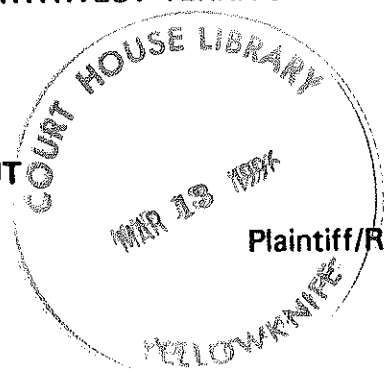


IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

BRIAN CHAPUT



Plaintiff/Respondent

- and -

JOHN FINLEY, DOREEN SQUIRES,  
JOAN PERRY, GERALD MEIER, and the  
WORKER'S COMPENSATION BOARD  
of the NORTHWEST TERRITORIES

Defendants/Applicants

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Application by Defendants for particulars of Statement of Claim. Allowed in part.

Heard at Yellowknife on 17 November 1995

Judgment filed: 12 December 1995

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REASONS FOR JUDGMENT OF THE HONOURABLE MADAM JUSTICE V.A. SCHULER

Counsel for the Plaintiff/Respondent: Richard J. Peach

Counsel for the Defendants/Applicants: Adrian C. Wright

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REASONS FOR JUDGMENT

1           This is an action for damages for trespass to chattels, conversion and  
defamation. The claim for defamation arises from comments which the plaintiff alleges  
the defendants Finley, Perry and Meier made about him to a police officer.

2           The defendants make this application for an order compelling the plaintiff  
to supply further and better particulars of certain allegations in the Statement of Claim.

3           First, the defendants seek particulars of the exact words allegedly used by  
the defendants Finley, Perry and Meier in speaking to the police about the plaintiff. In  
that regard, paragraph 12 of the Statement of Claim reads as follows:

12. Police personnel contacted the offices of the Defendant WCB and spoke to the Defendants Finley, Perry and Meier. Each of the Defendants Finley, Perry and Meier advised police personnel that the Plaintiff was considered to be a threat to the Defendant WCB, that his personal property was being held as evidence of the theft of materials the property of the Defendant WCB and that the Plaintiff would not be permitted to remove it from the premises of the Defendant WCB. Police personnel advised each of the said individual Defendants that their conduct was unlawful and that the Plaintiff's personal property could not be held.

4 Counsel agree that on an application of this nature, the applicant must show that the particulars given in the pleadings do not at least give him some fair idea of the outline of the case made out against him so that he can properly plead thereto: *Canadian Olympic Association v. National Gym Clothing Ltd.* (1984), 2 C.P.R. (2d) 145 (F.C.T.D.).

5 The rules of pleading in defamation cases are quite strict. As was said by Miller J. in *Lougheed v. CBC [Alta.]*, [1978] 4 W.W.R. 358 (Alta. Q.B.), it is settled law that the specific words or passages claimed to be defamatory must be specifically set out in the plaintiff's pleading.

6 Counsel for the defendants argues that the allegations set out in paragraph 12 of the Statement of Claim are a description in general terms of what was said when the defendants spoke to the police officer. Counsel for the plaintiff argues that the allegations in paragraph 12 are quite specific and therefore the exact words need not be alleged. He also states that the exact words are not known to the plaintiff. In *Berry, et al. v. Retail Merchants Association of Saskatchewan et al.*, [1924] 1 W.W.R. 1279 (Sask. C.A.), it was held that if the plaintiff does not know the exact words, he may allege as the exact words some words that are consistent with the information available to him at the time.

7  
It is not clear whether that is what the plaintiff has done in this case. Counsel for the plaintiff referred to the allegations in paragraph 12 of the Statement of Claim as being very specific, although not the exact words. No information was offered as to whether the exact words could be or had been ascertained from the police officer. There was also no reference made to paragraph 5 of the plaintiff's Reply to Demand for Particulars filed October 30, 1995. That paragraph contains further details of the allegations the defendants are said to have made about the plaintiff. However, paragraph 5 of the Reply does not purport to respond directly to the defendants' request for the exact words used by the defendants in making the allegations set out in paragraph 12 of the Statement of Claim. In my view, this uncertainty leaves the defendants in a difficult position in attempting to plead to the Statement of Claim.

8  
In my view, based on the considerations set out above and having reviewed the cases cited by counsel, the plaintiff should provide particulars of the exact words, as best he can ascertain at this time, said by each of the defendants Finley, Perry and Meier, and which he alleges are defamatory.

9  
The defendants also seek particulars of the trespass to chattels, conversion and defamation as described in paragraph (a) of the prayer for relief in the Statement of Claim. As stated by Jackett, C.J. in *U.S. Natural Resources Inc. v. Moore Dry Kiln Co. of Canada Ltd.* (1973), 9 C.P.R. (2d) 11 (Fed. C.A.), the prayer for relief is not an allegation of fact but an indication of the various causes of action that the Plaintiff proposes to raise on the facts otherwise alleged. The facts alleged either constitute an arguable cause of action or they do not. In my view, particulars ought to be ordered of the material facts alleged only; the prayer for relief is for legal argument after the facts

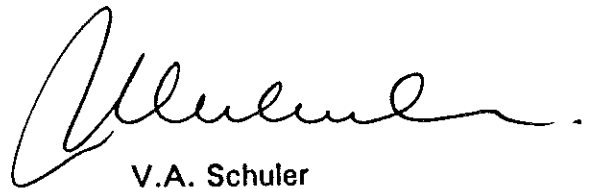
have been established.

10           Accordingly, I allow the defendants' motion insofar as it relates to paragraph  
12 of the Statement of Claim and I order that the plaintiff provide particulars of the exact  
words alleged to have been used by each of the defendants Finley, Perry and Meier in  
making the allegations described in paragraph 12 of the Statement of Claim, so far as  
they can be ascertained by the plaintiff at this time.

11           The plaintiff shall, within 15 days from the date this judgment is filed, file  
the particulars and serve them on the defendants and the defendants shall have 15 days  
from the date of service to file and serve their Statement of Defence.

12           The defendants' motion as it relates to paragraph (a) of the prayer for relief  
in the Statement of Claim is dismissed.

13           Costs of this application shall be costs in the cause.



V.A. Schuler  
J.S.C.

Yellowknife, Northwest Territories  
December 12, 1995

Counsel for the Plaintiff/Respondent:   Richard J. Peach

Counsel for the Defendants/Applicants:   Adrian C. Wright

CV 06022

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REASONS FOR JUDGMENT OF THE  
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