

FEDERAL COURT OF AUSTRALIA

Greenwich v Latham [2024] FCA 1050

JUDGMENT SUMMARY

In accordance with the practice of the Federal Court in cases of public interest, importance or complexity, the following summary has been prepared to accompany the orders made today. This summary is intended to assist in understanding the outcome of this proceeding and is not a complete statement of the conclusions reached by the Court. The only authoritative statement of the Court's reasons is that contained in the published reasons for judgment which will be available on the internet on the Court's website. This summary is also available there.

This proceeding was commenced by Mr Alexander Greenwich, the member for Sydney in the New South Wales Legislative Assembly, against Mr Mark Latham, an independent member of the New South Wales Legislative Council, for defamation arising out of two publications respectively referred to as the “primary tweet” and the “DT quotes”.

Mr Greenwich pleaded that the primary tweet and the DT quotes each conveyed two defamatory imputations and claimed damages for non-economic loss and aggravated damages, as well as injunctive relief.

Two imputations were pleaded in relation to the primary tweet. First, whether, by its natural and ordinary meaning, the tweet meant and was understood to mean that Mr Greenwich “engages in disgusting sexual activities”. Secondly, whether the tweet meant that Mr Greenwich “is not a fit and proper person to be a member of the NSW Parliament because he engages in disgusting sexual activities”.

The Court has found that the first imputation relating to the primary tweet, being that “Mr Greenwich engages in disgusting sexual activities”, was conveyed.

The Court has also found that the second imputation relating to the primary tweet, being that “Mr Greenwich is not a fit and proper person to be a member of the NSW Parliament because he engages in disgusting sexual activities” was not conveyed.

The issues at trial in relation to the DT quotes were whether by their natural and ordinary meaning the quotes meant, and were understood to mean, that Mr Greenwich “is a disgusting human being who goes into schools to groom children to become homosexual”; and “is not a

fit and proper person to be a member of the NSW Parliament because he goes into schools to groom children to become homosexual”.

The Court has found that the imputations relating to the DT quotes were not conveyed.

Having found that the first pleaded imputation relating to the primary tweet has been conveyed, the question for the Court is whether that imputation was defamatory. The Court has found that the first pleaded imputation relating to the primary tweet is defamatory of Mr Greenwich.

Pursuant to s 10A(1) of the *Defamation Act 2005* (NSW) the Court has also found that Mr Greenwich has established that the publication of the primary tweet has caused, or is likely to cause, serious harm to his reputation.

Mr Latham relied on two defences in relation to the publication of the primary tweet, namely honest opinion and common law qualified privilege (reply to attack). The Court has found that neither defence has been made out.

The Court has concluded that the appropriate award of damages for non-economic loss is \$100,000. The Court has also concluded that aggravated damages in the sum of \$40,000 should be awarded.

The proceeding has been adjourned until 9:30am on 25 September 2024 for the making of final orders, including with respect to the grant of any injunctive relief, and as to interest and costs.

O'CALLAGHAN J
11 September 2024
Melbourne