

Defamation annotated problem question

In the Hood, a weekly fashion and TV magazine, is famous for its celebrity 'scoops'. This week's issue includes the following stories:

'TV CHEF IN JUNK FOOD SHAME!'—a two-page story about a TV chef, who prides herself on her healthy recipes, and who has been spotted buying an unhealthy snack in her local supermarket. In fact, she was accompanied by a film crew and was buying it for the new series of her show. The article does not mention this.

'EXPLOITED FOR THE SAKE OF FASHION'—a four-page feature in which claims are made about Rack and Horse Design, a designer clothing company. The article suggests that the company is:

- exploiting its shop workers in the UK by paying below minimum wages;
- destroying the environment through its continued use of highly toxic dyes;
- forcing workers in the developing world to work in 'inhumane and degrading' conditions.

'BOOZED-UP & KICKED OUT'—a photo spread (accompanied by brief captions) of 'celebrities' appearing worse for wear after a night out. Underneath the headline—but in much smaller print—there is an explanation that these are staged photos using celebrity look-a-likes.

Advise *In the Hood's* editor as to the magazine's potential liability in the tort of defamation.

What is it that is defamatory here? Think about why the magazine does not mention why the chef is buying the unhealthy snack. Remember that s 1 of the Defamation Act 2013 requires the statement to reach a 'seriousness' threshold.

Will *In the Hood* have to establish the truth of all these claims in order to rely on the defence of truth (Defamation Act 2013, s 2)? Could the defence of honest opinion apply here (Defamation Act 2013, s 3)?

You should first consider whether each of the claims is capable of being defamatory before considering any applicable defences, if necessary.

Compare *Charleston v News Group Newspapers Ltd* [1995]—do you think the reasoning in this case is likely to be applied? Is *O'Shea* [2001] a closer analogy? If not, why not?