Zhu Yong Zhen *v* American International Assurance Co, Ltd and another [2010] SGHC 115

Case Number : Suit No 515 of 2009 Summonses No. 4895, 4926, 4952 & 5561 of 2009

Decision Date : 16 April 2010

Tribunal/Court : High Court

Coram : Chan Tai-Hui Jason AR

Counsel Name(s) : The plaintiff in person; Adrian Wong (Rajah & Tann LLP) for the first defendant; The second defendant in person.

Parties : Zhu Yong Zhen — American International Assurance Co, Ltd and another

Commercial Transactions – Breach of contract

Tort – Defamation

16 April 2010 Judgment reserved.

Chan Tai-Hui Jason AR:

Introduction

1 This case involves a disgruntled Plaintiff who has sued her former insurance company for alleged breach of contract. The Plaintiff has also sued her former lawyer for alleged collusion with the insurance company. The insurance company has in turn counterclaimed against the Plaintiff, based on the allegedly defamatory contents of an online web log set up by the Plaintiff. All parties have applied *inter alia* to strike out each others' claims. After hearing parties' submissions, I struck out the Plaintiff's claims and dismissed her application for summary judgment against both defendants. I now give the reasons for my decision.

Parties' applications

2 Four applications were heard by me in the present case:

(a) SUM 4895/2009: the 1st Defendant's application for:

(i) Summary determination under O 14 r 12 as to whether the policy benefit illustration ("PBI") dated 29 April 1993 has contractual effect and/or is enforceable against the 1st Defendants;

(ii) Summary determination under O 14 r 12 as to the interpretation of the PBI;

(iii) Striking out of the Plaintiff's claim against the 1st Defendant pursuant to O 14 and/or O 18 r 19.

(b) SUM 4926/2009: the 2nd Defendant's application for the Plaintiff's claim to be struck out pursuant to O 18 r 19(1).

(c) SUM 4952/2009: the 1stDefendant's application for:

(i) Summary determination under O 14 r 12 for the natural and ordinary meaning of the alleged defamatory statements pleaded in the defence and counterclaim;

(ii) Judgment in favour of the 1st Defendant to be entered against the Plaintiff under O 14 in connection with the alleged defamatory statements, such that the Plaintiff be enjoined from publishing further defamatory statements online;

(iii) Damages to be assessed.

(d) SUM 5561/2009: the Plaintiff's application for:

(i) Striking out of the 1st Defendant's defence and counterclaim;

(ii) Striking out of the 2nd Defendant's defence.

3 I will deal with the applications in the same order as they appear above.

Summary of factual history

4 The Plaintiff is a Singapore citizen. The 1st Defendant is an insurance company incorporated in Hong Kong and registered in Singapore. The 2nd Defendant is a practicing lawyer in Singapore.

Dispute concerning Critical Year feature with the 1st Defendant

5 Sometime in 1993, the Plaintiff purchased a "Singapore Financial Guardian" life insurance policy from the 1st Defendant. This policy was for an assured sum of S$200,000.00, for which the Plaintiff would pay an annual premium of S$3,883.00 ("the Policy"). The Plaintiff was entitled to receive dividends from the Policy every year.

6 The Policy included a Critical Year feature, which refers to the projected last year in which the Plaintiff would have to make out-of-pocket annual premium payments. After the Critical Year point, the annual premiums would be paid from the Policy's declared and accumulated dividends. The Policy would effectively be self-sustaining, and the Plaintiff would not need to make any further out-of-pocket payments for the annual premiums.

7 Before purchasing the Policy, the Plaintiff met with a representative of the 1st Defendant, one Oscar Huang ("Oscar"). The Plaintiff was given a document, which she refers to as an "Original Policy Quotation" and which the 1st Defendant refers to as a "Policy Benefit Illustration". The document itself does not bear either title. In this judgment, I will refer to the document as an "Original Policy Quotation" ("OPQ"). My adoption of the Plaintiff's terminology does not translate into an acceptance of her arguments concerning this document's effect, for reasons that follow in this judgment. A copy of the OPQ is enclosed as an annex to this judgment.

8 The OPQ provides numerical values for items such as annual premiums paid, current year dividends and cash surrender values. These values are provided for a 30-year period. The OPQ expressly states "CRITICAL YEAR : 16". The OPQ also expressly states that future dividends are not guaranteed, and that the interest rates reflected are not guaranteed and are for illustration purposes only. The values contained in the OPQ were for an insured sum of S$100,000.00, and the annual premium value stated in the OPQ was S$2,091.50

9 After receiving the OPQ from Oscar, the Plaintiff submitted an application form to the 1st Defendant on or about 14 May 1993. In her application form, the Plaintiff requested for an insurance policy with an assured sum of S$200,000.00. The premium payable under the Policy was S$3,883.00. The Policy also stated that "(t)his policy and the application for it, a copy of which is attached to and made a part of the policy, constitute the entire contract". The application form submitted by the Plaintiff also contained a declaration, which stated:

> "No statement, information or agreement made or given by or to the person soliciting or taking this application or by or to any other persons shall be binding on the Company, unless reduced to writing, and then if presented to and approved by an officer specified in the policy".

10 The Plaintiff claims that her Policy would have reached the Critical Year point in 2008, after which she would no longer need to make any out-of-pocket annual premium payments. In 2008, the Plaintiff claims that she received a letter from the 1st Defendant informing her that she would need to continue making premium payments until the age of 85, instead of the age of 45 as allegedly stated in the OPQ. In other words, the Plaintiff would have to continue making premium payments after 2008. The Plaintiff wrote a letter to the 1st Defendant saying that she no longer needed to make any out-of-pocket premium payments. In support of her contention, she sent the 1st Defendant a copy of the OPQ and other documents.

11 The 1st Defendant replied to the Plaintiff to inform her that according to their records, she had purchased an insurance policy for S$200,000.00 and that the projected Critical Year point for her Policy was 15 years. These values were different from those contained in the OPQ submitted by the Plaintiff, which was for a sum of S$100,000.00 and had an illustrated Critical Year of 16 years. The Plaintiff and the 1st Defendant continued to exchange correspondence throughout 2008.

12 Between November and December 2008, the Plaintiff contacted and communicated with Mr Amarjeet Singh S.C., who had been appointed in 2003 by the 1st Defendants as the Independent Adjudicator for claims relating to Critical Year policies. This adjudication process ultimately proved futile, because the Plaintiff refused to sign the Independent Adjudicator's Request for Adjudication Form. The Independent Adjudicator's office therefore informed the Plaintiff that there would be no adjudication meeting, and that Mr Amarjeet Singh S.C. would have no jurisdiction over the matter because she refused to sign the Request for Adjudication Form.

The Plaintiff's Blog

13 On 13 October 2008, the Plaintiff set up an online web log at the internet address http://AIAInsuranceDispute.BlogSpot.Com ("the Blog"). She claimed that it was to share with other affected investors her findings on her dispute with the 1st Defendant concerning the Policy and its Critical Year feature. The Plaintiff also claimed that she had emailed the entire contents of the blog to the 1st Defendant prior to its activation. On 7 November 2008, the 1st Defendant's solicitors issued a letter to the Plaintiff and demanded that she de-activate the Blog. On 10 November 2008, the Plaintiff de-activated the blog and informed the 1st Defendant's solicitors by email of its de-activation.

Non-payment of premiums in 2009

14 In March 2009, the Plaintiff wrote to the 1st Defendant to instruct the latter to pay her policy premium for the year 2009 from the Policy's dividends. The 1st Defendant in turn requested the Plaintiff to sign and complete several forms. However, the Plaintiff took issue with a portion of the form titled "DECLARATION AND AUTHORISATION". She deleted this portion, and returned the form to the 1st Defendant. The 1st Defendant then wrote back to the Plaintiff and informed her that her request to use her dividends to pay the Policy's premiums could not be processed if she defaced the prescribed forms. This issue was not resolved despite lengthy correspondence between the Plaintiff and the 1st Defendant. It appears that the Plaintiff did not pay any premiums due for her Policy in 2009.

Plaintiff's dealings with Engelin Teh Practice

15 In February 2009, the Plaintiff engaged a law firm, Engelin Teh Practice ("ETP"), with a view to sue the 1st Defendant for breach of contract. After discussing the case with the Plaintiff and reviewing documents provided by her, ETP informed the Plaintiff that the OPQ was not sufficient. The Plaintiff has pleaded in her statement of claim that ETP informed her that "the surrender value of the policy in the OPQ is based on the non guaranteed interest rate of 7%. As such, and in essence, the surrender value contains a non guaranteed element as well": *paragraph 223 of the Statement of Claim*. ETP informed the Plaintiff that her claim would depend on whether Oscar had represented to her that the interest element was guaranteed. It is not disputed that Oscar did not inform the Plaintiff that the interest rate was guaranteed. The Plaintiff has pleaded that it was "impossible" for Oscar to have stated that the interest rate was definite: *paragraph 226 of the Statement of Claim*.

16 ETP also informed the Plaintiff that her allegations of the 1st Defendant's misconduct could be defamatory. While ETP was prepared to address the Plaintiff's claims concerning the Critical Year dispute in a letter of demand against the 1st Defendant, ETP was not prepared to include the Plaintiff's allegations of misconduct without clear and incontrovertible evidence: *paragraph 238 of the Statement of Claim*. The Plaintiff was dissatisfied with ETP's proposed approach for the case. She directed ETP on 4 February 2009 to stop any activities on her case, and to wait for her further instructions. The Plaintiff and ETP continued to correspond until at least 19 February 2009. ETP is not a party in the present case, and had stopped acting for the Plaintiff by May 2009 at the latest.

Plaintiff's dealings with the 2nd Defendant

17 In May 2009, the Plaintiff engaged the 2nd Defendant to act for her against the 1st Defendant. The Plaintiff claims that the 2nd Defendant told her that he would prepare a draft Writ of Summons before 29 May 2009. The Plaintiff also provided the 2nd Defendant with a "detailed document" titled "Introduction of my insurance dispute with AIA", in which she explained the "whole story of the dispute": *paragraph 331 of the Statement of Claim*.

18 On 29 May 2009, the 2nd Defendant informed the Plaintiff that he had been busy and would

need more time to complete the draft Writ of Summons. On 5 June 2009, the 2nd Defendant emailed a draft Writ of Summons to the Plaintiff. The draft was a short document, comprising 11 paragraphs. The draft stated that the Plaintiff and the 1st Defendant had come to an agreement in 1993 on the Policy, which was evidenced by the OPQ, the Policy Contract Documents and correspondence between the parties. The draft stated that the 1st Defendant had wrongfully repudiated the agreement.

19 The Plaintiff was dissatisfied with the 2nd Defendant's draft. On 8 June 2009, she wrote to the 2nd Defendant stating that "The way you wrote did not benefit my case, but otherwise. As such, I will get someone else to do it and take my case. Let me know if you have any explanation on the matter". The 2nd defendant replied the next day to say that it was the Plaintiff's prerogative to do so, and requested for payment of S$1,800.00 as estimated costs for drafting the writ of summons. The Plaintiff refused to pay this sum to the 2nd Defendant.

The various claims

20 On 16 June 2009, the Plaintiff filed her writ of summons against both defendants. The Plaintiff's claim against the 1st Defendant is for liquidated damages of S$1,146,885.00, and for unliquidated damages of S$800,000.00, or for such sum or sums as the Court may find due. This is based on resulting losses due to premature termination, breach of contract and "serious inappropriate doings and misconduct by the 1st Defendant": *paragraph 376 of the statement of claim*. The Plaintiff's claim against the 2nd Defendant is for unliquidated damages in the sum of S$50,000, or for such sum or sums as the Court may find due.

21 The 1st Defendant has counterclaimed against the Plaintiff for defamation arising from the contents of her Blog. The 1st Defendant has prayed for an injunction to restrain the Plaintiff from publishing the Blog, and for damages to be assessed.

Procedural history

22 SUM 4895, 4926 and 4952 of 2009 were heard on 11 November 2009. Judgment was reserved for all three applications. SUM 5561 was heard on 2 December 2009. After the Defendants had completed their submissions and the Plaintiff was making her reply submissions, she asked for the hearing to be adjourned in order to file a further affidavit in reply to the 2nd Defendant’s affidavit (which had been filed on 18 November 2009). I refused to further adjourn the hearing, and directed the Plaintiff to complete her submissions. At the end of the hearing, I directed parties to appear before myself on 15 December 2009 for judgment to be delivered for all applications. I also gave the Plaintiff leave to file a reply affidavit by 9 December 2009, limited to the contents of the 2nd Defendant’s affidavit.

23 The Plaintiff appealed against my order granting her leave to file a reply affidavit. This appeal was heard before a Judicial Commissioner in Chambers on 30 December 2009. The Judicial Commissioner made the following orders:

(a) Plaintiff to file and serve her reply affidavit by 19 February 2010, 5:00 pm;

(b) Plaintiff’s reply affidavit shall be limited to the contents of the 2nd defendant’s affidavit;

(c) Registrar's hearing (for judgment) to be adjourned to a date after the filing of the Plaintiff's reply affidavit;

(d) If the Plaintiff refers in her reply affidavit to conversations with the 2nd Defendant contained in tape recordings, the Plaintiff is to deliver a copy of the full tape recordings and the full transcripts thereof to the 2nd Defendant upon the filing of her reply affidavit.

24 This case was fixed for hearing before me for delivery of judgment on the four applications on 1 March 2010. Parties were informed on that date that a written judgment would be issued, and that attendance will not be necessary. I directed parties to appear for a hearing on 7 April 2010 for judgment to be delivered, and to hear any submissions on costs.

SUM 4895 2009

25 This is the 1st Defendant's application for a determination under O 14 r 12 on whether the OPQ has contractual effect and/or is enforceable against the 1st Defendant, and the interpretation of the OPQ. In this application, the 1st Defendant has also asked that the Plaintiff's claim be struck out pursuant to O 14 and/or O 18 r 19.

26 Under O 14 r 12, the Court may determine the construction of any document where it appears to the Court that such question is suitable for determination without a full trial of the action, and such determination will fully determine the entire cause or matter or any claim or issue therein. The Plaintiff's case is that the terms of the OPQ alone are sufficient to prove that it is a guaranteed, binding contract. The Plaintiff has specifically pleaded that Oscar did not tell her that the OPQ and its associated Critical Year values were guaranteed. This document is the basis of the Plaintiff's entire claim against the 1st Defendant. Moreover, there are no issues of fact, or of mixed fact and law, relating to the determination of the OPQ's effect. I therefore find that the OPQ is suitable for determination under O 14 r 12.

27 The Plaintiff and the 1st Defendant differ in their description of the document provided by Oscar for obvious reasons. The 1st Defendant refers to the document as an "illustration" in order to deprive it of contractual effect, while the Plaintiff refers to it as a "quotation" for the converse effect. I have declined to refer to the document as a mere illustration because I am of the view that such a description may obscure the crucial issue, namely whether the document is capable of contractual effect. I should add that calling the document a "quotation" does not bestow contractual effect either. The OPQ must still meet the requirements of a valid contract, in order to have contractual effect. These requirements were by the Court of Appeal in *Gay Choon Ing v Loh Sze Ti Terence Peter and another appeal* [2009] SGCA 3 at [47] to [48]:

> *First*, there must be an identifiable agreement, which is complete and certain. Essentially, this means that negotiations between the parties must have crystallised into a contractually-binding agreement in which there is no uncertainty as to the terms of the contract concerned. The traditional tools of analysis centre around the concepts of offer and acceptance. An "offer" has been described as follows (see M P Furmston, *Cheshire, Fifoot and Furmston's Law of Contract* (Oxford University Press, 15th Ed, 2007) ("*Cheshire, Fifoot and Furmston*") at p 40):
>
> > An offer, capable of being converted into an agreement by acceptance, must consist of a definite promise to be bound, provided that certain specified terms are accepted.
>
> An "acceptance" has been described as follows (see Edwin Peel, *Treitel: The Law of Contract*

(Sweet & Maxwell, 12th Ed, 2007) ("*Treitel*") at para 2015):

> An acceptance is a final and unqualified expression of assent to the terms of an offer.
>
> 48 An "offer" must be distinguished from an "invitation to treat". The former has already been defined above (at [47]). The latter, on the other hand, is simply an attempt to initiate negotiations, to induce offers; hence, a response to an "invitation to treat" can never result in a concluded contract. Although there are decisions illustrating specific instances of "invitations to treat", the distinction between an "offer" on the one hand and an "invitation to treat" on the other is, at bottom, a question of the *intention* of the party concerned (*viz*, whether his or her intention was to make "a definite promise to be bound provided that certain specified terms are accepted" (an offer; and see above at [47]) *or* merely attempting to induce offers instead (an invitation to treat)).

Contractual effect of the OPQ

28 Having regard to the requirements for a binding contract, I find that the OPQ does not have contractual effect. First, the OPQ was not an offer. It is clear from its terms that it does not contain any definite promise to be bound. Moreover, the OPQ is fundamentally uncertain as it is replete with undefined terms, such as "CD", "CSV" and "terminal dividends". Second, there was no acceptance by the Plaintiff, even if the OPQ is assumed to be an offer. The Plaintiff never sent any final and unqualified expression of asset to the terms of the OPQ. Whereas the OPQ was for an insured sum of S$100,000.00 with an annual premium of S$2,091.50, the Plaintiff's application to the 1st Defendant for a Policy was for an insured sum of S$200,000.00 with an annual premium of S$3,883.00. Even if the Plaintiff's application is taken to be an "acceptance", there was no assent to the OPQ's terms. Third, there are no grounds for me to conclude that either party had any intention to be bound by the terms of the OPQ. At best, the OPQ was provided by the 1st Defendant to induce the Plaintiff to enter into a contract for purchase of insurance coverage.

Interpretation of whether the OPQ's values are guaranteed

29 The 1st Defendant has also asked for a determination of the OPQ's interpretation. On this question, I find that the values stated in the OPQ are not guaranteed. I further find that this is obvious from the terms of the OPQ itself. As explained by the 1st Defendant's counsel during oral submissions, the OPQ sets out the Critical Year feature in the following manner: the Plaintiff is expected to pay S$2,091.50 in premiums every year. Each year, the 1st Defendant will pay a dividend to the Plaintiff, the value of which is reflected at column 3 of the OPQ. This figure is added to any dividends previously paid under the policy, together with any accumulated interest. This total annual figure is reflected at column 4 of the OPQ. After 16 years, the OPQ anticipates that the Plaintiff would no longer have to make any out-of-pocket payments for the annual premium. The sum of S$2,091.50 would be covered by applying that year's dividend payments (column 3) towards payment of the premium, with any shortfall in the premium payment being taken from the accumulated cash dividends (column 4).

30 The Critical Year feature relies on two components: the amount of annual dividends paid to the Plaintiff under column 3, and the size of the accumulated cash dividends under column 4. If the dividends actually paid out are lower than reflected in column 3, then there will be a greater reduction of the sum in column 4 in order to service the annual premium. Conversely, if the dividends paid out are higher than reflected in column 3, then there will be a lesser reduction of the sum in column 4. In order for the projected 16-year self-sustaining point to be guaranteed, the figures reflected in columns 3 and 4 of the OPQ must also be guaranteed.

31 It is immediately obvious that the figures in columns 3 and 4 are not guaranteed. Note (1) of the OPQ expressly states:

"The dividends are based on current scale. Future dividends are not guaranteed."

32 This shows that the values in column 3 – which is titled "Current Year Dividend" – are not guaranteed. This alone is sufficient for me to find that the OPQ, and its 16-year self-sustaining Critical Year feature, cannot be guaranteed. This accordingly means that the figures in column 4 are also not guaranteed, as they are based on the accumulation of the amounts reflected in column 3. Moreover, the interest rate applied in column 4 is expressly stated at note (3) of the OPQ as "not guaranteed", and is "used for illustration purposes only".

33 The Plaintiff's argument on this point is that the OPQ only stated that the dividends and interest rate are not guaranteed and did not state anything else as not guaranteed. As such, "it is believed that anything else is guaranteed": *paragraph 32 of the statement of claim*. The Plaintiff argues that if the values in columns 3 and 4 were not guaranteed, then the 1st Defendant would have expressly said so. This was based on a comparison of the OPQ's terms with subsequent documents that were used by the 1st Defendant, which clearly stated that the dividend payouts were not guaranteed.

34 I agree with the Plaintiff that the OPQ is less clear than the 1st Defendant's subsequent documents. Counsel for the 1st Defendant explained that these new documents were used to make it "even clearer" that the values were not guaranteed, and this was because the 1st Defendant was a "caring company": *page 14, lines 2 to 4 of the record of proceedings dated 11 November 2009*. I do not agree that the 1st Defendant's case is weakened by its subsequent remedial measure of issuing clearer documents, rather than continuing to rely on the OPQ. This is precisely why Rule 407 of the U.S. Federal Rules of Evidence excludes evidence of subsequent remedial measures as proof of an admission of fault in negligence and product liability claims. I accept that there is no equivalent evidentiary rule in Singapore, and that the present case is not a negligence or product liability claim. However, I find no reason to ignore the rationale for such a rule: a defendant should not find that he is prejudiced in a pending legal action, simply because he chooses to improve his product or implement measures to prevent future incidents.

35 The Plaintiff has argued that the OPQ does not state what "the dividends", "current scale" and "future dividends" means in relation to its note that dividends are not guaranteed. The Plaintiff has similarly argued that the OPQ has not explained how the non-guaranteed interest rate would affect the figures under column 4. I find these arguments to be without merit. As explained above, it is apparent from the OPQ's contents that the disclaimer is relevant to the values in columns 3 and 4. Even if this could have been stated with greater clarify, this does not change the fact that the OPQ does not purport to guarantee any of the values that form the basis of the 16-year Critical Year feature.

Enforcement of the OPQ against the 1st Defendant

36 Having found that the OPQ does not have contractual effect and that the figures contained within are not guaranteed, I turn to the question of whether it can nevertheless be enforced against the 1st Defendant. In this respect, I find that the OPQ's terms cannot be enforced against the 1st Defendant. This is because of the entire agreement clause contained in the Policy contract between the Plaintiff and the 1st Defendant. The clause states:

"This policy and the application for it, a copy of which is attached to and made a part of the

policy, constitute the entire contract."

37 The application form submitted by the Plaintiff contained the following declaration:

> "No statement, information or agreement made or given by or to the person soliciting or taking this application or by or to any other persons shall be binding on the Company, unless reduced to writing, and then if presented to and approved by an officer specified in the policy."

38 It is not disputed that the terms of the OPQ are not part of the Policy or the application form that constitutes the contract between both parties. It is also not disputed that the OPQ's terms had not been presented to or approved by any of the 1st Defendant's specified officers. I thus find that the entire agreement clause contained in the Policy precludes the enforcement of the OPQ's terms against the 1st Defendant. It bears repeating that the OPQ is for the insured sum of S$100,000.00, whereas the Policy issued to the Plaintiff was for an insured sum of S$200,000.00. Given the significant difference between the documents, I find that the OPQ was nothing more than a pre-contractual representation, used by Oscar to illustrate the potential benefits of purchasing insurance coverage from the 1st Defendant. In the presence of an entire agreement clause, such pre-contractual representations are necessarily precluded. This was noted by the Court of Appeal in *Lee Chee Wei v Tan Hor Peow Victor and others and another appeal* [2007] SGCA 22 at [25]:

> Entire agreement clauses appear as a smorgasbord of variously worded provisions. *The effect of each clause is essentially a matter of contractual interpretation and will necessarily depend upon its precise wording and context*. Generally, such clauses are conducive to certainty as they define and confine the parties' rights and obligations within the four corners of the written document thereby precluding any attempt to qualify or supplement the document by reference to pre-contractual representations. (emphasis in original)

Striking out application

39 In summary, I find that the OPQ does not have any contractual effect between the Plaintiff and the 1st Defendant. I further find that values stated in the OPQ are not guaranteed, in particular the dividend values in columns 3 and 4. I find that the Plaintiff is precluded from relying on the OPQ's terms against the 1st Defendant by virtue of the entire agreement clause.

40 It is not disputed that the OPQ is the basis for the Plaintiff's entire claim against the 1st Defendant. In light of my determination of the OPQ's effect, interpretation and enforceability, I find that the Plaintiff has no remaining cause of action against the 1st Defendant. I accordingly exercise my discretion under O 14 r 12(2) and dismiss the Plaintiff's claim against the 1st Defendant.

SUM 4926 2009

41 This is the 2nd Defendant's application to strike out the Plaintiff's claim against him, on the basis that it discloses no reasonable grounds of action under O 18 r 19(1)(a). The 2nd Defendant argues both in written and oral submissions that the Plaintiff's claim against him is based on the tort of conspiracy, with the sole or predominant purpose to injure. The 2nd Defendant therefore relies on the case law requirements for a properly pleaded case of conspiracy, and argues that the Plaintiff has failed to meet these requirements.

42 The Plaintiff's statement of claim runs to a total of 81 pages, containing 381 paragraphs. In this voluminous document, there is only one sentence that indicates the nature of the Plaintiff's claim against the 2nd Defendant: "In addition, the Plaintiff makes claims against the 2nd Defendant for

unliquidated damages due to his inappropriate conduct": *paragraph 381 of the statement of claim*. The Plaintiff did not plead the nature of the alleged "inappropriate conduct". The only other indication of the nature of the Plaintiff's claim against the 2nd Defendant was the heading text at page 65 of the Statement of Claim:

> "The 1st and 2nd Defendant were suspected to colluded (sic) on the Plaintiff's case; a problematic draft of the writ of summons".

43 In her reply, the Plaintiff made it clearer that she was alleging collusion between the 1st and 2nd Defendants. She pleaded at paragraph 76 of the reply:

> "The Plaintiff avers that there was collusion between the 1st Defendants and the 2nd Defendant"

44 It is trite law that in an O 18 r 19(1)(a) application, the Court will consider whether there is a cause of action with some chance of success when only the allegations in the pleading are considered: *Singapore Civil Procedure* [2007] at 18/19/6 and 18/19/10, see also *Gabriel Peter & Partners v Wee Chong Jin* [1997] 3 SLR(R) 649. Having carefully considered the Plaintiff's statement of claim, I find that there no reasonable cause of action has been pleaded. I am mindful that striking is a draconian measure, and that the Court will allow a plaintiff to proceed with the action unless the case is wholly and completely unarguable: *Tan Eng Khiam v Ultra Realty Pte Ltd* [1991] 1 SLR(R) 844 at [31].

45 I am nevertheless satisfied that the Plaintiff's case against the 2nd Defendant should be struck out as it is wholly devoid of merit. The Plaintiff's case against the 2nd Defendant is properly characterised as wholly and completely unarguable.

46 First, the statement of claim does not give any indication of the legal basis for the Plaintiff's claim against the 2nd Defendant. The vague references to "inappropriate conduct" and "suspected to colluded" fall far short of establishing any purported cause of action. The presumably rhetorical questions found in the reply asking "If there was no collusion, why..." also fall short of establishing any cause of action.

47 Second, even if the Plaintiff's case is elevated to the status of a coherently pleaded conspiracy claim, the facts relied on by the Plaintiff do not support such a claim. As explained earlier in this judgment, the statement of claim does not support any allegation of collusion. In her reply, the Plaintiff justified her claim of collusion between the 1st and 2nd Defendants on the following grounds:

(a) The 2nd Defendant intentionally provided a problematic draft of the writ of summons, which was "contrary and contradictory" to what the Plaintiff had told him and what was contained in the *Introduction of my insurance dispute with AIA* document: *paragraph 77 of the reply*;

(b) The draft writ of summons was "full of mistakes and errors" and was "ambiguous and hideous messy": *paragraph 79 of the reply*;

(c) The draft writ of summons was "written in the way for the 1st Defendants to defend, defeat and strike out effortlessly": *paragraph 80 of the reply*;

(d) The draft writ of summons did not contain any content relevant to the wrongdoings and misconduct by the 1st Defendants: *paragraph 81 of the reply*.

48 It is not disputed that the Plaintiff's allegations of collusion are based entirely on the draft writ of summons prepared by the 2nd Defendant. In making these allegations, the Plaintiff appears to have lost sight of a basic fact: the draft writ of summons was exactly that – a draft. It is clear from the pleaded correspondence that the 2nd Defendant had no intention of filing any writ of summons without prior approval of its contents by the Plaintiff. In particular, the 2nd Defendant had no intention of filing the disputed draft in its current form. He specifically informed the Plaintiff that the writ of summons would be issued "after we have gone through a few more drafts": *paragraph 363 of the statement of claim*.

49 If the Plaintiff was dissatisfied with the contents of the present or any future drafts, she could have instructed the 2nd Defendant to amend the draft. It is inconceivable that the 2nd Defendant would be able to file a statement of claim that would intentionally damage the Plaintiff's interests under such circumstances. Moreover, I find no basis for the Plaintiff's argument that the mere preparation of a draft writ of summons is sufficient evidence of collusion between the 1st and 2nd Defendants.

50 For the above reasons, I find that the Plaintiff has failed to prove any collusion between the 1st and 2nd Defendants. Additionally, the law on conspiracy by unlawful means requires proof of intention to injure or damage the Plaintiff, while conspiracy by lawful means requires proof of a predominant purpose to cause injury or damage to the Plaintiff: *Quah Kay Tee v Ong and Co Pte Ltd* [1996] 3 SLR(R) 637 at [45]. I accept that proof of such intention or predominant purpose can be inferred from facts: *Recordtv Pte Ltd v MediaCorp TV Singapore Pte Ltd and others* [2009] 4 SLR(R) 43; [2009] SGHC 146. However, there is nothing in the draft's language that allows me to infer any intention or purpose to cause injury or damage to the Plaintiff.

51 Even if there was potentially damaging language contained in the draft, the fact remains that the Plaintiff was sent a copy of the document and the 2nd Defendant intended to go through future drafts with her. The Plaintiff could thus have easily prevented the inclusion of potentially damaging language. The Plaintiff's allegation that the 2nd Defendant intended to damage her case is based on a flawed, impractical and ultimately fictional scheme.

52 The Plaintiff has further relied on the fact that the 2nd Defendant used terms such as "agreement", "repudiation" and "repayment" in the draft: *paragraph 369 of the statement of claim*. The Plaintiff argues that since she did not tell the 2nd Defendant to use these specific terms, they must have come from the 1st Defendant and are therefore evidence of collusion. I find this argument to be fundamentally flawed. The terms "agreement", "repudiation" and "repayment" are standard terms found in most contractual disputes. Having gone through the wording of the draft, I find that there is nothing sinister about how these terms were used, and do not support the Plaintiff's allegation that their presence in the draft amounts to evidence of collusion. While I accept that the Plaintiff is not expected to know that such terms are standard contractual terminology, her status as a layperson does not and cannot save this patently unmeritorious argument.

53 Third, the Plaintiff has no basis to claim unliquidated damages in the amount of S$50,000.00 against the 2nd Defendant. Neither the pleadings nor the affidavit evidence show how this figure was derived. When specifically asked to explain how she had come up with the $50,000.00 figure, the Plaintiff replied:

"I am a layperson. I just decide to claim this amount. The Court will know how much will be

decided. I don't know how to decide. I put this amount according to my grievance."

54 It is obvious that the Plaintiff had no basis to plead unliquidated damages of $50,000.00 against the 2nd Defendant. The Plaintiff admitted during oral submissions that this $50,000.00 was arbitrary, in that she had come up with the figure and had not based it on anything else like a contract or receipt: *page 22, lines 5 to 9 of the record of proceedings dated 11 November 2009*. Under the circumstances, I am of the view that it would be an abuse of process to allow the Plaintiff to maintain her claim for such damages against the 2nd Defendant. This is especially in light of the fact that the Plaintiff has failed to plead any reasonable cause of action against the 2nd Defendant.

55 I should add that during oral submissions, the Plaintiff did not assert that she was relying on the tort of conspiracy in her claim against the 2nd Defendant. Instead, she repeatedly stated that her claim against the 2nd Defendant was based on breach of trust: *pages 18 and 20 of the notes of proceedings dated 11 November 2009*. This is a completely different cause of action from conspiracy, and no elements of breach of trust have been pleaded in the Plaintiff's Statement of Claim and Reply.

56 For the above reasons, I find that the Plaintiff's pleadings disclose no reasonable cause of action against the 2nd Defendant. I therefore exercise my discretion under O 18 r 19(1)(a) to strike out the Plaintiff's claim against the 2nd Defendant.

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57 This is the 1st Defendant's application for summary determination under O 14 r 12 for the natural and ordinary meaning of the Plaintiff's defamatory statements pleaded in paragraph 22 of the defence and counterclaim. The 1st Defendant had originally prayed for judgment to be entered against the Plaintiff, in that the Plaintiff be enjoined from publishing the Blog and its contents, and for damages to be assessed. The 1st Defendant has agreed to restrict the scope of the present application to a determination of the natural and ordinary meaning of the allegedly defamatory statements, and will consider the prayer for injunctive relief at a later stage pending the outcome of the Court's summary determination.

58 The present application therefore has a narrow focus. It is concerned only with the natural and ordinary meaning of the allegedly defamatory statements. The question of whether the statements were true – and therefore whether the Plaintiff is able to avail herself of the defence of justification – forms no part of SUM 4952/2009. That can be determined at later proceedings or at trial, such as was done in *Premier Security Co-operative Ltd and Others v Basil Anthony Herman* [2009] SGHC 214.

59 The natural and ordinary meaning of allegedly defamatory words is a question that is suitable for determination under O 14 r 12(1), as long as such determination would fully resolve the issue as to the meaning of the words of the action: *Microsoft Corp and others v SM Summit Holdings Ltd and another and other appeals* [1999] SGCA 72. I find that the allegedly defamatory statements in the present case are suitable for determination under O 14 R 12(1), as such a determination will in fact fully resolve the issue as to the meaning of the statements.

60 I find that the statements pleaded by the 1st Defendant are defamatory in their natural and ordinary meaning. The 1st Defendant has reproduced 10 statements taken from the Plaintiff's Blog in its defence and counterclaim. At paragraph 23 of the defence and counterclaim, the 1st Defendant has pleaded a specific meaning for each of the ten statements. I find that most of the statements bear the natural and ordinary meaning pleaded by the 1st Defendant. For statements where I do not agree with the 1st Defendant's pleaded meaning, I have determined such statements to bear a lesser defamatory meaning. This is in line with the Court of Appeal's holding in *Microsoft Corp and others v*

SM Summit Holdings Ltd and another and other appeals [1999] 3 SLR(R) 465; [1999] SGCA 72 that in a defamation action, so far as the meaning of the words is concerned, the only question before the judge is whether the words complained of bear the defamatory meaning as pleaded or some lesser defamatory meaning.

61 The test for determining the natural and ordinary meaning of the offending words in a defamation action has been comprehensively set out by the Court of Appeal in *Review Publishing Co Ltd and Another v Lee Hsien Loong and Another Appeal* [2009] SGCA 46 at [27] to [31]. The test can be summarised as follows:

(a) What would the words mean to an ordinary reasonable person, not unduly suspicious or avid for scandal, using his general knowledge and common sense;

(b) The natural and ordinary meaning includes inferences or implications that the ordinary reasonable person may draw from those words in the light of his general knowledge, common sense and experience – the ordinary, reasonable person reads between the lines;

(c) The ordinary person is very much an average rational layperson, neither brilliant nor foolhardy, and not idiosyncratic in his behaviour or disposition;

(d) The meaning that was intended by the statement's maker, and the meaning actually understood by the claimant, is irrelevant;

(e) The meaning must be gathered from the words themselves and in the context of the entire passage in which they are set out;

(f) Extrinsic evidence is not admissible in construing the words. Extrinsic evidence refers to facts passing beyond general knowledge;

(g) The state of the general knowledge of the ordinary reasonable person will naturally be affected and shaped by what is common knowledge in the public domain, and by significant public events which would reasonably be in the mind of the ordinary reasonable person: at [34]

62 To the above principles, I would add the High Court's reminder in *Goh Chok Tong v Jeyaretnam Joshua Benjamin* [1997] SGHC 243 that the source of the words matters: nuances which may be elicited from words uttered by the village idiot are very different from nuances which may be elicited from the same words uttered by an experienced politician or diplomat.

63 If the natural and ordinary meaning of the words would tend to lower the claimant in the estimation of right-thinking members of society generally, then such words are defamatory. This includes words that convey a negative first impression to the ordinary reasonable person, even if he might subsequently correct himself on that impression: *Goh Chok Tong v Jeyaretnam Joshua Benjamin*

64 I now apply the above principles to the disputed statements in the present case.

The 1st Defendants were lying when they said that they did not keep the Plaintiff's PBI as "it is impossible that the [1st Defendants] does not keep OPQ" and that this was "so that customers have no evidence to argue with [the 1st Defendants]"

65 This statement was an amalgamation of two different portions in the Plaintiff's blog. For clarity, I set out the full context in which these portions appear, and in their same order of appearance:

> "AIA knows very clearly what an OPQ promised to the customer. But, AIA hides the OPQ of all affected policies and lied that it does not keep them so that customers have no evidence to argue with AIA. Further, AIA disclaims the OPQ if a customer keeps it. AIA uses every excuse not to admit the OPQ if the customer keeps it.
>
> ...
>
> AIA claimed that it does not keep OPQ because it was not then an industry regulatory requirement to file a copy in its records at the time the policy was sold. However, AIA lied because AIA keeps critical year (CY) and AIA is ISO 9002 certified company. It is impossible that AIA does not keep OPQ."

66 I accept that the natural and ordinary meaning of these statements is that the 1st Defendant was fraudulent. This is obvious from the Plaintiff's repeated assertion that the 1st Defendant has been telling lies, in order to deprive its customers of evidence. An allegation of fraudulent acts is clearly defamatory: *DHKW Marketing and another v Nature's Farm Pte Ltd* [1998] 3 SLR(R) 774; [1998] SGHC 359.

67 The 1st Defendant has also pleaded that this statement also means that the 1st Defendant had intentionally cheated its customers. I do not accept that intentional cheating is part of the natural and ordinary meaning of this statement. These portions of the Blog state that the 1st Defendant lied to its customers, and no reference is made to cheating. Lying is not synonymous with cheating. It is entirely possible to lie without cheating, though it is admittedly difficult to cheat without lying. I am of the view that the ordinary reasonable person is able to draw a distinction between being lied to, and being cheated. I note that the Blog does state that the 1st Defendant has been "using a cheating process", "there is a suspicion to mislead and cheat", "had the intention to cheat us" and "dared to lie and cheat me in writing". However, the 1st Defendant has not pleaded any of these statements.

The 1st Defendants "made a very big lie to affect policy holders that [the 1st Defendants] does not keep the OPQ of affected policies. But, [the 1st Defendants] actually keeps them and hides them".

68 I accept that the natural and ordinary meaning of this statement is that the 1st Defendants were lying, and that such meaning is defamatory.

If the 1st Defendant did not keep the Plaintiff's PBI, "I do not know how [the 1st Defendants] could be ISO 9002 certified"

69 I do not accept the 1st Defendant's submission that the natural and ordinary meaning of the above is that the 1st Defendants were unbefitting of their ISO 9002 certification and/or had

fraudulently obtained the aforesaid certification. This statement gives the impression that the 1st Defendants have failed to comply with ISO 9002 requirements. Thus, the natural and ordinary meaning of this statement is that the 1st Defendant has not met its ISO 9002 obligations. While this meaning does amount to defamation as a statement that would create a negative impression in the mind of an ordinary reasonable person, I am of the view that such defamatory impact is minimal.

The 1st Defendants disclaims its valid business orders and were guilty of "serious wrongdoings" for which the Plaintiff allegedly found many "strong evidences and facts against [the 1st Defendants]"

70 The above statement is taken from the introductory heading to the Blog. For clarity, that introduction is set out in full:

> "I spent eight months to do research on AIA Life Insurance Dispute, which AIA called as critical year (CY) issue. I found many serious wrongdoings of AIA. I collected strong evidences and facts against AIA, which are applicable to all affected policies. Let us band together to sue AIA."

71 I note at the outset that this introductory heading does not state that the 1st Defendant "disclaims its valid business orders". I therefore do not accept the 1st Defendant's submission that this statement means that the 1st Defendants repudiated their contractual obligations owed to their customers. However, I accept that the natural and ordinary meaning of this statement is that the 1st Defendants were guilty of many serious wrongdoings, and such wrongdoings were conclusively proved by the strong evidence in the Plaintiff's possession.

72 The Plaintiff's reference to having "strong evidences (sic) and facts against the 1st Defendant" relating to the latter's "serious wrongdoings" is defamatory.

The 1st Defendants are "very creative and "brave" to provide information in the way it likes without considering the OPQ. Can AIA do so? Isn't it wrongdoing?"

73 I agree that the natural and ordinary meaning of this statement is that the 1st Defendant was devious and bold. It is clear that the words "creative" and "brave" are not used in their literal, laudatory sense. The ordinary reasonable reader would read between the lines and detect the sarcasm with which these terms have been used. The 'sting' of sarcasm is in the reasonable inference to be drawn: *Bored Piling (Pte) Ltd v James Siow Lai Huat & Ors* [1996] SGHC 248. In the present case, that inference is that the 1st Defendant was devious and bold.

74 I also find that the natural and ordinary meaning includes that the 1st Defendant were guilty of wrongdoing. The ordinary reasonable reader would again realise that the question "Isn't it a wrong doing?" is purely rhetorical, and is meant to convey the negative impression that the 1st Defendant had in fact committed wrongdoing.

The 1st Defendants "modifies" customer's critical year (CY) illegally with its bad intention. [The 1st Defendants] provide wrong explanations on OPQ, use irrelevant options to supersede OPQ, and many more.

I suspected that [the 1st Defendants] modified many policies' CY if not all

75 For both of the above statements, I find that the natural and ordinary meaning is that the 1st Defendant had acted fraudulently by tampering with its customers' Critical Year terms. This is defamatory.

"[i]t is surprising that [the 1st Defendants] dared to lie in order not to admit my OPQ. It should be

very serious offence (sic) to illegally modify a customer's policy data, I believe"

76 I find that the natural and ordinary meaning of this statement is that the 1st Defendant had acted fraudulently by lying, and by illegally modifying its customers' policy data. This is defamatory.

"Is [the 1st Defendants] trying to mislead and cheat us?"

77 I find that the ordinary reasonable reader would infer from this rhetorical question that the 1st Defendant was in fact attempting to mislead and cheat its customers, and had thereby acted fraudulently. This is defamatory.

People were "misled by [the 1st Defendants]"

78 It is necessary to set out the full extract from the Blog in which the above statement appears:

> "Some people may not know that they are affected. Some people know the issue and may have accepted an unfair option from AIA. But, they may not know the truth. They are misled by AIA."

79 I find that the natural and ordinary meaning of this statement is that some customers have been misled by the 1st Defendant. These customers may have accepted an unfair insurance option from the 1st Defendant. I do no agree with the 1st Defendant's submission that this statement conveys an impression of a "widespread practice" of pretence and/or fraud. However, I do accept that the statement means that the 1st Defendant has acted fraudulently by misleading its customers, and that this meaning is defamatory.

Plaintiff's submissions on the meaning of the disputed statements

80 During the course of oral submissions, the Plaintiff did not address the natural and ordinary meaning of the disputed statements. Instead, she argued that the disputed statements were not defamatory because they were true: *page 26 of the notes of proceedings dated 11 November 2009*

> "P: 1st Defendant spent a lot of time to elaborate the meaning of the sentence and how it is defamatory. But he did not answer the allegations raised in the statements. When I tell the truth, then how can it be defamatory, unless what I allege is wrong. Then that is defamatory. But if what I write is all the facts, that is not defamatory."

81 The Plaintiff does not understand the difference between whether the dispute statements are defamatory in their natural and ordinary meaning, and whether the defence of justification applies to the present case. During the hearing, I explained to the Plaintiff that the truth of the allegations is not directly relevant to the present application, which is concerned only with the meaning of the disputed statements. I further explained to the Plaintiff that the truth of her allegations may be relevant at later proceedings. I accept that the Plaintiff is acting in person, and does not appear to be legally trained. However, I was unable to put any weight to her oft-repeated argument that the disputed words were not defamatory simply because they were true. This argument is fundamentally misconceived.

82 I specifically asked the Plaintiff for her arguments on whether an ordinary person would conclude that the 1st Defendant was a wrongdoer when reading each disputed statement. I did so in order to give the Plaintiff the opportunity to address the issue of whether the statements had any defamatory effect. It was necessary for me to do so because the Plaintiff refused to budge from her assertion that the statements were not defamatory if they were true.

83 The Plaintiff replied that she did not know what an ordinary person would think when reading the disputed statements. She also claimed that when writing the Blog, she never thought of how a reader would think of its contents, or of how a reader would think of the 1st Defendant.

84 I find the Plaintiff's claim that she never thought of the reader's reactions when reading the Blog to be patently false. The emails sent by the Plaintiff to the 1st Defendant's general manager and customer service department shows that she was acutely aware of the potential reactions of the public after reading the Blog:

> "I tried to set up my BLOG just now so that you could read it in the morning when you start the next working day …Over the weekend, the full version should be ready for interested people to know the whole story of AIA life insurance dispute. Next week, many Singapore and overseas websites will publish them. Very soon, the dispute will be getting hot. When it is hot, class action would follow if it is what you expected.": email dated 10 October 2008, 1:06 AM
>
> "I will continue to do what I should do until I received satisfactory compensation from AIA: my BLOG shall be set up, all the information shall be released to the public, etc. Time is important to you and me.": email dated 10 October 2008, 9:21 PM
>
> "Since you agree to settle the dispute through one-off compensation, I will not open by BLOG to the public and will shut it down if we can reach an agreement on the compensation amount by Midnight of Tuesday. If not, I have no choice but open the BLOG to the public. I can be sure that it will be getting hot and popular very soon once it is open. Nowadays, internet, emails and SMS are very powerful tools to pass and share information. In Singapore, there are NUS, NTU and 12 research institutes, where your agents often go to look for potential customers. Just a few emails can make all of them know the dispute. Plus broadcasting, it should be soon that Singapore residents will know the dispute … I worry about your agents who have spent 10 years, 20 years or more of their career with AIA. They would lose what they have built up through the years if AIA is in troubles.": email dated 13 October 2008, 1:27 AM
>
> "I understand that AIA is going to be sold. But, how to get a good price if the scandal of AIA is getting popular and hot Tomorrow.": email dated 14 October 2008, 8:49 PM

85 For the above reasons, I found the Plaintiff's arguments in response to the present application to be either untrue or misconceived.

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86 The Plaintiff's grounds for applying to strike out the 1st Defendant's defence and counterclaim, and the 2nd Defendant's defence, mirror her grounds for resisting the Defendants' respective striking out applications. I have already found those grounds to be either misconceived or unmeritorious.

87 One final point should be addressed in relation to the Plaintiff's argument that the Defendants have no defence to her claim. The Plaintiff has repeatedly stated that the Defendants have no defence because they did answer her questions or address her allegations in affidavit form. This is seen in the following extracts from the Plaintiff's written submissions:

> "In their Defence and Counterclaim, the 1st Defendants denied and/or did not admit almost all the events that have taken place since 2003 and all my allegations through bare denials when they have no basis to deny … In their 1st affidavit that they filed to strike out my case and my claim, they left out almost all the issues, matters and causes of action that I raised in this action. They

did not disclose the whole story to the Court. They did not answer my questions … I served the 1st Defendants my 1st and 2nd affidavits and my application to strike out their Defence and Counterclaim. They did not reply. They did not show cause against my striking out application. They have no argument and no defence."

"In my 1st and 2nd affidavits, I provided sufficient evidences to support and prove my allegations on their wrongdoings and misconduct. After I served the 1st Defendants my 1st and 2nd affidavits, they did not reply. If they have good answer, they definitely would have filed their reply affidavit to tell the Court. But till today, the 1st Defendants did not provide any evidences or particulars to prove that my allegations on their wrongdoings and misconduct are not true. Apparently, they have no arguments on my allegations and no defence to my claim."

"I raised many questions and allegations on his wrongdoings and misconduct in my Statement of Claim. But, he did not answer. In his Defence, he did not answer my questions by using the excuse that he sees neither reason nor obligation to answer them … But, if he did nothing wrong and did not collude with the 1st Defendants, it should be very easy for him to answer my questions and allegations."

88 The Plaintiff repeatedly made similar arguments during oral submissions. I explained to her that she may have misconstrued the purpose of affidavits in Court proceedings, and that affidavits are a means for parties to bring evidence to the Court's attention. I also explained to the Plaintiff that legal arguments need not be reduced to affidavit form, and that such arguments are brought to the Court's attention through written and oral submissions. It appears that the Plaintiff nevertheless maintains her argument that the Defendants have no defence because of their alleged refusal to reduce arguments into affidavit form.

89 I find that the Plaintiff's argument that the Defendants have no defence to her claim is entirely misconceived. It is premised on the Plaintiff's failure to understand the relationship between pleadings, affidavits and submissions. While I have taken account the Plaintiff's oft-repeated rejoinder that she is acting in person and is a layperson, that does not bestow credibility to her entirely misconceived argument.

90 For the above reasons, I dismiss the Plaintiff's application to strike out the Defendants' defences and counterclaim in SUM 5561 of 2009.

Conclusion

91 In summary, I have struck out the Plaintiff's claims against both Defendants. I have found that the OPQ does not have contractual effect and is not enforceable against the 1st Defendant. I have also found that the OPQ's terms are not guaranteed.

92 I have determined the natural and ordinary meaning of the pleaded statements taken from the Plaintiff's Blog, and have found such statements to be defamatory.

93 I have dismissed the Plaintiff's application to strike out both Defendants' defences, and to strike out the 1st Defendant's counterclaim.

94 I will hear parties on costs.