

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

**I TE KŌTI MATUA O AOTEAROA
ŌTAUTAHI ROHE**

**CIV-2023-409-230
[2024] NZHC 763**

BETWEEN

ANDREW MICHAEL NICOL
Plaintiff

AND

CRAIG DOUGLAS
First Defendant

JIMMIE KEVIN McNICHOLL
Second Defendant

Hearing: On the papers

Counsel: D M Salmon KC and S M U Lee for Plaintiff
G E Slevin for First Defendant
No appearance for Second Defendant

Judgment: 11 April 2024

JUDGMENT OF ASSOCIATE JUDGE PAULSEN

This judgment was delivered by me on 11 April at 11.45 am
pursuant to Rule 11.5 of the High Court Rules.

Registrar/Deputy Registrar
Date:

[1] The plaintiff has sued the defendants in defamation. In a judgment of 21 February 2024 I dismissed applications made by the plaintiff and first defendant for summary judgment and strike out.¹

[2] The plaintiff and the first defendant have now agreed on terms of a consent judgment and have requested that the Court issue a judgment making the following declaration under s 24 of the Defamation Act 1993 (the Act):

This Court declares that Mr Craig Douglas is liable to Mr Andrew Michael Nicol in defamation for making the following false statement about Mr Nicol (the **Statement**) in text messages to Mr Rowan Robinson:

I had lunch yesterday with a chap who had a very powerful job. I asked him directly about Nicole [sic] and the rape allegations. He confirmed that he is at the centre and that he is 90% facing jail time.

Andrew Nicol.

...

Date rape. 88 charges by 34 woman [sic] over 3 years. 2015 – 2018
it's the development of the mumma [sic] hooch saga

The Jury trial starts Feb 23.

[3] The plaintiff and the first defendant have agreed that the judgment can appropriately record the following:

- (a) The parties agree that the summary at [6] – [20] of my judgment dated 21 February 2024 is accurate and appropriate.²
- (b) The Statement falsely alleged that Mr Nicol was at the centre of the Mama Hooch offending and was almost certain to be imprisoned as a prolific serial rapist and sexual offender. Mr Douglas admits the falsity of the Statement he made about Mr Nicol.
- (c) Mr Douglas raised an affirmative defence in relation to the Statement that it did not amount to a “real and substantial tort” because of its

¹ *Nicol v Douglas* [2024] NZHC 250.

² *Nicol v Douglas*, above n 1.

limited publication but now accepts it was highly defamatory, in order to bring the proceeding to an end.

- (d) Mr Douglas has apologised to Mr Nicol in the form contained in Schedule 1 to this judgment.

[4] I am satisfied that the order sought in [2] above is appropriate.

[5] As far as costs of the proceeding are concerned, the plaintiff and first defendant agree that the issue of costs as between them is to be reserved under s 24 of the Act with submissions and supporting affidavits to follow.

[6] As far as the second defendant is concerned, he has taken few steps in the proceeding and has represented himself. He has offered an apology to the plaintiff for his involvement in what he described as a genuine mistake in identity. The plaintiff is prepared to discontinue against the second defendant with no issue as to costs. Being self-represented the second defendant is not entitled to costs.

Result

[7] There shall be judgment in favour of the plaintiff in the terms of [2] above.

[8] Costs as between the plaintiff and first defendant are reserved to be determined under s 24 of the Act with submissions and any supporting affidavits to be filed according to a timetable that counsel are to agree. If they cannot agree on a suitable timetable counsel should file memoranda and I will impose one. The issue of costs will then be determined on the papers.

[9] The plaintiff's claim against the second defendant is discontinued with no order for costs.

O G Paulsen
Associate Judge

Solicitors:
Wynn Williams, Christchurch
Davidson Legal Ltd, Christchurch

SCHEDULE 1 – APOLOGY

Schedule one – Apology

I, **Craig Douglas**, apologise unreservedly to **Mr Andrew Michael Nicol** for falsely accusing him of being a at the centre of the Mama Hooch offending and very likely to be jailed as a prolific serial rapist.

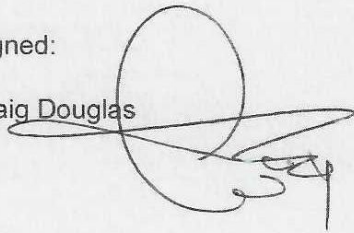
I accept I should not have made the Statement. I realised the Statement was false shortly after making it and have never since contended the allegations were true. I understand the difficult position I placed Andrew in by making the Statement because at the time I made the Statement, the Mama Hooch offenders had name suppression and could not be identified. The practical effect of this was that Andrew could not exonerate himself by pointing to the actual offenders.

All offenders in the Mama Hooch offending have now faced trial. Those who were found guilty have been imprisoned for long periods of time. This reflects the gravity of what those men did to their victims. It naturally reflects the serious gravity of the false allegations I made about Andrew.

I have consented to the High Court making a declaration that I am liable to Andrew in defamation. The Court will subsequently fix costs.

Signed:

Craig Douglas

A handwritten signature in black ink, appearing to be 'Craig Douglas', written over a large, faint circular watermark or stamp.

Dated: 22 March 2024