



THE HIGH COURT

[2026] IEHC 614

[Record No. 2026 222 P]

BETWEEN

MICHELLE KEANE

PLAINTIFF

AND

THE JOURNAL MEDIA LIMITED, TRADING AS THEJOURNAL.IE,

DML CAPTIAL UNLIMITED COMPANY, BRIAN FALLON

AND EAMONN FALLON

DEFENDANTS

JUDGMENT of Mr Justice Liam Kennedy delivered on 9 September 2026.

1. The plaintiff is the Chief Executive Officer of Kingdom Water Ltd (“Kingdom Water”), a company which promotes natural spring water with “*unique features*”, said to be available at wells on her lands in Knocknagoshel, Co. Kerry. Although she has made no secret of her plans to sell such water, Kingdom Water has not yet started to do so, and that issue is at the heart of the proceedings. The plaintiff seeks injunctive relief pursuant to section 33 of the Defamation Act 2009 (“the Act”) to restrain *The Journal* and the named defendants from publishing or republishing a statement (“The Statement”) in an online article published on 9 December 2025 (“the Article”) and ancillary reliefs. Her Statement of Claim alleges that she was defamed by the Article.

2. The plaintiff did not take issue with the Article's main thrust, which was to correct disinformation in her misleading public Facebook posts, which greatly exaggerated the amount of financial aid provided by the Irish government to Ukraine. The Article confirmed that such aid did not in fact amount to "*billions*", of Euro as she had claimed. Nor do the proceedings object to the Article's description of her as someone who spreads disinformation. The aspect of the Article to which the plaintiff objects in these proceedings is its description of her as someone who "*runs a company selling water*" which, following her complaints, was amended to read "*runs a company which intends to enter the luxury water market*". These proceedings are exclusively focussed on these statements ("the Statement").
3. The plaintiff claims the Statement is false and defamatory, as neither she nor Kingdom Water has ever sold water and the Statement means that she a) was engaged in the commercial exploitation and sale of water; b) acted dishonestly, misleadingly, or without integrity in her business affairs; c) misrepresented her business activities to the public and d) was deserving of public disrepute and loss of trust. The defendants deny that the Statement is defamatory, that it contains the meaning alleged and note that its substance reflects the plaintiff's own statements, invoking defences of truth and public interest publication (in accordance with s.26 of the Act). This judgment solely deals with the applications for injunctions to (a) restrain publication or republication and (b) require removal of the Article. For the reasons stated below, I am refusing such reliefs.

The Law

4. Section 33 empowers the High Court to prohibit the publication or further publication of a statement if, in its opinion, (a) the statement is defamatory; and (b) the defendant has no defence that is reasonably likely to succeed. Accordingly, the plaintiff must satisfy me that the suggestion that she or her company was selling or intended to sell

water is defamatory and that the defendants have no defence that it is reasonably likely to succeed at trial.

5. The defendants cited Cox and McCullough, *Defamation Law and Practice* (2nd edn, 2022) at paragraph 12-53 which notes that for injunctive relief to be granted the Court must first be satisfied that the material is defamatory and, secondly, it is not enough to establish a serious question to be tried, the plaintiff's case must be "*absolutely clear*". Relief should not be granted if a jury might conclude that the statement did not carry the meaning complained of or that that meaning is not defamatory, submitting that the applicable test is:

"whether it is impossible that a jury in an ultimate trial, based on what is exhibited, will find that Ms Keane has never said that she intends to enter the luxury water market."

6. The defendants also invoked a trilogy of decisions from Allen J. on s.33. The plaintiff responded that the authorities involved different facts, parties and proceedings. I consider them on point, providing authoritative guidance on the provision which the plaintiff invokes.
7. The first was *Gilroy v. O'Leary* [2019] IEHC 52 (*Gilroy*), in which Allen J. summarised the law governing the prohibition of (re)publication of defamatory material, analysing s33 and observing at para 44 that on such an application the court must be of the opinion that the defendant has no defence that is reasonably likely to succeed. He added at para 56 - 57, citing *Lowry v. Smyth* [2012] 1 I.R. 400:

"...it must be 'very clear' that the defendant has no defence, the onus is on the plaintiff applying for a s. 33 order to establish that the statement 'is' defamatory. That onus, in my view, is the same as the common law requirement expressed variously as a requirement that the plaintiff must show that it was clear that he would succeed at trial (Cogley) or it was clear that no defence would succeed at trial (Foley).

*57. In considering the requirement for clarity as to the outcome of the action, it is useful to recall what was said by the Supreme Court in *Sinclair v. Gogarty* [1937] I.R. 377. *O'Sullivan C.J., citing Coulson v. Coulson* 3 T.L.R. 846 and *Bonnard v. Perryman* [1891] 2 Ch. 269 said at p.384 of the report:-*

'I realise that in granting an interlocutory injunction to restrain the publication of a libel the Court is exercising a jurisdiction which has been described as a jurisdiction of a delicate nature.

The principle upon which the Court should act in considering such applications ... is this, that an interlocutory injunction should only be granted in the clearest cases where any jury would say that the matter complained of was libellous, and where if the jury did not so find the Court would set aside the verdict as unreasonable. It is unnecessary for me to decide whether that principle is applicable in all cases. I accept it as applicable in the present case.'

In *Gilroy*, the plaintiff sought to require the defendant to remove an allegedly defamatory video from social media but failed to show that the material was defamatory. Allen J refused the application, concluding at para. 60 that:

"... at the very least, there is an issue to be tried as to whether the video conveys the alleged meanings."

8. Subsequently, in *Lidl Ireland v. Irish Farmers Association & Ors* [2021] IEHC 381, the plaintiff applied for an interlocutory injunction prohibiting further publication of two advertisements. Allen J. reiterated that the onus was on the plaintiff to establish that the statements were defamatory and that the defendants had no defence that was reasonably likely to succeed, noting at para. 32 that:

"... the court must be satisfied that the words clearly bear the pleaded defamatory meanings and that the defendants clearly have no defence that is reasonably likely to succeed."

Allen J. refused the application as the plaintiff had not met the threshold - he was not satisfied that the advertisement clearly and only conveyed the meaning alleged.

9. Allen J. applied the same test in *Beaumont Hospital Board & Anor v. O'Doherty* [2021] IEHC 469 with a different result on the facts. The material circulated was defamatory and the defendant had no defence which was reasonably likely to succeed. At para. 58, he noted that:

"The jurisdiction invoked by the plaintiffs on this application is, as has been said, a delicate one. The court must be careful not to interfere with free speech or the free expression of opinions, a fortiori I think with responsible journalism and the freedom of the press. Orders of the type now sought must be made only in the clearest cases and any doubt resolved against the applicant. On the other hand, journalists, no less than

citizens in general, are not entitled to wantonly or recklessly traduce reputations and the court will intervene if it can be shown that statements have been made, and are liable to be repeated, for which there is no reasonable basis.”

Thus, the onus is on the plaintiff to demonstrate that the statement is defamatory and that the defendant has no defence.

Context

10. The first named defendant, a well-known online current affairs newspaper, published the Article on 9 December 2025 as part of its “*factchecking*” series, *The Journal Fact Check*, which (as explained by the defendants) scrutinises public commentary from third parties for disinformation, correcting it where necessary. As noted above, the Article sought to correct disinformation in public comments published by the plaintiff on Facebook as to the amount of financial aid provided by the Irish government to Ukraine, concluding that:

“Irish Government Donations to Ukraine amount to hundreds of millions of Euro, including supplies of non-lethal equipment, but not “billions”, as a former political candidate has claimed.”

11. As noted above, the plaintiff does not quibble with that statement or with the Article’s description of her as someone who spreads disinformation. The aspect of the original Article to which she objected in these proceedings was its reference to her as someone who “*runs a company selling water*”. That statement, and an amended version of that description, forms the basis of her claim. The plaintiff says that Meta Platforms (“Meta”) notified her on 30 December 2025 that her content would be labelled as “*False Information*”. Para. 16 of her affidavit says the notification cited the Article and this appears undisputed although it was not apparent from the exhibits. There were a series of communications between the parties on the day of the Meta notification as follows:

- a. the plaintiff complained to the defendants about the statement that she sold water, requesting correction or removal.
- b. The first defendant's Fact Check Team responded promptly, declining to change the fact check rating on the basis of their conclusion that the plaintiff's Facebook post was still incorrect and had not been altered since that rating was applied.
- c. The plaintiff replied later the same day, clarifying that the focus of her complaint was not the fact checking of the Ukrainian claim but "*a separate defamatory statement*":

"The article states that I "run a company selling water". This statement is false, misleading, and damaging.

For clarity:

I do not sell water

I have never sold water

I have never received any payment for selling water

This assertion is presented as fact and is objectively incorrect. Its publication damages my reputation and meets the threshold for defamation under the Defamation Act 2009.

I formally request immediate review and correction or removal of this false statement and written confirmation of same.

Please treat this email as formal notice. I reserve all rights, including the right to initiate high court legal proceedings to Facts Check and meta and the board of directors of The journal.ie this matter not be remedied.

Please respond to me within the next 24 hours of what you intend to do to remedy my account. If you fail to not respond this will be deemed a refusal on your part where I will initiate high court proceedings with immediate effect."

12. The plaintiff wrote to the Fact Check team to similar effect on 1 January 2026, reiterating that the water selling reference was defamatory and objectively false, demanding, inter alia, its correction or removal by 2 January 2006, concluding that:

"If this matter is not remedied by that time, I will proceed on the basis that you have knowingly permitted the continued publication of a defamatory inaccuracy, and I reserve all rights to initiate legal proceedings without further notice, including against relevant parties and directors."

13. On 1 January 2026, the plaintiff wrote to the defendants' Board of Directors and senior officers, again threatening High Court proceedings "*against Journal Media Limited and such other parties may be advised, including individuals responsible for editorial control, governance and oversight*". The Journal replied the following day, declining to change the rating as the time limit for appeal had expired and the supporting link which the plaintiff provided "*corroborates that the post was false*". On 5 January 2026, the plaintiff sent the third and fourth named defendant a final letter before action. On 7 January 2026, the Article was amended to read that the plaintiff

"runs a company called Kingdom Water; which she has previously said intends to sell 'luxury water' from streams were revealed to her by angels".

14. On 13 January 2026, the plaintiff served the defendants with a request for voluntary disclosure, a Data Access Request and "*a formal notice of proceedings*". On 16 January 2026 she commenced proceedings with an ex parte application, which was made returnable inter partes to 22 January 2026. The plaintiff issued a Statement of Claim dated 15 January 2026 in which she complained of the Article's alleged falsity and reiterated the defamatory meaning as set out above, adding that the Article's presentation as a "*FactCheck*", meant that it purported to be an "*authoritative verification of fact*".

Plaintiff's Evidence

15. The plaintiff's grounding affidavit claims that; (a) the statement that she "*runs a company selling water*" is false - she does not sell water and has never done so, either personally or through Kingdom Water. She exhibits documents and a statutory declaration confirming that Kingdom Water has never traded, let alone sold water; (b) she has suffered digital harm as a result of Meta's False Information label as her social media reach, visibility and ability to communicate publicly have been restricted, she

has suffered (i) “*serious damage to her reputation, distress, anxiety, and humiliation*”, (ii) “*ongoing emotional suffering*” has been inflicted on her and her children, and (iii) the statements have caused “*serious and foreseeable damage to her professional reputation, personal brand, and commercial goodwill*”; (c) the defendants knew, or ought to have known, that the statements would undermine public confidence in her integrity, credibility and professional standing, and cause damage to her reputation and brand; (d) the defendants acted with “*recklessness and/or malice*” in publishing the Statement – an Article was published as a “FactCheck” should contain factually accurate information. The plaintiff argued that her application is an exceptional and strong case likely to succeed at trial which warrants relief as there is no defence reasonably likely to succeed, damages would not be an adequate remedy, the balance of justice favours the relief and that greater injustice would lie in the refusal of relief.

16. The plaintiff’s second affidavit, sworn after the first named defendant amended the Article to read that the plaintiff “*runs a company which intends to enter the luxury water market*”, characterised the amendment as a “*retreat*” which “*constitutes an implicit admission that the original statement complained of was false at the time of publication*”. She further says that the defendants do not dispute that she nor Kingdom Water have never sold water, that the alleged intention to do something in the future is not a statement of existing fact, and accuses the defendants of relying on assertions, aspirations, or future possibilities. She also reiterated previous averments.

Defendant’s Evidence

17. The defendants submit that the plaintiff is seeking extreme relief against a publisher, a responsible publication that wrote the Article as a journalistic endeavour to correct the plaintiff’s online disinformation. Sinead O’Carroll, the first named defendant’s editor averred that; (a) challenging the accuracy of third party published material is an

important role of the press in Ireland; (b) only the first defendant had any editorial control over the publication - the inclusion of the other defendants was entirely wrong and an abuse of process; (c) the Statement is not defamatory, as selling water is a reasonable commercial endeavour nor could it be deemed defamatory in the light of the plaintiff's own public comments in which she discussed Kingdom Water's commercial prospects and its intentions to sell water.

- 18.** In support of the defendants' contentions as to the plaintiff's declarations of her intention to sell water, Ms O'Carroll exhibited the plaintiff's own social media content and records of her media appearances featured on Kingdom Water's website, including:
- i. A 16 December 2020 article in the *Independent* quoting the plaintiff as saying that "*the future is about setting up a bottling plant in Knocknaghosel*" and a *Kerryman* article of the same date, stating that the plaintiff "*was offered €34million to sell the springs but declined believing it to be a multi-million asset*".
 - ii. The plaintiff's LinkedIn profile, where she describes herself as Kingdom Water's Chief Executive Officer, and states that "*Kingdom Water will operate within the 'luxury water' sector of the overall multi-billion water market*".
 - iii. Posts dated 31 December 2020 and January 2021 from Kingdom Water's Facebook page which show the plaintiff posing with a bottle of water under the legend "*here's to the 2021 commercialisation of Kingdom Water*".
 - iv. A Trademark dated 14 November 2018 registered by the plaintiff bearing the name "*Heavenly Kingdom Water*", which is posted on the plaintiff's website under the banner of Intellectual Property.
 - v. Para.14 of Ms O'Carroll's affidavit also avers that Kingdom Water's website promotes radio interviews with the plaintiff, including on the Pat Kenny Show on Newstalk and West Limerick 102 FM, during which she promoted her water and

declared her intention to speak to investors and to move towards the construction of a bottling plant.

Legal Submissions

19. The plaintiff's submissions echoed her affidavits (which had inappropriately trespassed at length into the realm of legal submission), claiming an entitlement to s. 33 relief on the basis what she saw as an exceptional case because as the material was defamatory and the defendants had no possible defence. She cited s.2 of the Act, which defines a defamatory statement as "*a statement that tends to injure a person's reputation in the eyes of reasonable members of society*" and Article 40.3.2 Bunreacht na hÉireann which protects the right to a good name. The affidavit also cited various authorities, which did not seem to support the propositions she advanced or to be relevant to the proceedings. Some propositions were uncontroversial in any event, such as the suggestion that an allegation of dishonesty or lack of credibility is defamatory or that continued publication may mean increased or ongoing harm. However, the plaintiff did not meaningfully engage with the substance of the cases she listed or demonstrate their relevance to her own application – each random citation was merely accompanied with cursory outline with no meaningful analysis of its relevance to this application. The citations also contained incorrect neutral citation numbers. Furthermore, while the plaintiff denied the relevance of the defendants' authorities, she did not explain her basis for doing so other than on the basis that they concerned separate facts, parties and proceedings (which could be said of most precedents cited in subsequent proceedings). In summary, the plaintiff said that she disagreed with the defendants' position because the points they made are unsupported by evidence. She has never sold water and could prove it. She also emphasised that she is not the author of all articles exhibited by the defendants but conceded that they are housed on her Company's website.

Defendant Submissions

20. In response, the defendants say that the Article was overwhelmingly correct and addressed much more serious issues. The original statement, which formed a minor part of the Article, was amended to reflect a minor nuance.

21. Addressing the first limb of s.33, they submit that there is no defamation. Selling water is a reasonable commercial activity and in any event the amended version uses the plaintiff's own words. It is impossible that a jury would find the meaning that the plaintiff ascribes to the Statement arises from it. The material from the plaintiff's social media platforms and media appearances show her own words about herself and her company, in terms similar to those she takes issue with. If the proceedings went to trial, it is impossible that a jury would find that the statements defamatory. Therefore, the plaintiff falls at the first hurdle.

22. On the second limb of the s.33 test, the defendants say, the defence of truth applies, as does s.26, which provides that:

“(1) It shall be a defence (to be known, and in this section referred to, as the “defence of fair and reasonable publication”) to a defamation action for the defendant to prove that—

(a) the statement in respect of which the action was brought was published—

(i) in good faith, and

(ii) in the course of, or for the purpose of, the discussion of a subject of public interest, the discussion of which was for the public benefit,

(b) in all of the circumstances of the case, the manner and extent of publication of the statement did not exceed that which was reasonably sufficient, and

(c) in all of the circumstances of the case, it was fair and reasonable to publish the statement.”

23. The defendants submitted that when applying s.26, the Court should examine whether the publication of the overall statement, when read as a whole, is in the public interest. They argue that the nature of Article is the very essence of public interest journalism – it sought to verify comments made by the plaintiff and circulated online.

Analysis

24. While I have considered the authorities cited by the plaintiff, they do not advance her case. For example, while I agree that an accusation of dishonesty would, *prima facie*, be defamatory, the plaintiff fails to establish a basis to interpret the reference to her or her Company selling water in such terms. This finding goes to the heart of the application – the plaintiff ignores the gravamen of the article to focus on what would be, at most, a minor inaccuracy in a detail, without demonstrating how that inaccuracy could damage to her reputation. I explain my conclusions in greater detail below. In short, it is impossible to see how the Statement about selling water could be seen as defamatory, particularly in the light of the plaintiff’s own words. It cannot be compared, for example, to the alleged suggestion in *Gilroy* that the defendants’ video implied that the plaintiff endorsed giving children bleach as an alternative to vaccination (while such a suggestion would clearly have been defamatory, *Allen J.* held that there was an issue to be tried with regards to the meaning).
25. The plaintiff fails to meet either limb of *Gilroy*. Even if selling water or intending to do so was a defamatory allegation - and I do not see any basis for such an assertion - the publications of similar claims by the plaintiff and Kingdom Water on the latter’s website undermine any basis to complain, offering a strong basis for the defences. There is no reason to doubt the correctness of the Statement’s substance in view of the plaintiff’s own public comments. Even the name of her own company, Kingdom Water, might reasonably be interpreted as a representation by her and by the Company that they were in the business of selling water. The clue is in the name.
26. Furthermore, I agree that responsible fact checking of public discourse by the established media is an extremely important function in a modern democracy. The Court would need to reflect carefully before interfering with that role. The

circumstances of this case come nowhere near justifying such an intervention. The plaintiff falls at both hurdles of s. 33. She has not established that the Statement is defamatory and her own statements afford the defendants strong grounds to defend the claim. She has no basis to seek injunctive relief.

27. Relief would be discretionary even if the plaintiff had met both limbs of s.33 and there are compelling reasons why it would be inappropriate to exercise the discretion here in any event. Firstly, the plaintiff ignores the overall thrust of the article which raises more serious issues. She focusses on what is at most a minor nuance and the relief sought would be disproportionate, even if the *Gilroy* test had been met.

28. Secondly, whatever about the issues with the claim against the first defendant, at least it published the Article. By contrast, the plaintiff has not articulated a coherent basis for the joinder of the other defendants. The gratuitous joinder of parties without a legitimate basis to do so is an abuse of process and is particularly egregious in defamation proceedings where the effect may be to intimidate, discourage or limit public discourse. Such abuses of the Court's procedures may influence the exercise of the Court's discretion in respect of claims which, *prima facie*, are more statable. It is not necessary for me to have regard to this consideration on this occasion but litigants who gratuitously add parties should appreciate that such antics may reduce their prospect of obtaining discretionary relief.

29. For completeness, I should note that, at the close of the hearing, I drew the plaintiff's attention to the issues in respect of her claim against the second, third or fourth named defendants. While emphasising that it was a matter for her, I invited her to consider whether she wished to continue to pursue such parties, noting that litigants who litigate against parties without a statable cause of action will inevitably face applications to strike out such claims, delaying the substantive action, and such applications are likely

to succeed unless the plaintiffs can properly plead and fully particularise their claims against such defendants. As matters currently stand, there is no obvious basis for those defendants to be parties, and their unnecessary joinder may expose her to costs orders or perhaps even a litigation restriction order. If granted, such an order could bar the plaintiff from issuing further proceedings without first obtaining the Court's leave. The plaintiff indicated that she would reflect on whether to continue the claim against those defendants.

Conclusion

30. There was no plausible basis for this application. As matters stand on the basis of the plaintiff's Statement of Claim, affidavits and submissions, it is impossible to discern a defamatory meaning in the article. The plaintiff does not take issue with the serious points raised in the Article and instead focuses on a detail, stressing that neither she nor Kingdom Water had actually ever sold water (despite having publicly manifested their intentions to do so). It appears that the plaintiff is correct to the extent that neither she nor Kingdom Water had started to sell water, but that does not matter since, firstly, it is only a matter of timing given the plaintiff's and Kingdom Water's statements of intent. Secondly, whether true or false, the suggestion that the plaintiff had sold water or intended to do so was not defamatory. Accordingly, even if the plaintiff and Kingdom Water had yet to start their sales operations, any such inaccuracy was scarcely defamatory within the meaning of s.2 – an accusation of an intention to sell water would injure a person's reputation in the eyes of reasonable members of society. Furthermore, the plaintiff has failed to articulate any basis to hold the second, third or fourth defendants responsible for the Article, even if it was somehow defamatory. The first defendant seems to be the only correct defendant but it has demonstrated its entitlement

to assert truth and s.26 defences which would render relief inappropriate at this stage, even if a defamatory meaning was shown.

31. Furthermore, this would not be an appropriate case to restrain publication, not only because of her apparently gratuitous joinder of unnecessary parties but, more importantly, because the controversial Statement was only a minor part of a more substantial piece and because the Court is slow to interfere with free speech or to prevent journalists and fact checkers undertaking their role. This was a particularly unmeritorious application since the plaintiff did not take issue with the Article's main thrust, which was to correct disinformation in her own misleading public Facebook posts and instead focussed on what was at most a minor possible inaccuracy in a less significant aspect of the Article.
32. While the plaintiff refers to harm suffered as a result of the Article, there is no obvious basis to suggest that any such harm, even if it was substantiated, was due to the reference to the plaintiff selling water as opposed to other (unchallenged) issues explored in the Article. She claims to have suffered damage due to Meta's labelling of her content as "*misinformation*" but, as she herself has repeatedly made clear, her defamation proceedings are not grounded on the fact checking conclusions but on the reference to her actual or intended involvement in the business of selling water. There is no evidence to suggest that the plaintiff has or is likely to suffer reputational damage as a result of that aspect of the Article or that the Meta decision was in response to that aspect of the Article - it seems more likely that it responded to other issues raised in the Article but such issues are outside the ambit of these proceedings.
33. For completeness, I should make clear nothing in this judgment limits the plaintiff's ability to pursue her claim to trial on the basis of a properly particularised claim against

appropriate defendants (and I express no opinion on the claim as currently pleaded), but she has not established an entitlement to injunctive relief in the meantime.

34. I will refuse the application. The defendants, having been entirely successful in opposing the application, are presumptively entitled to their costs on the standard party and party basis and I will make an order in those terms unless either party lodges submissions within 21 days seeking orders in any other terms (in which event the other parties will have a corresponding period to respond), following which I will determine the question of costs on the basis of such submissions or will, if appropriate, list the matter for further submissions or directions.

Representation

Michelle Keane appeared as a litigant in person.

Tom Murphy BL, instructed by RDJ LLP, for the defendants.