

## Health Insights

### Dentist seeks help from the Federal Court to uncover identity of negative Google reviewer

Meridian Lawyers regularly assists health practitioners to respond to queries or complaints by AHPRA about their online advertising. In the process of providing this assistance, we are often asked by practitioners whether anything can be done about unfair testimonials that may be made about them on independent online platforms like Google. In an age where internet searches play an important role in generating customers, online reviews can have a significant impact on a practitioner's business and are particularly upsetting when written by anonymous authors. To date, however, it has been very difficult for practitioners to have these reviews removed. The historical attitude has been that it is not the platform's role to analyse reviews and only remove negative remarks, as that provides a skewed representation to the public.

Health practitioners who have found themselves the target of unfair online reviews may be interested to know that the Federal Court of Australia has recently granted leave to a Melbourne dentist to serve Google LLC with an originating application seeking information that will help the dentist ascertain the identity of an anonymous Google review author.

The dentist was prompted to seek the Court's assistance after an anonymous reviewer with the pseudonym "CBsm 23" left a negative review on his Google business listing. The dentist claims that the review is defamatory, but that he was unable to pursue an action against the reviewer without knowing his or her identity. Without commenting on the likely success of the dentist's action in defamation, the Court said that it was sufficient for the purposes of granting him leave to serve Google with the application if he "*may* have a right to obtain relief for defamation against the respondent.<sup>1</sup>" Noting Google's location in the United States of America, the Court also granted leave to serve the application by post in accordance with the Hague Service Convention.

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<sup>1</sup> Kabbabe v Google LLC [2020] FCA 126 at paragraph 16.

It will be interesting to see whether this development triggers a spate of applications by health practitioners seeking relief from disparaging anonymous online reviews, and whether any of these applications succeed and subsequently lead on to successful defamation proceedings themselves.

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