

Law firm successfully sues former client for defamatory online review (*D'Alessio v. Chowdhury*)

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In *D'Alessio v. Chowdhury*, 2023 ONSC 6075 (CanLII), an Ontario law firm successfully sued a former client for defamation as a result of her online reviews.

In August 2016, the firm and two lawyers practicing at the firm commenced acting for the defendant on a motor vehicle accident file which included a tort claim and an accident benefits claim. After a fundamental breakdown of the solicitor-client relationship, the retainer ended in November 2020, and the defendant's files were transferred to her new counsel.

On or about 14 January 2021, the defendant posted a Google Review on the law firm's online "Your Business Google Account" stating, among other things:

If you want an incompetent lawyer and paralegal posing as a lawyer handling your case then feel free to use this firm... They were highly negligent with my cases.... Thankfully, I moved to another firm. This firm refuses to transfer our files, deliberately causing delays and wont even let us review their nonsense billing. They are highly unprofessional and disorganized. They are not trustworthy and if my file is not sent to my new lawyer asap, I will contact the law society.... If your firm was even a little bit organized it would not take over two months to send a file.....You are shady, pathetic and awful lawyer.

The next day, 15 January 2021, the firm responded to the plaintiff's post and stated, among other things, that the facts stated in the review were malicious and false and that they would vigorously prosecute a \$3,000,000 libel lawsuit against her.

The firm expressly gave notice under section 5(1) of the *Libel and Slander Act*, of their demand for the defendant to correct or retract her post along with a full apology.

On 16 January 2021, the defendant responded. She refused to take down the review, and claimed that truth was an absolute defence to a defamation lawsuit. In her words, "No one is punished for speaking the truth, even if it is an ugly truth."

The claim ensued.

In April 2021, after being posted for three months, the defendant removed the online review.

In September 2023, the firm and lawyers brought a motion for summary judgment of their claim. The defendant was self-represented, and while she had filed a statement of defence, she filed only a single document in response to the summary judgment motion. The document was not in affidavit form and was not signed or commissioned.

The only communication at issue was the Google Review. The plaintiffs argued that the words in the review were defamatory in the sense that they lowered their reputation in the eyes of a reasonable person. The plaintiffs pointed to the defendant's choice of words used to describe them as "highly incompetent", "untrustworthy", "highly unprofessional", "shady", "pathetic", "a joke" and "awful lawyer".

The motion judge agreed with the plaintiffs that the Google Review was defamatory. The defendant's words impugned their reputation as competent, trustworthy personal injury lawyers. In the motion judge's view, a reasonable person reading the words would conclude that one should not retain the plaintiffs as lawyers and therefore "the impugned words lowered the professional reputation of the plaintiffs."

The motion judge was unable to determine from the defendant's pleading what defence she was relying on in response to the defamation claim. The defendant claimed that the action was an abuse of process and that she had not "broadcasted any false or malicious or indecent statement to intentionally cause damages." She also pleaded that the plaintiffs had not suffered any damages as alleged and that the plaintiffs had failed to mitigate their losses and damages.

However, none of these defences were pertinent to a defamation claim.

At the hearing, the defendant also attempted to rely on the anti-SLAPP provisions in [section 137.1](#) of the *Courts of Justice Act*. She did not however bring a motion to have the action dismissed on this basis nor file any material in support of her position as to why the action contravened the anti-SLAPP provisions.

While the motion judge acknowledged that the defendant was self-represented, the simple fact that she was self-represented did not relieve her of her obligation to follow proper procedures and provide the court with the necessary evidence. In this regard, the motion judge pointed to the statement of the Court of Appeal for Ontario that "[a] judge must not cross the line between assisting self-represented litigants in the presentation of their evidence and becoming their advocate": *Grand River Conservation Authority v. Ramdas*, 2021 ONCA 815, at paragraph 21.

The motion judge concluded that the defendant had not pleaded or advanced any defences to the defamation claim of the plaintiffs.

As for damages, the motion judge referred to the decision of *Barrick Gold Corp. v. Lopehadia*, 2004 CanLII 12938 (ON CA), and subsequent decisions, which have addressed damages for defamation based on the internet's distinctive capacity to cause instant and irreparable damage to reputation.

The defendant's review was posted online in Google Reviews with a broad berth of viewers and was publicly available for just under three months. The allegations in the review were serious and intended to diminish the plaintiffs' reputations as competent and effective personal injury lawyers. The defendant was also given the opportunity to apologize and take the review down before the lawsuit was commenced but refused to do so.

Accordingly, the motion judge awarded the plaintiffs \$20,000 in damages and costs for the proceedings of \$9,500.

The decision serves as a warning to others that damages may be awarded for defamatory online reviews. As the court sternly noted: "Online comments are easy to do and seem distant and not accountable. But they are not. ... The defendant should have thought about her state before typing the content and sending the Google Review that she did." A PDF version is available for download [here](#).

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