

UNSOCIAL MEDIA AND THE LAW— DEFAMATION AND INTERNET BLOGS

The Victorian Supreme Court in [Gluyas v Canby \[2015\] VSC 11 \(27 January 2015\)](#) has held that comments posted by Mr Canby on his internet blog alleging the sexual proclivities of Mr Gluyas were defamatory and awarded damages of \$50,000 plus interest.

Mr Canby is a resident of the United States of America. This case is further evidence of the Courts in Australia being willing to find comments posted on blogs, the internet generally or Twitter as defamatory and award significant damages.

Some of the allegations made by Mr Canby against Mr Gluyas were highly defamatory and most serious. Further, Mr Canby invited readers of his blog to kill Mr Gluyas and in turn would be rewarded financially by Mr Canby. The Court in awarding damages of \$50,000 plus interest noted the following:-

“I consider that the defamatory imputations are serious, and that Mr Gluyas is entitled to an award of damages that vindicates his reputation and standing.

There is also an aspect of aggravation on the part of Mr Canby the fact that several of the defamatory publications remain on the site, notwithstanding this proceeding and the request for publications to be taken down, is an aggravating circumstance.”

The case also highlights that whilst the Courts will take many factors into account in seeking to find an appropriate remedy, enforcement can frequently remain a problem. In this case Mr Canby was a US resident posting in the US which provided Mr Gluyas with little practical remedies to remove the publication from the website. However, in the past we have seen awards for damages remain unpaid due to the inability of the defendant to have sufficient funds to pay such an award. Similar experiences have, in some cases, been suffered in relation to verdicts for costs.

We have also seen in the case of [Mickle v. Farley \[2013\] NSWDC 295](#) and discussed in our Article [Defamation Law Australia: Twitter and Facebook – to Tweet or not to Tweet](#) that an award of damages for \$105,000 was made against a former

student disaffected with a teacher from his former high school. The award resulted from defamatory comments on the students Twitter and Facebook accounts.

Accordingly, we have seen 3 cases from different Australian jurisdictions in relation to the application of law to social media in the following examples:-

1. Compensation was payable where sexually explicit but private photographs were posted on Facebook by a “jilted ex-lover”.
2. Compensation was payable for defamatory comments on an internet blog concerning alleged sexual proclivities.
3. Compensation was payable for defamatory comments posted on Facebook and Twitter by a former student about a teacher.

In addition there have been other Australian cases dealing with comments by workers about their employment and fellow workers. The new social media age however is still subject to the old laws on communications.

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