IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law & Equity Division

Claim No. 2025/CLE/gen/00272

B E T W E E N

IN THE MATTER OF the Libel Act, 2001

SAND DOLLAR BEACH RESORT

Claimant

AND

THE TRIBUNE LIMITED

Defendant

Before: The Honourable Madam Justice Camille Darville Gomez

Appearances: Mr. Joseph Moxey for the Claimant
Mr. N Leroy Smith and Mrs. Kimberleigh Turnquest for the Defendant

Hearing Dates: 17th September, 2025

Civil Procedure – Strike out pursuant to Part 26.3(1)((b)and (c)of the Supreme Court Civil Procedure Rules – alternatively for Summary Judgment - Headline and Photograph Defamatory – Accompanying Article not Defamatory – Whether Claimant entitled to sever and rely on Headline and Photograph in Claim for Libel – whether Claimant is a juridical Entity

RULING

DARVILLE GOMEZ, J

[1.] On 19 July 2024, the Defendant, The Tribune Limited (sometimes referred to as "The Tribune") published a front-page article about a double murder in Fox Hill. Only a portion of the start of the article was published on the front page. The article was accompanied by a crime-scene image. However, directly above it, the newspaper inadvertently placed a photograph of Miss Universe, Ms. Sheynnis Palacios, standing near a Sand Dollar Beach Resort banner, with the caption "Double Murder in Fox Hill."

[2.] Neither the Purported Claimant nor the Defendant dispute this.

[3.] The Purported Claimant, viz., Sand Dollar Beach Resort alleged that this juxtaposition suggested a murder had occurred at its property and involved Miss Universe, thereby harming its business reputation.

[4.] The Tribune denied liability, arguing the claim was misconceived and unsustainable. It applied to strike out the action or, alternatively, for summary judgment by Notice of Application filed on 22 July, 2025.

[5.] For the reasons hereinafter set out I have struck out the action on the basis that it has failed to disclose any reasonable ground for bringing a claim and have awarded costs to the Defendant, such costs to be paid by Sand Dollar Beach Resort Limited to be assessed by this Court on the papers if not agreed between the parties.

The Application

[6.] The Tribune applied by Notice of Application filed on 22 July, 2025 to strike out (the "Strike Out Application") the Claim Form and Statement of Claim in whole or in part for failing to disclose any reasonable ground for bringing a claim and/or as being frivolous, vexatious, scandalous, and/or an abuse of the process of the Court pursuant to the Supreme Court Civil Procedure Rules Parts 26.3(1)(b) and (c) (the "CPR"); further or alternatively, for an Order pursuant to CPR Part 15 that Summary Judgment be entered for the Tribune on the basis that the Purported Claimant has no real prospect of succeeding on the claim set forth in the Statement of Claim; and an Order that the Purported Claimant [and/or its principals] pay the Tribune's Costs in and occasioned by this Action, such Costs to be assessed if not agreed. It is supported by an affidavit of Miguel Darling filed on the same date.

[7.] The Purported Claimant opposed the said application.

[8.] The Purported Claimant's evidence is contained in the affidavit of Marvin Stuart filed on 3 September, 2025.

Defendant's Submissions

[9.] The Defendant's evidence is contained in the First affidavit of Miguel Darling who had this to say:

> "4.On 19th July, 2024, an article (the "Article") appeared on the front page of The Tribune Newspaper, describing the murder of two men that had occurred in the Fox Hill community the previous night. Now produced and shown to me marked ***"Exhibit MAD-1"*** is a true copy of the front page of the edition of the Tribune on 19th July, 2024."

> "5. The Article was accompanied by an image depicting on-scene responders attending a crime scene at night (the ***"On-scene Responder Image"***), which appears in Exhibit MAD-1."

"6. A second photograph (***"The Subject Photograph"***) was inadvertently placed immediately above the Article and the On-scene Responder Image. The Subject Photograph depicted the then reigning Miss Universe against the backdrop of a clear blue sky, a marina's dock pilings, and a 'Sand Dollar Beach Resort' flag banner. The Subject Photograph was captioned "Double Murder in Fox Hill"."

"7. By these proceedings (the ***"Action"***), the Purported Claimant, Sand Dollar Beach Resort (the ***"Purported Claimant")***, alleges that the publication of the Subject Photograph "….. with the captioned [sic] 'Double murder in Fox Hill'… *was very damaging to the Claimant's business in that at first glance it represents that a double murder took place at Sand Dollar Beach Resort and one of the victims is that of Miss Universe…* "

"8. On 5th May, 2025, The Tribune filed its Defence, wherein it joined issue with the Purported Claimant in all material respects and averred that this Action is entirely misconceived and unstainable as a matter of law."

"9. After careful review of the documents filed by the Purported Claimant, I verily believe that:

9.1 The Claim Form and Statement of Claimant are fundamentally flawed insofar as they are purportedly premised upon and claim in respect of an alleged breach under the "Libel Act 2001", which to the best of my knowledge does not exist in this jurisdiction.

9.2 No particulars are given as to the legal entity operating under such name, nor is there any averment that such entity has standing to bring this claim. And, in the absence of such foundational identification, the proceedings are improperly constituted.

9.3 The pleaded case does not meet the legal threshold for defamatory meaning in general.

9.4 Moreover, in assessing whether a publication is defamatory, the Court must consider the article as a whole through the eyes of the hypothetical reasonable reader, who is taken to read the entire publication in its proper context, at first glance. Upon review of the Article and the Subject Photograph in their proper context, it is clear that when read as a whole, the Article neither identifies nor defames the Purported Claimant."

"10. I verily believe that given the strength of the Tribune's defences and the settled principles in law:

a) The Purported Claimant has no real prospect of succeeding in the Action:

b) A Trial would serve no useful purpose; and

c) Allowing the Action to proceed would be a disproportionate use of judicial resources."

[10.] The Defendant has relied upon two principal submissions (i) failure to identify a juridical entity and (ii) failure to plead any legally cognisable libel claim.

[11.] I set out below the portions of the submissions by the Defendant on each of these issues below:

7. It is respectfully submitted that on application of the salient principles of law, the Purported Claimant's case is devoid of merit and ought to be dismissed by reason of the fact that:

(i) The Purported Claimant's libel claim has not been brought in the name of any juridical entity and is therefore inherently defective; and

(ii) The Purported Claimant's libel claim rests on a pleaded (alleged) first glance impression based solely upon the Subject Photograph and caption. However, it is established by the highest authority that (i) a claim in libel may not be founded on a headline or on headlines, photographs and/or captions in isolation from the related text; (ii) the Court is required to identify the single meaning that the statement or other publication complained of would convey to a hypothetical reasonable reader, who must be assumed to have read the whole of the statement/publication. There is no pleaded allegation that the article as a whole conveyed a defamatory meaning. It follows that the Purported Claimant's pleaded case fails to meet the most basic legal threshold.

(i) Failure to Identify Juridical Entity

8. The law of defamation is directed exclusively to the protection of reputation. For this reason, the right to sue in libel arises only where there is a reputation capable of protection.

9. Reputation attaches to natural persons and to bodies corporate. Consequently, the right to sue for defamation is limited to natural persons, corporate entities, and certain other organisations with legal personality. A firm name, trading style, or description, without more, does not have the legal capacity to bring a defamation claim.

10. The instant claim is purportedly brought by "Sand Dollar Beach Resort" and NOT in the name of any natural person or body corporate.

11. It is the position therefore that the Purported Claimant is not a juridical entity capable of owning and/or vindicating a reputation.

12. The court's modern approach to defamation is rooted in protecting reputation while ensuring proceedings have real utility and proportionality. It is submitted that where – as here - no claimant with a legally cognisable reputation is before the Court, the Court should find that the action serves no legitimate purpose. See: Jameel (Yousef) v Dow Jones & Co. Inc. [2005] EWCA 75

13. In any ordinary case, it is obligatory for pleadings to identify the claimant with precision because the Court will not speculate as to who or what sits behind a trading style [See also: CPR Part 3.3

and PD 3 No. 1 of 2023 which requires that the full name of each party be included in the claim form].

14. (For the reasons explained above,) this is *a fortiori* the position in any case rooted in defamation.

15. Having failed to identify any juridical entity alleged to have been defamed, the Purported Claimant's claim is fatally defective and should be struck out.

(ii) Failure to plead any legally cognisable libel claim

16. The *gravamen* of the Purported Claimant's claim is that "at first glance" the juxtaposition of the Subject Photograph with the caption "Double Murder in Fox Hill" was damaging to the [still unidentified] Claimant's business".

17. However, it is settled law that no cause of action arises in these circumstances. To wit:- this issue fell squarely for determination by the English House of Lords in Charleston v News Group Newspapers Ltd [1995] 2 AC 65 **(Tab 4)**.

18. The facts in Charleston were that the claimants were actors who played characters Harold and Madge Bishop in the popular television soap opera, "Neighbours". A tabloid published an article under the headline "Strewth! What's Harold up to with our Madge?", with a sub-heading "Porn shocker for Neighbours stars". It was accompanied by a photograph seemingly showing the two actors having sex with each other. The text of the article made clear that the photographs had been produced by the makers of a pornographic computer game by superimposing the faces of the two actors onto graphic images.

19. In the House of Lords, Lord Bridge summarised the issue to be determined at 69F:

"The plaintiffs must have found this publication deeply offensive and insulting. Many people will not only deplore this kind of gutter journalism but will think that the law ought to give some redress to the plaintiffs against the publication of such degrading faked photographs irrespective of what the accompanying text may have said. I have considerable sympathy with this point of view.

However, your Lordships are not concerned to pronounce on any question of journalistic ethics nor to consider whether the publication of the photographs by itself constituted some novel tort. **The single question of law to which the appeal gives rise is whether the plaintiffs have any remedy in the tort of defamation on the basis of their pleaded claim, and this in turn narrows down to the question whether a claim in defamation in respect of a publication which, it is conceded, is not defamatory if considered as a whole, may nevertheless succeed on the ground that some readers will have read part only of the published matter and that this part, considered in isolation, is capable of bearing a defamatory meaning.**

20. Lord Bridge continued at 69G:

"The plaintiffs' statement of claim alleges that the publication conveyed to the reader a number of defamatory meanings. The basis on which all these alleged meanings rest is that the reader would have drawn the inference that the plaintiffs had been willing participants in the production of the photographs, either by posing for them personally or by agreeing that their faces should be superimposed on the bodies of others. But it is conceded on the plaintiffs' behalf, and is indeed obvious, that no reader could possibly have drawn any such inference if he had read beyond the first paragraph of the text. Thus the essential basis on which Mr. Craig's argument in support of the

appeal rests is that, in appropriate circumstances, it is possible and legitimate to identify a particular group of readers who read only part of a publication which conveys to them a meaning injurious to the reputation of a plaintiff and that in principle the plaintiff should be entitled to damages for the consequent injury he suffers in the estimation of this group.

It is well settled, as Mr. Craig accepts, that, save in the case of a legal innuendo dependent on extrinsic facts known to certain readers, no evidence is admissible as to the sense in which readers understood an allegedly defamatory publication. No legal innuendo is here alleged. But here, so Mr. Craig's argument runs, it goes without saying and no evidence is required to establish that, out of the many millions constituting the readership of a mass circulation newspaper like the "News of the World," a significant proportion, when they saw the page of which the plaintiffs complain, would have done no more than to have read the headlines and looked at the photographs. It will be convenient to refer to this group as the "limited readers." The argument before your Lordships was substantially confined to the effect of the publication on the minds of the limited readers. They would, Mr. Craig submits, have drawn an inference defamatory of the plaintiffs as actors willing to participate in pornographic films and it should be left to a jury to estimate the size of the group constituted by the limited readers and to award damages accordingly for the injury which the plaintiffs' reputation must have suffered in the estimation of this group.

The first formidable obstacle which Mr. Craig's argument encounters is a long and unbroken line of authority the effect of which is accurately summarised in *Duncan & Neill on Defamation*, 2nd ed. (1983), p. 13, para. 4.11 as follows:

> **"In order to determine the natural and ordinary meaning of the words of which the plaintiff complains it is necessary to take into account the context in which the words were used and the mode of publication. Thus a plaintiff cannot select an isolated passage in an article and complain of that alone if other parts of the article throw a different light on that passage."**

The locus classicus is a passage from the judgment of Alderson B. in *Chalmers v. Payne* (1835) 2 C.M. & R. 156, 159, who said:

> **"But the question here is, whether the matter be slanderous or not, which is a question for the jury; who are to take the whole together, and say whether the result of the whole is calculated to injure the plaintiff's character. In one part of this publication, something disreputable to the plaintiff is stated, but that is removed by the conclusion; the bane and antidote must be taken together."**

This passage has been so often quoted that it has become almost conventional jargon among libel lawyers to speak of the bane and the antidote. It is often a debatable question which the jury must resolve whether the antidote is effective to neutralise the bane and in determining this question the jury may certainly consider the mode of publication and the relative prominence given to different parts of it. I can well envisage also that questions might arise in some circumstances as to whether different items of published material relating to the same subject matter were sufficiently closely connected as to be regarded as a single publication. But no such questions arise in the instant case. There is no dispute that the headlines, photographs and article relating to these plaintiffs constituted a single publication nor that the antidote in the article was sufficient to neutralise any bane in the headlines and photographs. Thus it is essential to the success of Mr. Craig's argument that he establish the legitimacy in the law of libel of severance to permit a plaintiff to rely on a defamatory meaning conveyed only to the category of limited readers.

Summary of Submissions of the Applicant/Defendant

[12.] The Defendant contends that the proceedings disclose no reasonable ground for bringing the claim and that the Purported Claimant has no real prospect of success. Accordingly, dismissal is sought on the following bases:

Lack of Juridical Person

(i) The claimant has sued only in a business name, without identifying any underlying legal entity. As such, there is no juridical person before the Court capable of maintaining an action in libel.

Deficiencies in Pleaded Basis of Liability

(i) The sole pleaded basis is that a caption and photograph created a defamatory impression "at first glance."
(ii) This formulation is legally insufficient because:
  (a) Impressions formed "at first glance" by disparate individuals do not constitute the applicable test.
  (b) The proper test requires the Court to determine the single meaning conveyed to the hypothetical reasonable reader, assumed to have read the publication in its entirety.
  (c) No allegation has been pleaded that the article as a whole conveyed a defamatory meaning.
  (d) The claimant is bound by the formulation in the Claim Form, which fails to meet the legal threshold for a sustainable libel claim.

Purported Claimant's Submissions

[13.] I will set out the Purported Claimant's response to each of the Defendant's two principal submissions (i) failure to identify a juridical entity and (ii) failure to plead any legally cognisable libel claim.

[14.] First, the Purported Claimant by its affidavit filed on 3 September, 2025 had this to say in response to the affidavit of Miguel Darling:

1. The Claimant cannot admit or deny paragraphs 1, 2 and 3 of the Defendant's affidavit in Support but put the Defendant to strict proof. (For completeness, I have set out these paragraphs below):

"1. I [Miguel Darling] am an Associate in the firm of Higgs & Johnson, attorneys for the Defendant in this action, The Tribune Limited ("The Tribune"), and I make this Affidavit in support of The Tribune's Notice of Application seeking an Order that the Claim Form and Statement of Claim filed herein on 8th April, 2025 be struck out, or in the alternative, that Summary Judgment be entered for The Tribune."

"2. I depose to the facts and matters set forth in this Affidavit from the knowledge gained by me from my review of my firm's files. Where the contents hereof consist of my own knowledge,

they are true. Where the contents consist of information told to me by other persons or gained by me from reading documents that I did not prepare, they are true and correct to the best of my information and belief." and

"3. I am duly authorized to make this Affidavit on behalf of The Tribune."

2. *Paragraphs 4, 5, 6 and 7 (set out at [9] above) are admitted.*
3. *Save that the Defendant filed its Defence, paragraph 8 (set out at [9] above) is denied that the action is entirely misconceived and unsustainable as a matter of law. The Defendant's daily publication is read around the world .*

Failure to identify a juridical entity

[15.] The Purported Claimant relied upon a case from the Eastern Caribbean Supreme Court **Josephat Small (Trading as Recycle It Inc) and Thomas Ambrose SLUHCV 2008/1173** where Justice Actie had similarly to deal with an issue where the claimant in the action was intituled as "Josephat Small Trading as Recycle It Inc" on an application to set aside a default judgment. The Defendant averred that Recycle It Inc was a limited liability company. Justice Actie accepted that the description was a misnomer and that the claimant was a limited liability company. She relied upon the CPR Part 8.5 which is identical to our CPR 8.5 which provides that:

8.5 Claim not to fail by adding or failing to add parties.

(1) The general rule is that a claim will not fail because a person –

(a) who should have been made a party was not made a party to the proceedings; or

(b) was added as a party to proceedings who should not have been added.

[16.] She said that this rule in her view *"can also apply where there is a misnomer in the description of the plaintiff as in the case at bar."* She found that what turned out to be a false description of the claimant could be corrected by a minor amendment.

[17.] The Purported Claimant concluded that the Claim Form was signed by Marvin Stuart the beneficial owner of Sand Dollar Beach Resort Limited, a juristic person therefore, pursuant to the rules and authority the Defendant's claim on this ground ought to fail. In the oral submissions of Counsel for the Purported Claimant, he admitted that the word "Limited" had been omitted from the Claim Form and noted that this could be cured by a simple amendment.

Failure to plead any legally cognisable libel claim

[18.] The Purported Claimant relied upon **Sim v Stretch [H.L] All ER 1237** and submitted that Judges and textbook writers alike have found difficulty in defining with precision the word "Defamatory". He cited: *"The question is...but after collating the opinions of many authorities I propose in the present case the test: would the word tender to lower the plaintiff in the estimation of right-thinking members of society generally? Assuming such to be the test of whether words are defamatory or*

not there is no dispute as to the relative functions of judge and jury, of law and fact. It is well settled that the judge must decide whether the words are capable of a defamation meaning. ***(Emphasis added)***

[19.] Further, the Purported Claimant submitted as follows:

9. It is submitted that any right-thinking member of society that looked at the Defendant's publication first page in bold it said "DOUBLE MURDER IN FOX HILL" not knowing the geographical location of Fox Hill but seeing a sign that read Sand Dollar Beach Resort with a picture of the reigning Miss Universe at the time, it fair to say and think that a double murder took place at Sand Dollar Beach Resort which is in Fox Hill and that Miss Universe was one of the persons murdered. The Claimant is the tourism business whose name is known globally. The Defendant's newspaper is issued hard print locally and sent out globally through its website which is read by the world at large. A tourist having booked a day at Sand Dollar on their upcoming visit to the Bahamas would believe in their mind on reading the captioned of the Defendant's publication that a murder took place at Sand Dollar. In so doing, will cancel their booking thinking Sand Dollar Breach Resort is not a safe place to visit. It is submitted that in reading the article as a whole it never clarified that Sand Dollar was not a part of Fox Hill. The world at large will not know that except for what was depicted by the Defendant's publication at first glance and read. The Defendant has admitted that this publication was done in error on its front page "Double Murder in Fox Hill" with the sign of the Claimant and a picture of Miss Universe. It is submitted that what else can a right-think member of society think when they do not know the geographical location of Fox Hill and the Claimant. It went public and viral for which the damage was done.
10. In the Case of ***Dr. Sarah Thornton and Telegraph Media Group Limited [2010] EWHC 1414 (QB)*** the approach of defining defamation was further explained and defined. Mr Justice Tugendhat said at *paragraph 18* thereof: -

    THE SINGLE MEANING RULE

    "In deciding what meaning the words complained of are capable of bearing the Judge must have in mind guidance of the Court of Appeal. That was given in *Skuse v Granada Television [1996] EMLR 278 at 286 and Gillick v BBC [1996] EMLR 267 at 275*. It has most recently been summarised in *Jeynes v News Magazines Ltd [2008] EWCA Civ 130 (and Gatley on Libel and Slander 11th ed 3.13)* where Sir Anthony Clarke MR said at [14]:

    > "The governing principles relevant to meaning ... may be summarized in this way: (1) The governing principle is reasonableness. (2) The hypothetical reasonable reader is not naïve but he is not unduly suspicious. He can read between the lines. He can read in an implication more readily than a lawyer and may indulge in a certain amount of loose thinking, but he must be treated as being a man who is not avid for scandal and someone who does not, and should not, select one bad meaning where other non-defamatory meanings are available. (3) Over-elaborate analysis is best avoided. (4) The intention of the publisher is irrelevant. (5) The article must be read as a whole, and any "bane and antidote" taken together. (6) The hypothetical reader is taken to be representative of those who would read the publication in question. (7) In delimiting the range of permissible defamatory meanings, the court should rule out any meaning which, "can only emerge as the produce of some strained, or forced, or utterly unreasonable

interpretation..." .... (8) It follows that "it is not enough to say that by some person or another the words might be understood in a defamatory sense."".

Summary of Submissions of the Respondent/Claimant

[20.] The Purported Claimant relied on the authority of **John v MGN Ltd (CA 35)**, where the Defendant's newspaper was found guilty of libel and slander for publishing a photograph of the Plaintiff accompanied by the words "World exclusive and Elton's diet of death," which falsely alleged that the Plaintiff was on a bizarre diet. The Plaintiff in that case was a well-known singer and musician.

[21.] By analogy, the Purported Claimant submitted that it too is well known, operating a tourism-focused business globally advertised online, inviting visitors to The Bahamas to enjoy the sun, sand, sea, and the unique attraction of swimming with pigs. The Defendant's publication, it is argued, impugned the Claimant's reputation as a safe and enjoyable destination, thereby satisfying the legal definition of defamation.

[22.] Accordingly, pursuant to the CPR rules and authorities cited, the Purported Claimant contends that the Defendant's application for summary judgment or strike-out ought to fail. The Purported Claimant seeks dismissal of the application, with costs to be awarded in its favour, to be taxed if not agreed.

Analysis and Disposition

Court's Jurisdiction

[23.] I have been asked to strike out this action pursuant to Part 26.3 of the CPR which provides that "In addition to any other power under these Rules, the Court may strike out a statement of case or part of a statement of case if it appears to the Court that —

...(b) the statement of case or the part to be struck out does not disclose any reasonable ground for bringing or defending a claim; (c) the statement of case or the part to be struck out is frivolous, vexatious, scandalous, an abuse of the process of the Court..."

[24.] The Court was referred to **Jameel v Dow Jones & Co Inc [2005] QB 946, CA,** a defamation claim where the English Court of Appeal held that *the litigation was pointless and wasteful or "[did] not serve the legitimate purpose of protecting the claimant's reputation" and therefore such a claim amounted to an abuse of process.* The Court of Appeal subsequently reaffirmed and applied the **Jameel** abuse-of-process principle in later cases, including **Lait v Evening Standard Ltd [2011] 1 WLR 2973, CA at [42].** The Defendants also relied on **Gatley on Libel and Slander (12th Edition; 2013)** at para 30.48, concerning proceedings that are not "worth the candle" and as such constitute a **Jameel** abuse of process.

[25.] Further, or alternatively, the Defendant referred to Part 15 of the CPR which provides that the Court may give summary judgment on the claim or on a particular issue if it considers that the — *"(a) claimant has no real prospect of succeeding on the claim..."*

[26.] The facts giving rise to this claim for libel are not in dispute. The parties both agree the content of the front page article which appeared in The Tribune on 19th July, 2024, describing the murder of two men that had occurred in the Fox Hill community the previous night (the "Article").The Article was accompanied by an image depicting on-scene responders attending a crime scene at night (the ***"On-scene Responder Image"***). A second photograph (the ***"The Subject Photograph"***) was inadvertently placed immediately above the Article and the On-scene Responder Image. The Subject Photograph depicted the then reigning Miss Universe against the backdrop of a clear blue sky, a marina's dock pilings, and a 'Sand Dollar Beach Resort' flag banner. The Subject Photograph was captioned "Double Murder in Fox Hill".

[27.] I will now consider the two grounds of the Defendant's principal submissions to strike out the action or alternatively, for summary judgment.

Ground 1 - Failure to identify a juridical entity

[28.] The Claimant's Counsel confirmed that the Purported Claimant is a company trading as Sand Dollar Beach Resort and this error or misnomer ought not to cause the claim to fail or be struck out. He relied upon the CPR rule 8.5 and the **Josephat Small** case where Justice Actie observed that this could be cured by a minor amendment.

[29.] Justice Actie, in her reasoning, also relied upon the authority of Pereira CJ (as she then was) in **Deidre Pigott Edgecombe v Antigua Flight Training Centre** ***ANUHCVAP2015/0005***. In that case, the Appellants contended that the respondent was not a legal person and did not exist in law. It was therefore argued that the judgment obtained by the respondent was contrary to law, since a non-juristic entity could neither institute proceedings nor obtain judgment therein.

[30.] Chief Justice Pereira had this to say:

> *" The appellants have sought to rely on the case of* ***Lazard Brother & Company v Midland Bank Ltd.*** *Here Lord Wright in answer to the question whether the order nisi should not be set aside as a nullity the said order nisi having been signed against a non existent defendant as the bank had ceased to exist as a juristic person before the date of the writ responded in these terms:*
> *"...a judgment must be set aside and declared a nullity by the court in the exercise of its inherent jurisdiction if and soon as it appears to the court that the person named as the judgment debtor was at all material times at the date of the writ and subsequently non existent...If the Defendants cannot be before the Court, because there is in law no such person, I think by parity of reasoning the court must refuse to treat these proceedings as other than a nullity.*

In my view, Lazard is clearly distinguishable from the case at bar. In Lazard, there was clearly no juristic person who could be identified with the Bank. It had ceased to exist to all intents and purposes. Here it is clear that a juristic person, namely Grace Norman was carrying on business under the trade name "Antigua Flight Training Centre". It is not said that Grace Norman who certified the statement of claim is not a juristic person. ***Furthermore, I would venture to say that the law has moved on since Lazard and the focus has shifted to preserving otherwise valid and meritorious claims which may be defective on the basis only of a misnomer."***

[31.] Accordingly, while **Lazard** demonstrates that proceedings against a truly non-existent defendant are a nullity, that principle does not apply here. The Claim Form was signed by Mr. Marvin Stuart as the beneficial owner of Sand Dollar Beach Resort Limited, thereby confirming the existence of a juristic person capable of maintaining the action. To strike out the proceedings solely on the basis of misnomer would be to elevate technicality over substance and result in unfairness, particularly where the defect lies only in the description of the party and not in its existence. The modern approach, consistent with the authorities, is to preserve otherwise valid claims notwithstanding such defects where they can be cured by a minor amendment.

[32.] Therefore, for these reasons, I refuse to strike out the claim on this basis.

Ground 2 - Failure to plead any legally cognisable libel claim

[33.] I concur with the Defendant that the gravamen of the Purported Claimant's claim lies in the fact that, "*at first glance*," the juxtaposition of the Subject Photograph with the caption "Double Murder in Fox Hill" was damaging to the Claimant's business. I reach this conclusion because the Claimant did not plead that the article in its entirety was defamatory. Nevertheless, in his submissions, Counsel for the Claimant did refer to the remainder of the article and observed that it failed to clarify that Fox Hill was not a part of Sand Dollar. Such ambiguity he submitted was capable of leading a reasonable reader to conclude that Sand Dollar was a part of Fox Hill and a double murder occurred there.

[34.] I disagree.

[35.] The Defendant submitted that it is settled law that no cause of action arises in these circumstances and relied upon **Charleston v News Group Newspapers Ltd. [1995] 2 AC 65**. It is worth setting out the brief facts of the case. The plaintiffs, well-known actors in the television series "Neighbours," sued the publishers of the *News of the World* for libel. The newspaper published a prominent headline and photographs that, at first glance, appeared to show the plaintiffs in pornographic scenarios. However, the accompanying article and captions made clear that the images were faked: the plaintiffs' faces had been superimposed onto the bodies of pornographic actors without their knowledge or consent, as part of a computer game. The article explicitly stated that the plaintiffs were unwitting victims. The plaintiffs argued that, despite the clarifying text, a

significant number of readers (the so-called "limited readers") would only see the headline and photographs and would not read the article, thus forming a defamatory impression of the plaintiffs.

[36.] The central legal issue was whether a claim in defamation could succeed on the basis that some readers might only read part of a publication (such as a headline or photograph) and, in isolation, form a defamatory impression, even though the publication as a whole, when read in context, was not defamatory.

[37.] The House of Lords unanimously rejected the plaintiffs' argument.

[38.] I refer to a passage from Lord Bridge from **Charleston**:

> ***"The plaintiffs must have found this publication deeply offensive and insulting. Many people will not only deplore this kind of gutter journalism but will think that the law ought to give some redress to the plaintiffs against the publication of such degrading faked photographs irrespective of what the accompanying text may have said. I have considerable sympathy with this point of view.***
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> ***However, your Lordships are not concerned to pronounce on any question of journalistic ethics nor to consider whether the publication of the photographs by itself constituted some novel tort. The single question of law to which the appeal gives rise is whether the plaintiffs have any remedy in the tort of defamation on the basis of their pleaded claim, and this in turn narrows down the question whether a claim in defamation in respect of a publication which, it is conceded, is not defamatory if considered as a whole, may nevertheless succeed on the ground that some readers will have read part only of the published matter and that this part, considered in isolation, is capable of bearing a defamatory meaning."***

[39.] The House of Lords held that the natural and ordinary meaning of allegedly defamatory material must be assessed by reference to the publication as a whole, in its proper context, and as understood by the ordinary, reasonable reader. A plaintiff cannot isolate a headline, photograph, or other fragment of a publication and contend that it is defamatory if, when read together with the accompanying text, the overall impression is not defamatory. The decision further affirms the "*bane and antidote*" principle: where defamatory matter is accompanied by clarifying or exculpatory content, the court must consider whether the latter neutralises the former. Applied to the facts, the Lords concluded that although the headline and photographs initially suggested the plaintiffs' involvement in pornographic activity, the accompanying captions and article made clear that the images were fabricated and that the plaintiffs were unwitting victims. The ordinary reader, considering the publication in its entirety, would not think less of them.

[40.] The Purported Claimant's Counsel has submitted that "*any right thinking member of society that looked at the Defendant's publication first page in bold it said "DOUBLE MURDER IN FOX HILL" not knowing the geographical location of Fox Hill but seeing a sign that read Sand Dollar Beach Resort with a picture of the reigning Miss Universe at the time, it is fair to say and think that a double murder took place at Sand Dollar Beach Resort which is in Fox Hill and that Miss Universe was one of the persons murdered. The Claimant is in the tourism business whose name is known globally. The Defendant's newspaper is issued hard print locally and sent out globally through its website which is read by the world at large. A tourist having booked a day at Sand*

Dollar on their upcoming visit to the Bahamas would believe in their mind on reading the captioned of the Defendant's publication that a murder took place at Sand Dollar. In so doing, will cancel their booking thinking that Sand Dollar Beach Resort is not a safe place to visit. It is submitted that in reading the article as a whole it never clarified that Sand Dollar was not a part of Fox Hill. The world at large will not know that except for what was depicted by the Defendant's publication at first glance and read."

[41.] The injury to the Purported Claimant, an entity engaged in the business of tourism, is readily appreciable when the photograph is considered alongside the headline. In the tourism industry, goodwill and commercial standing are peculiarly vulnerable to adverse impressions of this nature. The juxtaposition of image and headline, though published in error and later apologized for, could naturally convey to readers that the Claimant's establishment was unsafe. Such an impression would reasonably cause patrons to feel threatened or concerned for their well-being, thereby discouraging them from visiting and undermining the Claimant's business reputation.

[42.] However, I must recite another passage from the **Charleston** judgment:

"The first formidable obstacle which Mr. Craig's argument encounters is a long and unbroken line of authority the effect of which is accurately summarised in Duncan & Neill on Defamation, 2nd ed. (1983), p. 13, para. 4.11 as follows:

> ***"In order to determine the natural and ordinary meaning of the words of which the plaintiff complains it is necessary to take into account the context in which the words were used and the mode of publication. Thus a plaintiff cannot select an isolated passage in an article and complain of that alone if other parts of the article throw a different light on that passage."***

The locus classicus is a passage from the judgment of Alderson B. in Chalmers v. Payne (1835) 2 C.M. & R. 156, 159, who said:

> ***"But the question here is, whether the matter be slanderous or not, which is a question for the jury; who are to take the whole together, and say whether the result of the whole is calculated to injure the plaintiff's character. In one part of this publication, something disreputable to the plaintiff is stated, but that is removed by the conclusion; the bane and antidote must be taken together."***

This passage has been so often quoted that it has become almost conventional jargon among libel lawyers to speak of the bane and the antidote.

[43.] In the Article on the front page, underneath the Subject Photograph, it continued and concluded on page 3 as follows:

"The country recorded its 66th and 67th murders for the year last night. Chief Superintendent of Police Chrislyn Skippings said the killings happened on Kemp's Court off Pineyard Road in Fox Hill. She said the men were in their late 40s. She said they pulled up at a residence in a white car and were immediately -SEE PAGE THREE attacked by people in a dark Japanese car. The victims exited the vehicle and collapsed on the lawn of the residence. Officers, she said, found a considerable amount of drugs in the victims' car. She said both men were known to police and had been in custody before for drug and firearm matters. She could not say if the killings were connected to a nearby murder earlier in the week on Hanna Road. As

the Tribune went to press police reported another murder. A shooting at Crooked Island and Palmetto Streets left a man dead. No further details were available at the time of printing.

[44.] The difficulty for the Claimant is that the written article accompanying the photograph is pellucid in its detail. It recorded that the country had suffered a double murder, that the victims were two men in their late forties who arrived at a residence in a white car and were immediately attacked by assailants in a dark Japanese vehicle. The article further explained that the victims exited the car, collapsed on the lawn, and that a substantial quantity of drugs was discovered in their vehicle, with the victims being known to the police. This level of specificity illuminates clearly that the events described bear no connection to the photograph. When the publication is read as a whole, the narrative throws a different light on the headline and image: the ordinary, reasonable reader would understand that the photograph was not depicting the Claimant's establishment, nor suggesting that his business was unsafe.

[45.] As Alderson B observed in **Chalmers v Payne (1835) 2 C.M. & R. 156, 159**: *"But the question here is, whether the matter be slanderous or not which is a question for the jury; who are to take the whole together, and say whether the result of the whole is calculated to injure the plaintiff's character. In one part of this publication, something disreputable to the plaintiff is stated, but that is removed by the conclusion; the bane and antidote must be taken together."* That principle applies with equal force here. The juxtaposition of image and headline, though unfortunate and understandably distressing to the Claimant given the nature of its business, is neutralised by the detailed narrative which makes plain that the events described are wholly unrelated to the establishment.

[46.] Therefore, as the authorities in **Charleston** and **Chalmers** make clear, the bane and antidote must be read together, and when applied here the headline and photograph (the bane) are neutralized by the narrative (the antidote).

[47.] I appreciate the cases cited by the Claimant and note in particular, **John v MGN Ltd [1997] QB 586** and others, however, the instant action is concerned with the threshold question of whether a statement is defamatory at all, emphasizing that the meaning must be determined by considering the entire publication and its context, not just isolated parts. In contrast, **John v MGN Ltd** is primarily about the quantification of damages once defamation has been established, providing guidance on the factors to be considered in awarding compensation to the claimant and in any event, in that case, there was no reliance on the headline only (as in the instant action).

[48.] The Defendant's Counsel in his submissions provided a plethora of authorities since **Charleston** where its principles had been applied including **Vince v Associated Newspapers Ltd [2024] EWHC 1806** where the claimant objected to a headline and accompanying photograph implying he was involved in a sexual harassment scandal. However, the article text made clear that he was merely a donor to an organisation linked to the scandal. Lewis J, applying Charleston, held: "*It is impermissible to carve the readership into different groups, those who read only headlines... and*

those who read the whole article." [§56] The Court found that no defamatory meaning could arise when the article was read in full.

[49.] It is worth noting that the principle in **Charleston** have been consistently applied in subsequent cases and I adopt and highlight those referred to in the Applicant/Defendant's submissions as follows:

> "21. The principle in Charleston has been applied consistently in many subsequent cases, including:
>
> a. By the Court of Appeal in **Jeynes v News Magazines & another [2008] EWCA Civ 130** at [14]: "The article must be read as a whole, and any "bane and antidote" taken together".
>
> b. By the Court of Appeal in **Butt v Secretary of State for the Home Department [2019] EWCA Civ 933** at [12]: "The court must identify the notional single meaning that the statement complained of would convey to a hypothetical reasonable reader, who must be assumed to have read the whole of the statement: see Charleston…"
>
> c. By Sharp J (as she then was) in **Dee v Telegraph Media Group Limited [2010] EWHC 294 (QB)** at [27]:
>
> > "27. When one is considering a single article the ordinary reasonable reader is taken to read the whole article before reaching a conclusion on meaning, even though, as the courts have readily recognised, many readers will not in fact have read the whole article… So too, where one article is spread over a number of pages, presumably for space or other editorial reasons, the ordinary reasonable reader is to be taken to have turned over the pages and found and read what he or she is directed to, on the continuation pages.
> >
> > 28. Mr Caldecott submits there is a real distinction between cases where an article is "free standing" so that some readers will have read it on its own, and cases where there is a continuation page. In the latter case he submits, it is to be presumed the reasonably careful reader will not ignore a continuation page, whereas no such presumption can arise in respect of the former.
> >
> > 29 However, in my view the key question in this context is whether the various items under consideration "were sufficiently closely connected as to be regarded as a single publication"—and this is so whether or not the items in the same publication are continuation pages or different items of published material relating to the same subject matter. It seems to me this approach is consistent with the flexibility as to the manner and form in which information and ideas may be expressed and imparted protected by the right to freedom of expression under art.10 of the European Convention on Human Rights, and with the relevant Strasbourg jurisprudence.

30 This will be the case even though the reality is that many people will have read one of the relevant articles only. That is not to say however, that the separation of the relevant articles, or the way they are presented may not be relevant on meaning, since meaning is affected by the mode of publication (that is, the relative prominence or emphasis given to what is published) as well as by context, as Lord Nicholls emphasised in Charleston.".

d. By Eady J in **Crossley & another v Newsquest (Midlands South) Limited [2008] EWHC 3054** (QB) at [40]:

> "... the caption should be read in the context of the article as a whole. It would be taken by any reasonable reader to be an attempt at summarising the nature of the allegations or findings as to what constituted the nuisance. It is not appropriate, as a matter of English law, to interpret headlines or captions as though they stood on their own: see e.g. Charleston"

e. By Gray J in **Charman v Orion Publishing Group Ltd [2005] EWHC 2187 (QB)** at [12]:

> "It is well established that the tribunal of fact, whether judge or jury, must take the bane and antidote of the publication together: ... As Lord Nicholls pointed out in Charleston... at 73-74, there is an artificiality about this approach since, especially in the case of a book, not all readers will read it from cover to cover. It is, however, clear from that and earlier authorities that the publication must be taken as a whole."

f. By Tugendhat J in **Cruddas v Calvert & another [2013] EWHC 1427 (QB)** at [93] and [105], confirming the rule that the reader is assumed to have read the whole of the words complained of, with any bane and antidote taken together.

g. By Nicklin J in **Carruthers v Associated Newspapers Limited & another [2019] EWHC 33 (QB)** at [17]:

> "I understand why the Claimant believes that the juxtaposition of the allegations made against her about the sending of messages and photographs with reports of the Baby P and Victoria Climbie cases might lead some readers to make a connection between these two matters. However, for the purposes of defamation, the Court must fix the meaning that the hypothetical reasonable reader would understand the relevant article to bear. As I have noted, there is necessarily some artificiality in this process. Some people do not read much of an article beyond the headline and the first few paragraphs before moving on to the next article. But the law has established, clearly, in Charleston, that such readers are not reasonable readers. The notional ordinary reasonable reader is taken to have read all of the article." (emphasis added).

h. By Nicklin J in **Brown v Bower (No 2) [2017] EWHC 2637** at [10]: "The same case [Charleston] establishes the principle that the ordinary reasonable reader is taken to have read the whole of a publication; in this case, the whole of the Book".

i. By Nicklin J in **Poulter v Times Newspapers Limited [2018] EWHC 3900 (QB)** at [16], when considering two articles in the same newspaper: "A reader that read only one and not the other print article is not an ordinary, reasonable reader... The Charleston principle requires that the single meaning be ascertained by considering the words complained of in context. The ordinary, reasonable reader would have read both articles."

j. By Warby J (as he then was) in **Spicer v the Commissioner of the Police of the Metropolis [2019] EWHC 1439 (QB)** at [2]:

> "Established legal principle holds that the meaning of a published article or statement must be collected from the article or statement as a whole. The law does not permit a claimant to sue for damages in respect of a headline, however defamatory, if the headline and article are mismatched, and the impact of the headline is contradicted or neutralised by the remainder of the article."; and at [18] "Experience shows that there is quite often a disconnect between a headline and the body of an article. A headline can create a libel, even if the text contains none... That is especially so, when one bears in mind the (reasonable) tendency of ordinary readers to give weight to that which is most prominent, and most negative. But there are cases in which the text neutralises what would otherwise be a libel in the headline - the headline being the poison, to which the body of the article provides the antidote."

k. By Warby J in **NT1 & another v Google LLC [2018] EWHC 799 (QB)** at [82] (albeit in a case about data protection):

> "A claim for libel cannot be founded on a headline or other matter, read in isolation from the related text; the Court must identify the single meaning of a publication by reference to the response of the ordinary reader to the entire publication: Charleston....
>
> And at [83] "... I do not regard the principles identified in Charleston as artificial. Nor do I think them inapposite in the present context. They have been developed over centuries to meet the needs of a cause of action that addresses issues arising from the publication of words and their impact on reputation."

Conclusion

[50.] The Court is grateful to Counsel for their thorough and helpful submissions, which have materially assisted in the resolution of the issues.

[51.] While the Court is sympathetic to the Claimant whose business in the tourism sector is particularly susceptible to adverse perception, the law requires that the publication be read as a whole. As established in **Charleston** and reaffirmed in the locus classicus of Alderson B in **Chalmers** the "*bane and antidote must be taken together.*" Here, although the juxtaposition of headline and photograph could in isolation convey an unfortunate impression of danger to patrons, the detailed narrative accompanying the article makes pellucid that the events described—a double murder

involving drug-related victims known to the police and details as to how the murder occurred - bear no connection to the Claimant's establishment. The ordinary, reasonable reader, considering the publication in its entirety, would not in my judgment conclude that the Claimant's business was unsafe.

[52.] Accordingly, for these reasons the claim is hereby struck out pursuant to Part 26.3(1)(b) of the CPR on the ground that it discloses no reasonable basis for bringing the claim. The alternative relief sought for summary judgment under Part 15 of the CPR has not been considered or addressed.

[53.] Costs are awarded to the Defendant, such costs to be paid by Sand Dollar Beach Resort Limited, to be assessed on the papers by the Court if not otherwise agreed between the parties.

Dated this 31st day of December, 2025

Justice Camille Darville Gomez