

FACEBOOK POSTS BY OTHERS ON YOUR PROFILE CAN BE DEFAMATORY AND YOUR RESPONSIBILITY!

[Johnstone v Aldridge \[2018\] SADC 68](#) held that liability for defamatory comments on Facebook posts were attributable to the host notwithstanding some of the defamatory comments were made by others (or “friends”).

Mr Aldridge was ordered to pay \$100,000 in damages (including aggravated damages) with costs yet to be determined at the time of writing.

The Court held that Mr Aldridge’s initial Facebook post was defamatory but so were a number of the approximately 4,500 subsequent comments by “friends” and “supporters”. Whilst Mr Aldridge was clearly the author and publisher of his posts, the Court held he was a “secondary” publisher of the subsequent defamatory comments.

The case shows how common situations can escape common sense and easily transgress into liability inducing defamation. Mr Aldridge had lodged a town planning application to relocate his fresh fruit and vegetable “market”. Mr Johnstone was the owner of several fruit and vegetable shops and objected against the town planning application made by Mr Aldridge.

Mr Aldridge then embarked on a campaign through Facebook and in the media against Mr Johnstone with what turned out to be speculative and unsubstantiated comments. The only apparent reason for the campaign was to exert pressure on Mr Johnstone to abandon his objection against the town planning application lodged by Mr Aldridge. The campaign was apparently widespread with about 4,500 comments on Mr Aldridge’s post on his Facebook profile covering over 190 pages from “friends” and “supporters”. Unfortunately, the Court found that not only were Mr Aldridge’s comments defamatory but he was also responsible for allowing publication of some of the subsequent comments which were defamatory.

The Court held that Mr Aldridge had a responsibility to monitor the comments and to “remove those which were inappropriate or suffer the consequences irrespective of the inconvenience involved.” The effect is that a person must use reasonable diligence in monitoring and removing inappropriate comments.

Mr Aldridge had argued that the comments were not his, nor could he control the content of the comments and due to the large volume and speed of the comments it was impractical if not impossible for him to remove offending comments.

Apart from the Court doubting some of Mr Aldridge's evidence as credible, it firmly determined that in these circumstances, it was not "unreasonable" nor "unrealistic" for him to monitor and remove comments that were inappropriate. The Court noted that he had at least two other persons to assist in such a task.

In our opinion, the decision is welcome to limit the "wild west" frontiers of social media by holding those accountable for defamatory conduct.

Accordingly, for those businesses using Facebook, it may be time to revisit social media policies and procedures with monitoring protocols being given special attention.

Mr Aldridge represented himself in this case and claimed he had "exhausted his finances and gone into debt in defending the claim and attempting to protect his reputation...."

Nevertheless, an appeal may be possible.

Date Published: 22 August 2018

Victor Hamit
Wentworth Lawyers Pty Ltd
Level 40
140 William Street
MELBOURNE VIC 3000

Tel: +61 3 9607 8380
Mobile +61 408 590 706

Email: vhamit@wentworthlawyers.com.au
Website: www.wentworthlawyers.com.au

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