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| |  |  |  | | --- | --- | --- | | |  |  | | --- | --- | | |  | | --- | | February Newsletter  https://gallery.mailchimp.com/d7ac35d590989fce96f6014e9/images/90d7b3c9-9800-49bc-ae7c-04e4d1e30098.jpg    ***Anonymous Posts on the Net? - What are the Potential Consequences? What if it happens to you?***   Have you ever considered making an anonymous critical post on a website such as *Google My Business* about a business, such as, say, a café or restaurant, your hairdresser or a professional, such as an accountant or lawyer?   It may be that you simply dislike the person, or that you are unhappy with services which they provided to you. Or, perhaps because that person or business is a *competito*r of yours whose business you’d like to see be a little less successful?   Machiavelli famously proposed that the end justifies the means. *Right?* Who doesn’t want to apply a little philosophy to get ahead, get even or to get one over a competitor?   A person who wants to give a person or business the comeuppance which they believe they deserve may think that a “*risk-free*” way to achieve this is to set up a fake email address using a fictitious name and telephone number, and then post a negative review using that email address.   Effectively, that way, they get to be both judge and executioner – without anyone actually knowing who they are. What could be more satisfying?   Surely, Google will say that, in the absence of someone obtaining a court order saying otherwise, a person is entitled to *freedom of speech*and p*rivacy*notwithstanding their anonymity? – Perhaps.   ***What could possibly go wrong?***   The answer is “*a lot!”.*   Whilst you may be correct about Google being reluctant to remove an anonymous post, particularly given the large number of people who are unhappy about posts made about them, it *is*possible for a determined person or business to challenge such a post and to protect the interests of themselves and their employees. This could result in the post becoming a foolish and expensive exercise for the anonymous poster.   ***What Can Someone the Subject of this Unscrupulous Conduct Do?***   Fortunately, in New South Wales and throughout Australia, there are potential remedies if, with the boot firmly on the other foot, you’re unfortunate enough to find yourself the victim of a negative and anonymous review.   For instance, the victim can file a Summons in the Supreme Court of New South Wales and serve it upon the website provider, such as Google Inc in California, seeking pre-litigation discovery in respect of proposed or potential civil proceedings in New South Wales against the anonymous poster.   This Summons might require the website to provide information such as the following:   1. The *IP Address* of the poster, which can be used to determine the poster’s internet service provider; 2. The *email address* which the poster provided when they posted the review; and 3. The *phone number* which the poster provided when they posted the review.   ***Where Does That Information Get You?***   At first thought, you may think that doesn't get you very far. However, you would be wrong to come to that conclusion.   Whilst our Machiavellian friend has no doubt made up the email address and phone number above in a bout of satisfying creativity, the identity of the internet service provider and the IP address can’t be disguised and are likely to be traceable to the poster.   Once a victim is aware of who the internet service provider is, they can apply to the Court for further pre-litigation discovery.   In this further pre-litigation application, the victim can request that the internet service provider provide much more substantial information, including the *real name*of the person to whom the internet service is provided, as well as their *true email address and phone number*.     Once the identity of the poster is known, further options for seeking a remedy in respect of the cowardly, anonymous attack may become available.   ***Conclusion***   If you find yourself the victim of an anonymous post, the situation may not actually be as hopeless as it may first appear, and there may be practical remedies available to you in the courts to lift the veil of anonymity some may use to attempt to harm you and those for whom you are responsible.      https://gallery.mailchimp.com/d7ac35d590989fce96f6014e9/images/8959a13b-3bd5-4915-a32f-5a3256582bc5.jpg   ***Off the Plan Contracts & Sunset Clauses***  Purchasers under off the plan contracts in New South Wales may be concerned to have heard of instances of purchasers of off the plan apartments being informed by developers that contracts had been rescinded by developers once the "*sunset date*" had been reached in circumstances where the value of the apartments when completed significantly exceeded the prices the purchasers had contracted to pay.  Prospective purchasers of off the plan apartments in New South Wales will be pleased to note that the NSW Minister for Innovation and Better Regulation, Victor Dominello, [introduced reforms](http://www.domain.com.au/news/victor-dominello-announces-plans-to-tackle-sunset-clawbacks-20150909-gjiomo/) in November of 2015, the effect of which is to prevent a vendor from rescinding a contract for the sale of land without either an *order of the Supreme Court of NSW* or the *consent* of the purchaser.  Section 66ZL, “*Rescission under sunset clauses*”, of the [*Conveyancing Act 1919 (NSW)*](http://www.austlii.edu.au/au/legis/nsw/consol_act/ca1919141/s66zl.html)sets out the new law which is effective in respect of contracts entered into after 2 November 2015.  Prospective purchasers of off the plan apartments may have some comfort in the knowledge that effective measures have been taken to protect their interests.  https://gallery.mailchimp.com/d7ac35d590989fce96f6014e9/images/9065919b-644b-4e55-9b7c-976042315794.jpg | | | |