

# Tolley v Fry & Sons Ltd [1931]

## Evidence

The chocolate manufacturer, Fry & Sons Ltd., who used an image of the popular golfer Cyril Tolley for its advertisement, was accused of defamation. The image depicted the sportsman with a chocolate bar in his pocket. However, the claimant had not granted permission to use his image for the advertisement.

## Problematics

Mr. Tolley asserted that because he was depicted in the advertisement, the public might assume that he had received financial compensation for his consent to become the face of Fry & Sons products. This might also depict him as one who had sold his sportive reputation for financial gains, which could lead to his exclusion from a respected golf club. It was also stated that the defendant knew of the possible negative consequences that such use of the claimant's image might have on Mr. Tolley's reputation. The jury rendered its verdict in support of the claimant as it was stated that the advertising caricature could have had a defamation effect.

Fry & Sons Ltd. appealed the findings of the Court and, subsequently, the Court alleged that this kind of dispute should never be resolved by a trial jury, which then resulted in a claimant appeal.

## Resolution

It was decided that in the situation described, the applicant might have been correct in his evaluation of the potential risks; hence, the advertising image might have had a defamation effect. The Court created a new legal proceeding to evaluate the level of losses incurred.

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