

## **BUCKLEY-V- DALZIEL (3 May 2007)**

### **- No Claim for Defamation Against Neighbours**

**The Message:** A property owner cannot be sued for defamation for unjustifiably reporting another party to the police.

**The Case:** In relation to a dispute between neighbours, the Court has made it clear that a party that believes it is a victim of crime should be entitled to file a criminal complaint without fear of being sued for libel or slander (Buckley-v-Dalziel (3/05/07)).

Whilst Mr and Mrs Dalziel were away on holiday in 2005, their neighbour, Mrs Buckley, arranged for the pruning of some of their trees along the boundary with her property. She claimed that she only removed branches overhanging her land by at least a foot and that she needed to do so in order to erect a fence on her side of the boundary.

Mr and Mrs Dalziel were so upset that they reported the matter to the Greater Manchester Police and Mr Dalziel signed a witness statement so the Police could consider prosecuting Mrs Buckley for criminal damage. Mrs Buckley was arrested and interviewed but, ultimately, the Crown Prosecution Service decided not to prosecute.

Mrs Buckley obtained copies of the allegations made against her from the police in 2006 and issued proceedings against the Dalziels for damages for libel and slander on the basis that they had maliciously made false statements about her. The Dalziels denied that this was the case and sought to strike out the claim upon the basis that, even if they had done so, they enjoyed complete immunity as complaints to the police are protected by absolute privilege.

Because public interest requires that persons should be able to discuss possible crimes with the police freely and without inhibition, it has long been the policy that any statements made have always enjoyed absolute privilege. This means that the party who makes the statement enjoys immunity even if the statement is wrong and made maliciously.

However, Mrs Buckley argued that the European Convention on Human Rights had changed matters. This required greater priority to be given to protection of the reputation of an individual. Furthermore, she contended that absolute privilege should only be enjoyed by witnesses who are required to co-operate with the police and that complainants who set the criminal process in motion should not have the same protection. Her Counsel pointed out that the Court of Appeal in *Mahon-v- Rahn* in 2000 had left open the question as to whether a person who made malicious and defamatory allegations to an investigatory authority should be protected from claims.

The High Court decided that priority should still be given to the need to protect those who give evidence to police officers, whether they be the complainants or just witnesses. Whatever is actually said to the police will not be published widely, if at all, so there is little risk of actual damage to reputation resulting. In the event that a prosecution does proceed, then a person who makes any untrue statement may be found liable for perjury or malicious prosecution so will not necessarily escape sanction.

Accordingly, Mrs Buckley's claim was dismissed. This appears to be yet another neighbours' dispute that has resulted in considerable distress and expense and, unfortunately, there will no doubt be plenty more.