



HIGH COURT OF AUSTRALIA

Manager, Public Information

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CONSTANTINE KERAMIANAKIS v REGIONAL PUBLISHERS PTY LTD

Today the High Court allowed Dr Keramianakis' appeal against a decision of the NSW Court of Appeal that it had no jurisdiction to consider his appeal against a verdict entered by a District Court judge in favour of Regional Publishers Pty Ltd.

Regional Publishers Pty Ltd publishes the *Daily Liberal*, a newspaper which circulates in Dubbo. In March 2001 the newspaper published an article about a skin cancer clinic operating under the name "Dubbo Skin Cancer Centre" which included comments critical of the services offered at the clinic and of its fees. Dr Keramianakis and a colleague had established and were running the clinic. They sued Regional Publishers for defamation in the District Court of NSW.

Under section 7A of the Defamation Act 1974 (NSW) (the relevant law at the time these events occurred), if the court determined that a publication was reasonably capable of carrying the imputation pleaded by a complainant and that the imputation was reasonably capable of bearing a defamatory meaning, then a jury had to determine whether in fact the publication did carry the imputation pleaded by the complainant and whether the imputation was defamatory.

The trial judge determined that the comments published in the *Daily Liberal* were reasonably capable of carrying the imputations pleaded by Dr Keramianakis and that the imputations were reasonably capable of bearing a defamatory meaning. He asked the jury to determine whether the comments in fact carried the imputations Dr Keramianakis alleged they carried. In each case the jury answered, "No". Those answers were fatal to Dr Keramianakis' case. On the basis of the jury's answers the trial judge entered a verdict in favour of Regional Publishers Pty Ltd and ordered Dr Keramianakis to pay Regional Publishers' costs.

Dr Keramianakis appealed to the NSW Court of Appeal. The majority of that Court considered that the District Court Act allowed an aggrieved party to appeal against a judgment or order of a judge following a jury trial. However, it held that a verdict, even when entered by the judge, did not fall within the description of a "judgment or order". In the case of a District Court civil jury trial, an aggrieved party could only challenge a jury verdict by making an application for a new trial before the judgment against that party had been entered. The majority of the Court of Appeal determined that it did not have the power to hear Dr Keramianakis' appeal. The Court of Appeal did say that had it had the power to hear the appeal, it would have found in favour of Dr Keramianakis in relation to two of the three imputations the jury was asked to consider, and it would have entered a verdict for Dr Keramianakis in relation to the complaint of defamation contained in those two imputations.

The High Court granted Dr Keramianakis special leave to appeal against the decision of the Court of Appeal and today, in a unanimous decision, held that Dr Keramianakis had a right to appeal against the orders made by the trial judge in favour of Regional Publishers. This right was not affected by the existence of the procedure which would have allowed him to challenge the jury's answers by seeking a new trial prior to the verdict being entered. The Court set aside

the orders of the NSW Court of Appeal and ordered that there should be a new trial to determine whether the *Dubbo Liberal* carried the two imputations alleged by Dr Keramianakis, and if it did, whether the imputations were defamatory.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*