matter when a trust sets up and uses the Charities Act to conceal fraud and uses charitable funds to conceal fraud.

Vivienne Holm is very much involved in this from day one ...

[222] Ms Holm pleads that the statement meant or was meant to imply that Ms Holm was involved in fraud and that this statement is defamatory.

[223] For the reasons previously given, this statement is false and is defamatory.

[224] The 23rd cause of action succeeds.

Remedies

[225] Ms Holm has divided the causes of actions into three groups. The ones that she regards as the less damaging, she seeks \$2,000 for each. For those that she sees as being more damaging, she seeks \$4,000 and for the worst ones \$8,000.

[226] If an award is made in accordance with those amounts, they would total \$114,000 before consideration of punitive damages, for which Ms Holm seeks \$30,000.

[227] Ms Holm also seeks a permanent injunction restraining either or both defendants from publishing or causing to be published the statements that are set out in the proceedings as set out above, or words to similar affect.

[228] Finally, Ms Holm seeks costs on a solicitor/client basis or any other basis the Court thinks fit.

[229] Section 29 of the Defamation Act 1992 states:

Matters to be taken into account in mitigation of damages

In assessing damages in any proceedings for defamation, the following matters shall be taken into account in mitigation of damages:

- (a) in respect of the publication of any correction, retraction, or apology published by the defendant, the nature, extent, form, manner, and time of that publication:
- (b) in respect of the publication, by the defendant, of any statement of explanation or rebuttal, or of both explanation and rebuttal, in relation to the matter that is the subject of the proceedings, the nature, extent, form, manner, and time of that publication:
- (c) the terms of any injunction or declaration that the court proposes to make or grant:
- (d) any delay between the publication of the matter in respect of which the proceedings are brought and the decision of the court in those proceedings, being delay for which the plaintiff was responsible.

[230] A successful defamation plaintiff is compensated because of injury to reputation. Compensation vindicates and consoles the plaintiff.⁶

[231] Some authorities accept there can be a division between general damages and aggravated damages. Aggravated damages are seen as additional damages to compensate for injury to the plaintiff's feelings or dignity where that sense of injury has been exacerbated by the manner in which, or the motive with which, the defendant committed the defamatory act.⁷

[232] In *Manga v Attorney-General*, Hammond J said:⁸

To say damages are "aggravated" adds nothing. Rather, compensatory damages may appropriately be enlarged to reflect the greater damage for which actual compensation is required. Exemplary damages may be awarded in an appropriate case.

[233] Similar comment has been made by Tipping J in *Midland Metals Overseas Pte Ltd v The Christchurch Press Co Ltd*.⁹

⁶ See *Siemer v Stiassny & Anor* [2011] NZCA 106 at [49].

⁷ *Ibid* at [51].

⁸ *Manga v Attorney-General* [2000] 2 NZLR 65 (HC)

⁹ *Midland Metals Overseas Pte Ltd v The Christchurch Press Co Ltd* [2002] 2 NZLR 289 (CA) at [303].

[234] When determining quantum, reference can be made to awards in similar cases. Cases of this type are uncommon. The decision in *Wells v Haden* is the closest.¹⁰ Ms Holm states she took that award and increased it to take into account inflation. In effect, she is asking for the same award in today's money.

[235] While the subject matter has the same genesis, there are differences with the situation of Mr Wells in that his livelihood was more directly threatened. His defamation took place over a two year period at the time of trial.

[236] Ms Holm has been subjected to 12 years of constant blogs being published. Notwithstanding, harassment proceedings resulting in the imposition of a restraining order and applications under the Harmful Digital Communications Act, Ms Haden has continued to publish. The rulings of Judge Joyce QC and the New Zealand Law Society have been ignored.

[237] Ms Holm testified as to how the blogs had affected her applications for employment. Ms Holm's then current employers were named in some of the blogs. Correspondence was sent directly to her employers. Applications for employment to the Porirua City Council and at the Office of Parliamentary Counsel did not proceed once the blogs were seen. Ms Holm's ex-husband and her father have been brought into the blogs.

[238] Adjusting the Wells award by the rate of inflation as the sole basis of an award avoids the Court making its own assessment. The Wells award is a factor that can be considered to ensure, as much as is possible, the appropriateness of an award.

[239] I am required to take note of Ms Haden's removal of references to Ms Holm in the blogs. This only occurred after proceedings were issued in 2018 and, as previously related, was inadequate. Ms Holm's name is still published, or links are provided, or references made, which would lead to her identification.

[240] Ms Holm seeks an injunction. The issue of an injunction must be factored into any award.

¹⁰ *Wells v Haden*, see fn 1.

Damages

[241] General (and aggravated) damages of \$75,000 are awarded to Ms Holm.

[242] Punitive damages were explicitly pleaded. The continuation of the publishing, the ignoring of decisions of the District and High Courts, and the ruling of the New Zealand Law Society requires a response. Punitive damages of \$25,000 are awarded to Ms Holm.

Injunction

[243] A permanent injunction is granted preventing Ms Haden publishing any material on any site or by any media which relates to, or has reference to, Ms Holm directly or indirectly.

[244] The effect of the injunction is Ms Haden will need to remove all her current blogs and publications as she has made plain, she is incapable of removing not only Ms Holm's name but also links, references and other means of identifying Ms Holm.

Costs

[245] Should Ms Holm seek costs, she is to file a memorandum in support of an award by 27 October 2021. Ms Haden has until 10 November 2021 to file a memorandum in reply.

[246] For the purposes of s 42(2) of the Defamation Act 1992, I determine that Ms Holm's claim for damages was not grossly excessive.

Judge D G Smith

District Court Judge | Kaiwhakawā o te Kōti ā-Rohe

Date of authentication | Rā motuhēhēnga: 12/10/2021