

## **Protecting Your Good Name and Reputation from Online Trolls**

As an individual you may be subject to online trolling. This can involve bullying and harassment. It can also involve attacks on your good name and reputation.

If you are subjected to this then of course the issue of stopping it will be a priority for you. We are, in this article, looking at what you can do to compel a social media platform to identify the individual behind one of its accounts who has subjected you to online trolling involving bullying and harassment or an attack on your good name. The method of doing so is known as obtaining a Norwich Pharmacal Relief. However, this title which relates back to a particular case is now being changed to Pre litigation Discovery which is probably a more appropriate definition and easier to understand for many.

A social media platform or internet service provider cannot disclose user information to a private third party without a Court Order or a request from a Law Enforcement Official.

The process involves;

- An application to the High Court by way of Plenary Summons, a Statement of Claim and a Notice of Motion seeking an Order to compel the internet service provider to provide the name and details of the user of a particular account.
- The respondent will be the internet service provider. They will normally not be consenting but equally will not be actively opposing the application.
- In making the application not only is there a duty to put all material facts before the Court but also an obligation to identify the relevant legal principles governing the Courts jurisdiction including any EU law principles which would include, in particular, GDPR.
- The application must set out to the Judge any legal constraints which may be on the Judge, hearing the case, to make the Order as the respondent internet service provider normally is neither opposing nor consenting to the application.
- The Court must be satisfied that the disclosure is necessary for and proportionate to a legitimate aim.
- The Affidavit to the Court must explain the precise purpose for which the Disclosure Order is sought.

- If granted, a Disclosure Order will be made conditional on an undertaking that the information disclosed will not be used for any purpose other than seeking redress in respect of the wrong complained of. In reality this means that the information can only be used for the purposes of issuing proceedings against the person who has been trolling you online and subjecting you to bullying and harassment or slandering your good name. It is important to note that this information cannot be used simply to out the online troll or keyboard warrior. It will be the subsequent proceedings which issue against that individual once they are identified which does this.

The issues which you must consider when considering bringing such an application to the Courts are;

- The costs payable by you in bringing the application in the first place.
- The costs which will be payable to the internet service provider not only of appearing in the High Court but also of identifying the relevant individual are costs which you will be responsible for paying.
- The costs of bring subsequent proceedings against the online troll.
- The potential that the online troll or keyboard warrior will not be a mark for an award of damages or even an award of costs.

## Conclusion

These types of applications to the Courts are rare. They are however becoming more common. The cost element is one which makes access to the Courts, to obtain such Orders, difficult for anyone who is not able to afford the cost of these applications.

There is some good news for anyone who is affected by online bullying and harassment. In December of last year the Harassment, Harmful Communications and Related Offences Act 2020 was signed into law. This new law has created new offences in relation to online and offline harassment and harmful communications and includes a list of offences carrying penalties on conviction of up to seven years imprisonment. Such complaints can be made to An Garda Siochana and the Act provides for anonymity of those making complaints.

If you have been the subject of online bullying, harassment or where you have been slandered by an online troll then in those circumstances it is important to obtain appropriate legal advice from a Solicitor who can advise you as to the various options and the ones most suited for your particular circumstances.