Defending Claims from a Retailer’s Perspective

11 November, 2020
Topics

• Part 1: Employers Liability
• Part 2: Public Liability
• Part 3: Defamation
EMPLOYERS LIABILITY
Employers have a duty of care towards their employees that includes ensuring a safe working environment.

This duty is both under common law and statute.
Employers Duty Under Common Law

- Employers owe a specific common law duty to provide employees with a safe place of work, independent from any duty owed under legislation.

- This is an implied term in every contract of employment.
Employers
Duties Under Statute

- **Safety Health & Welfare at Work Act 2005** (which consolidated the provisions of the Safety, Health & Welfare at Work Act 1989).

- **Safety, Health and Welfare at Work Regulations 2007 to 2016.**

- The primary focus of the legislation is to prevent and manage risk in the workplace.

- Employer’s duties under the 2005 Act are set out in **Section 8**; to ensure the safety, health and welfare at work of all employees.
Employer’s General Duties under the legislation

Part 2, Section 8 of the 2005 Act

• Provide and maintain a safe workplace, machinery and equipment;

• Prevent risks from use of any article or substance and from exposure to physical agents, noise and vibration;

• Prevent any improper conduct or behaviour likely to put the safety, health and welfare of employees at risk (“horseplay” and bullying at work come within these categories).

• Provide instruction and training to employees on health and safety;
The Safety, Health and Welfare at Work Act 2005

- Provide **training** and have **plans** in place to deal with **emergency** situations;

- Provide **protective clothing and equipment** to employees (at no cost to employees);

- To engage **competent staff**;

- Appoint a competent person as the organisation’s **Safety Officer** to provide training plans, carry out inspections etc.

- To **report accidents** to the relevant authority.
The Scope of Employer’s Duties

- Section 8(1) states that, “every employer must ensure, as far as is reasonably practicable, the safety, health and welfare at work of his or her employees”.

- The Court will have regard to the individual circumstances such as age, knowledge and experience.

- There is generally no duty to warn of obvious risks.

- Employers are not expected to foresee and prevent every potential, remote risk that could possibly cause injury as an employer is not to be regarded as the insurer of its employees Doyle v ESB [2008] IEHC, 88

- “The law does not require an employer to ensure in all circumstances the safety of his workmen, he will have discharged his duty of care if he does what a reasonable and prudent employer would have done in the circumstances.” Bradley v. C.I.E. [1976] I.R. 217
Part 2, Section 13 of the 2005 Act

• An employee shall while at work, take reasonable care to protect his own safety.

• Ensure he is not under the influence of any intoxicants.

• Not engage in improper conduct or behaviour that is likely to endanger his own safety or that of others.

• Attend training arranged by his employer.

• Report to his employer as soon as possible any safety concerns of which he is aware.
Kevin Keegan (Amended by Order of the Court to Kevin Duke) v Dunnes Stores (Appeellant) 2019 IECA 88

- Plaintiff tripped over an obvious hazard on the ground (shrink wrapping), while at work. The area was well lit and he was not under pressure at the time. He suffered a fracture to his foot.
- High Court awarded €45,000, with 20% deduction for contributory negligence (i.e. €36,320).
- Decision was appealed to the Court of Appeal, where they considered the “as far as reasonably practicable” element of S. 8 of the 2005 Act. Court accepted that the wording diluted what would have otherwise been a strict liability.
- The Court of Appeal noted that S.13 of the 2005 Act imposes a duty on employees to take care to protect their own safety. The employer must do only what is required as a reasonable and prudent employer.
- Court of Appeal noted that the Plaintiff had received training in the practice of “clean as you go”. They found that the Plaintiff had a responsibility to check the area for hazards before he carried out work in the area. They found that the proximate cause of the accident was the Plaintiff’s failure to follow his training and keep a proper look out.
- The appeal was successful and the award for damages was overturned.
Laura Greene v Dunnes Stores (Appellant) 2019 IECA 115

- The Plaintiff again tripped on wrapping at work and suffered an injury to her arm. The wrapping on the ground was obvious and the area had been checked by a security man 5 minutes prior to the accident.

- The Plaintiff succeeded with her claim in the High Court and was awarded €40,000.

- Decision was appealed to the Court of Appeal.

- The Court of Appeal referred to S. 13 of the 2005 Act. They were of the view that the Plaintiff should have seen the hazard. The Court of Appeal accepted that the Defendant had a good cleaning system in place at the time of the accident. The Court of Appeal was of the view that the Defendant had satisfied its duties under S. 8 of the 2005 Act.

- The Appeal was successful and the award for damages was overturned.
Minimising Risk/Prevention of claims arising

The following requirements are essential if an employer is to have any prospects of successfully defending personal injury claims pursued by employees:

• Training
• Safe Equipment (records of repairs and maintenance)
• Safety Statement
• Risk Assessment
• Accident reporting – early investigations are crucial
Employee Training

• When it comes to preventing accidents and ultimately defending claims of this nature, training is the single most important weapon in an employer’s armoury.

• Retain documentary evidence of training. This should include evidence of attendance at training, such as sign-in sheets and a copy of the course material if possible. Engineers suggest that manual handling training should be repeated at a minimum every two years.

• It is important for competent staff to give training - note that they will be called to give evidence in court in the event of a claim against the employer. Use images in training manuals to ensure training can be understood by all.

• Regulation 69 Safety, Health & Welfare at Work Regulations 2007 requires an employer to avoid manual handling of loads by an employee. Where unavoidable, measures must be taken to reduce the risk and permit them to carry out the task safely.

• Training should be job-specific and on the job preferably.
Spes Salvomir v Windcanton Ireland Ltd [2016]

- Plaintiff awarded €153,150 in damages. It was alleged in the case that the employers failed to provide proper manual handling training.

- The Plaintiff was employed as a “picker” in a retailers distribution centre and he sustained a back injury when he tried lifting five trays of yogurt onto a trolley.

- He argued that he was never trained in how to twist and turn correctly when carrying a load.

- The Court held that the training provided was not adequate as it was more of a “box ticking exercise”.
• The Plaintiff employee claimed against her employer for injury suffered which she alleged occurred when she fell from a step ladder while “facing out” stock on the shelves.

• She alleged that Dunnes Stores provided her with a defective ladder and failed to provide her with any or sufficient training in its use.

• The Defendant argued that the various accounts she had given of her fall could not be reconciled with the CCTV footage of the accident which showed the Plaintiff falling from the ladder as it was completely stationary.

• The Defendant could demonstrate by the production of manual handling records that the Plaintiff had received training in the use of step ladders.

• It was accepted that the Plaintiff put herself at risk by the manner in which she had used the step ladder.

• The Plaintiff’s case was dismissed.
Safe Equipment At Work

• The Safety, Health and Welfare at Work Regulations 2007 require every employer to ensure that suitable and safe equipment is provided or where this is not entirely possible, that appropriate measures are taken to minimise any risks associated with the use of equipment at work.

• Plaintiffs frequently allege that their employer failed to carry out adequate inspections of machinery to ensure that they were safe.

• An Organisation should retain and catalogue all documentation relating to every piece of equipment including a full history of the equipment’s maintenance, inspection and repairs.
Safe Equipment At Work

- The **party responsible for servicing** the machine should be identified, whether this was a member of staff or the role was outsourced. In the event of an incident, a potential third party claim against the servicing company may arise.

- An organisation must **record any complaints or incidents** concerning any equipment as if an incident occurs it will be relevant whether they were put on notice of any **defects in the equipment** and whether any action was taken arising therefrom.

- In *Thompson v Dublin Bus and Another [2015] IESC 22* the Supreme Court held that the defendant was not in breach of statute as they had taken all necessary measures to ensure that the equipment could be used without risk to employees’ safety.
Part 3 of the 2005 Act

- Employers must have a written Safety Statement, based on the hazard identification and Risk Assessment carried out, which specifies how they are going to manage and secure the safety, health and welfare of all employees at work.

- The Safety Statement should specify:
  - The hazards identified and risks assessed
  - The protective and preventive measures taken and the resources provided
  - The emergency plans and procedures
  - The duties of the employees
  - The names, job titles and positions of anyone assigned with safety responsibilities
Safety Statement

- An employer must ensure that it has a Safety Statement and associated Policies in place and that employees are aware of the existence of these documents.

- The **Safety Statement** must be displayed in the workplace and be accessible to all employees, as per section 20 of the 2005 Act.

- A **Health and Safety policy**, which is detailed in the Safety Statement should be regularly reviewed and updated. Employees should be made aware of the policy.

- It is important to keep a copy of all policies both past and present.
Hazard Identification & Risk Assessments

- **Section 19 of the Safety, Health & Welfare at Work Act 2005** requires every employer to conduct an adequate risk assessment of the workplace in order to:
  a) identify any hazards in the workplace;
  b) assess the risks arising from such hazards;
  c) identify the steps to be taken to deal with any risks.

- A risk assessment must be conducted with regard to the **type of work** being carried out and it should be **reviewed** where there are significant changes in circumstances. Retain evidence that assessments were carried out.
Hazard Identification & Risk Assessments

If an employee pursues a claim for personal injuries, and where liability remains an issue, a request for discovery will be made by the other side requiring sight of the Risk Assessments carried out by the company. It is therefore essential this is kept, reviewed and updated on a regular basis.
Accident Reporting

It is of crucial importance to conduct an early investigation and to gather as much information/evidence as possible in relation to the claim at an early stage to get a good understanding of what precisely occurred. When notified about an accident, an employer should immediately do the following:

a) **Accident Report Form** - This must be comprehensively completed as soon as possible after the incident. It should include time, date, nature of the incident and names of those who were involved in or witnessed the incident. This report form should be factual only, refer to alleged versions of events and should not offer an opinion on liability.

b) **Photographs & CCTV** - Contemporaneous photographs of where the incident happened should be taken and any CCTV footage saved.

c) **Witness Statements** - Obtain contemporaneous statements from witnesses (even if they say they saw nothing). These may be used as evidence if the case goes to trial and may also prove useful in deterring an individual from pursuing a claim where the facts of the incident are contested. It is essential to get contact numbers, addresses and e-mail addresses from witnesses, as they may no longer be working for the company by the time the case comes on for hearing.
The Plaintiff employee pursued a claim against her employer for an injury she suffered as a result of falling down the stairs at work.

A detailed Accident Report Form was completed by the store without delay and contemporaneous statements were taken from the Store Manager and a number of other employees who inspected the floor immediately after the accident and confirmed that there was no substance/spillage or defect on the stairs.

On cross examination the Plaintiff conceded that she was not certain as to the cause of her fall.

The fact that the store had inspected the stairs in the immediate aftermath and could confirm that no substance/spillage or defect was present was extremely helpful and the Plaintiff’s case was dismissed.
Health & Safety Authority - Employers are obliged to report any accident that results in an employee missing 3 consecutive days at work (not including the day of the accident) to the Health & Safety Authority.
Loss of Earnings

• If the Plaintiff remains out of work due to alleged injuries, it is important that the employer takes the necessary steps to limit a potential claim for loss of earnings:

• **Occupational Health Assessor**
  o For prolonged periods of absence following an injury at work, an employer should arrange a medical appointment with the company Occupational Health Assessor, in order to get a medical opinion on the Plaintiff’s fitness to return to work.

• **Sick Certs**
  o Copies of all sick certificates should be kept safely on the Plaintiff’s file (pre and post accident).
Psychological Injuries in the workplace

- Claims for psychological injuries arise often in the context of Bullying and Harassment type claims. In order to minimise exposure to claims of this nature, employers must ensure that adequate policies and procedures are in place.

- A Bullying and Harassment Policy as well as a separate Grievance Policy should be put in place. The contents of the policies should be made aware to all members of staff. In the event of a complaint by an employee it is imperative the procedures as set out in the policy are followed and there is no undue delay by the company in carrying out an investigation into the complaint made.
Harassment

Section 14(A) of the Equality Act 2004 provides the following definitions:

- Harassment is: “any form of unwanted conduct related to any of the discriminatory grounds” and - Sexual Harassment is “any form of unwanted verbal, non-verbal or physical conduct of a sexual nature”

- Conduct which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

- Harassment must be founded on one of the following nine grounds:

  1. Gender
  2. Civil Status
  3. Family Status
  4. Age
  5. Disability
  6. Race
  7. Sexual Orientation
  8. Religious Belief
  9. Membership of the Traveller Community
Bullying is “repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and / or in the course of employment, which could reasonably be regarded as undermining the individual’s right to dignity at work”.

**Note:**
- An isolated incident is not bullying.
- Proper performance management is not bullying.
- The test is “objective”.
Stress

• Stress is a reaction, not an illness.
• “An adverse reaction people experience when excessive pressures or types of demands are placed on them.”
• Occupational Stress in itself is not actionable.
• Needs to be a recognised psychiatric illness.
• Difference between stress and bullying - Kearns J. in Glynn v Minister for Justice Equality and Law Reform:

“The behaviour complained of by reference to an objective test, imports that degree of calibrated inappropriateness and repetition which differentiates bullying from workplace stress”
The Test:
In order to establish liability on the part of the employer in cases of this nature the Courts apply the following test:

- Has the Plaintiff suffered an injury to his/her health as opposed to what might be described as ordinary occupational stress.

- If so, is that injury attributable to the workplace.

- If so, was the harm suffered to the particular employee concerned reasonably foreseeable in all the circumstances."
Summary

In order for an employer to have any prospects of successfully defending a claim for personal injury being pursued by an employee, the following are essential:

• **Good early investigation** – Accident report form, take witness statements, take photographs of the accident locus and preserve any CCTV.

• **Training** – job specific and on the job preferably.

• **Safety Statement and Risk Assessment** – important to keep updated.

• **Ensure equipment is in safe working order** – and to keep maintenance and repair records.

If all of these are in place, then an employer will be in a good position to defend questionable claims for personal injury arising from alleged accidents in the workplace, which will help to avoid a claims culture potentially developing.
PUBLIC LIABILITY
A store owner may be held liable for harm caused to members of the public which occurs on the premises under both common law and statute.
To succeed in any claim of negligence a Plaintiff must show the following:

- Duty of Care;
- Breach of Duty of Care
- Foreseeability;
- Causation: Link Between Damage Suffered; and Breach.
The Occupiers Liability Act 1995 amended the law relating to the liability of occupiers of premises in respect of danger existing on such premises for injury or damage to persons or property while on such premises.

The Act imposes a duty upon occupiers of a premises which varies depending on whether the person present on the premises is a visitor, recreational user or trespasser.
Statute
Occupiers Liability Act 1995

- **Occupier**: “a person exercising such control over the state of the premises that it is reasonable to impose upon that person a duty towards an entrant in respect of a particular danger thereon”.

- **Visitor**: “an entrant...who is present on premises at the invitation, or with the permission, of the occupier...”.
What duty does an occupier owe to a visitor?

“The common duty of care”

i.e. a duty to take such care as is reasonable in all the circumstances to ensure that a visitor to the premises does not suffer injury or damage by reason of any danger existing on the premises.
Curran v Dunnes Stores (unreported) (2018)

- A Glanbia rep visiting Dunnes Stores was awarded €75,000 after she slipped on spilled cream and fractured her wrist.

- She claimed that Dunnes Stores failed to have an adequate cleaning system in place and failed to provide adequate warnings of the danger.

- She gave evidence that she saw one warning sign which she presumed was the location of the spill and not where she slipped.

- Justice Cross stated that Dunnes failed to have warning signs to mark out the extent of the spillage. He then went on to note that despite the supermarket protocol to leave warning signs out until the area is dry, this was not in fact done.

- There was no contributory negligence on the part of the Plaintiff.
Greene v Dunnes Stores [2016] IEHC 338

• Plaintiff awarded €75,000 in damages after falling on a wet floor in one of the Defendant’s stores and suffering permanent injury.

• The floor was wet as a result of rainwater being carried in on customers shoes from the wet conditions outside.

• Mr. Justice Barr held that the accident was as a result of “…the negligence of Dunnes Stores in failing to place a mat just inside the entrance having regard to the weather conditions pertaining at the time.”
• Plaintiff left “grossly disabled in all aspects of her life” after slipping on grapes while shopping in Tesco.

• The Defendant admitted liability on the first day of the seven day hearing but there was a dispute as to the figures sought.

• She was awarded €1.4 million which was reduced to €1.25 million on appeal.
A woman suffered a fractured knee after she tripped over a 6 pack of beer which had been placed on the floor by another customer waiting in line to use the self checkout till in a store.

The store denied liability on the grounds that they could have done nothing to prevent the incident and the items had only been placed on the floor moments before the incident occurred.

Evidence was given that customers had to navigate around customers waiting to use the self service tills in the store due to its layout.

Judge Groarke stated that incidents like this could be avoided if there was a better system in place to control customer traffic in the store.

The Court found in favour of the woman and awarded her €60,000 which was then reduced to €48,000 to account for contributory negligence as Judge Groarke stated that it was feasible that she was not paying full attention to her surroundings at the time.
Cassie McDonagh v Lidl (Dublin District Court 2020)

Court throws out teenager’s claim of slipping on milk at Lidl

CCTV footage shows Cassie McDonagh (16) falling after walking past spillage three times

- CCTV footage
- Presentation of CCTV
Desmond v Dunnes Stores [IECA] 125

- Frequency of Checking
- Quality / adequacy of checks
- Training of Staff
- Quality of CCTV
DEFAMATION
Defamation Act 2009

What is defamation?
“...the publication, by any means, of a defamatory statement concerning a person to one or more than one person (other than the first-mentioned person)…”

What is a defamatory statement?
“...A statement that tends to injure a person’s reputation in the eyes of reasonable members of society…”
Key Points:

- Publication includes *spoken word*.

- The defamatory statement **must refer to the complainant**.

- It is not sufficient that the defamatory statement is made only to the person to whom it relates i.e. a security guard asking a customer if they paid for their items when they have is **not defamation if no other person hears or witnesses the exchange**.

- A accusation of theft is a clear example of a potentially defamatory statement as it is likely that such an allegation would **damage a persons reputation** in the eyes of reasonable members of society.

- However, the **statement must be false**; no defamation if the statement is true.
Defences

Under the 2009 Act the following Defences may be relied upon:

- TRUTH
- QUALIFIED PRIVILEGE
- HONEST OPINION
Shoplifting Claims

• Retailers are often faced with defamation cases where the Plaintiff pursues a claim as a result of being allegedly falsely accused of having stolen items from a shop.

• In recent years there has been a substantial increase in these types of claims. These types of claims are mostly issued in the Circuit Court.

• In these cases the most common defence relied on by retailers is Qualified Privilege.
McCormack v Olsthoorn [2004] IEHC 431

• The Plaintiff purchased a plant at a stall in a market place and was considering purchasing a second from a separate stall, owned by the Defendant. He browsed the Defendant’s stall and moved on.

• The Defendant saw the Plaintiff walking away with a plant in his hands and presumed that he had taken it from his stall and he approached the Plaintiff and sought payment.

• After a short period, it was established that the Plaintiff had not taken the plant from the Defendant’s stall and the Defendant apologised for his mistake.

• The Plaintiff sued the Defendant for defamation. The claim was defended on the basis of qualified privilege, that the Defendant was entitled to make enquiries and it was reasonable for him to form the opinion that he did.

• In considering the Defence of Qualified Privilege Hardiman J. concluded that the Defendant “had a legal right to protect his property and in doing so “tax” an individual whom he suspected of theft”.

• Accordingly, the Plaintiff’s claim was dismissed.
Defence of **Qualified Privilege**

- In light of the Olsthoorn case, it is clear that if a Court is satisfied that reasonable enquiries were made of the Plaintiff by the Defendant then qualified privilege amounts to a full defence.

- On the other hand, qualified privilege does not protect publications that can be shown to have been motivated by malice. If malice can be shown, then a Defendant will be precluded from relying on the defence of Qualified Privilege, and may be exposed to an award of aggravated damages.
Elga Holbrook v Dunnes Stores Limited

- Plaintiff alleged that she and her partner attended the Defendant’s premises in order to purchase a bottle of wine and a slab of beer.
- The off-licence area was located in an area separated by a corridor from the main grocery area.
- The Plaintiff paid for the beer and left it in the off-licence area, while they carried out their shopping in the grocery area of the store.
- They subsequently returned to the off-licence area and picked up the beer and returned to their vehicle.
- While sat in her car, it was alleged that the two security guards approached her car and shouted “where’s the Miller” and “get out of the car”.
- The security guard gave evidence that he observed the Plaintiff on a CCTV monitor take a crate of “Miller” from a stock of beer and leave the premises without paying.
- He stated that he approached the car and asked if they had paid for the beer. The Plaintiff’s partner explained what had occurred and in line with security protocol, the security guard withdrew and returned to the store.
Peart J Decision

• In relation to publication, on the evidence before the court, Peart J. was satisfied that the comments made by the security guard, in a public carpark, would have been heard by others and it was reasonably foreseeable that they would be heard by others.

• In relation to the defence of Qualified Privilege, Peart J. was satisfied that the Plaintiff had failed to establish malice and in the circumstances the defence of qualified privilege applied. He noted that security staff must be entitled to take action when they have reasonable grounds for believing that an offence may have been committed, without running the risk that their employer will be sued for defamation.

• The Plaintiff’s claim was dismissed on this basis.

The decisions in these cases are positive from a retailers perspective. However, there is a requirement to act reasonably for the Defence of Qualified Privilege to apply. Therefore, if the other side can show that a Security Guard departed from his training or store policy, then a Plaintiff may well succeed in their claim.
Defamation Act 2009

Damages:
1. General damages: may be awarded for damage to reputation;
2. Special damages: may be awarded for financial loss arising from the damage caused to the complainant’s reputation;
3. Aggravated damages: may be awarded when a defendant has defended a defamation claim in such a way that it has caused increased damage to the Plaintiff’s reputation;
4. Punitive damages: may be awarded when the defendant makes a defamatory statement maliciously or recklessly.
Damages and Costs

• For the most part these types of cases have a value in the region of €7,500 - €10,000. However, Circuit Court Judges can be unpredictable and higher figures can sometimes be awarded.

• Due to the complex nature of defamation law, costs tax at a higher level than other types of cases.
Practical steps for retailers to take to assist in defending these types of cases

• **Complete an incident report** form as soon as possible. It is important that the report is factual only and no comments on potential liability are included.

• Take **detailed statements** from all relevant witnesses.

• Preserve any **CCTV footage** of the incident.

• Ensure staff receive **adequate training** in how to deal with shoplifting situations.

• When details of specific allegations are to hand, take **further statements from witnesses** responding to the said allegations.

• Ensure that a **company policy/procedure** is in place setting out details on how employees should deal with these situations.
• A woman accused of stealing clothing from Dunnes Stores was awarded €10,000 in damages including €7,500 for defamation and €2,500 in aggravated damages.

• The Plaintiff was shopping for clothes with her daughter and was followed out of the store by a security guard who maintained that he was “100% sure” she had placed an item of clothing in her bag.

• The entire interaction was not captured on CCTV but it was clear that at least one passer by witnessed the encounter.

• The Court held that the Defendant having first adduced the defence of justification, could not then rely on the alternative defence of qualified privilege, as it adduced no evidence that it’s security guard had a genuine but mistaken belief that theft had occurred.
Two women entered the store drinking cans of Red Bull.

When the Plaintiff attended the checkout to pay for a number of other items, an Assistant Manager went over to a security guard and had a brief conversation.

It was alleged by the Plaintiff that she was accused of stealing the can of Red Bull. This was denied by the Defendant, who maintained that discreet enquiries were made with the security officer.

The Plaintiff’s claim was dismissed in the Circuit and her appeal was unsuccessful in the High Court (December 2019). In the High Court the trial judge was of the view that there was no evidence that the Plaintiff was accused of shoplifting or stealing and there was no evidence of publication.
The two Plaintiffs entered a shop with a young child. The child took the head piece from a spiderman costume and left the store with the two Plaintiffs.

A security guard became aware of what happened, followed the individuals and retrieved the head piece.

The two Plaintiffs alleged that they were unaware that the young child had taken the head piece and alleged that defamatory comments were uttered by the security guard.

The security guard denied making the alleged comments. There was an independent witness who supported the security guard’s version of events.

The Court accepted that no defamation occurred and dismissed the Plaintiffs claims.

The Plaintiffs appeal to the High Court was also unsuccessful.
A settlement offer of €7,500 for defamation which was made by Aldi without admission of liability or an apology was approved by the Court.

The Plaintiff was in the store with her brother and an adult member of the travelling community who had her son with her.

She alleged that she was approached by another customer who told them she heard the manager of the store tell a security guard to “keep an eye on the tinkers in aisle three”. The customer told her she believed the comments to be about them.

They were followed by the security guard until the Plaintiff confronted the store manager who denied making the comment but the previous customer intervened and confirmed that she heard the store manager make the comment.
Chapman v Lidl 2015

• A woman pursued a Circuit Court claim for defamation against Lidl, which was dismissed.

• The Plaintiff purchased motor oil and placed it in a compartment under her daughter’s buggy.

• She later returned to the store to purchase groceries with the oil still in the buggy.

• She placed her groceries on the conveyor belt at the till to pay but was approached by a member of staff who questioned whether she had paid for the oil.

• She claimed that she was embarrassed and humiliated as a result. However Lidl denied liability and denied that the staff member had acted in an unreasonable manner and the case was successfully defended.
Questions?
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