

The Power of the Internet: Beware of What You Write

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In a recent decision, the Ontario Court of Appeal has described the Internet as one of the most powerful tools of communication ever invented, with the potential to be a medium of virtually limitless international defamation. Based on its characterization of the Internet, the Court of Appeal increased damages awarded for “cyber-libel” from \$15,000 to \$125,000—\$75,000 in general damages and \$50,000 in punitive damages.

The case, *Barrick Gold Corporation v. Jorge Lopehandia and Chile Mineral Fields Canada Ltd.*, involves allegations by Mr. Jorge Lopehandia that Barrick Gold fraudulently obtained a Chilean mining project that was actually owned by Mr. Lopehandia and three other people. When Barrick Gold refused to pay Mr. Lopehandia \$3 million (US) in compensation, Mr. Lopehandia began posting messages on numerous internet sites claiming fraud and criminal misconduct on the part of Barrick Gold.

Barrick Gold sued Mr. Lopehandia and his company, Chile Mineral Fields Canada Ltd., for defamation. Neither defended Barrick Gold’s action and damages were assessed on a motion for default judgment. The motions judge held that Mr. Lopehandia’s Internet postings “came across as a diatribe or rant”, were unlikely to be believed and had not caused any serious damage to Barrick Gold’s reputation. The Court of Appeal disagreed.

The Court of Appeal held that given the “ubiquity, universality and utility” of the Internet, Internet defamation should be distinguished from defamation in other media. The Court of Appeal also commented that the impersonal and anonymous nature of Internet communications may create a greater risk that defamatory remarks are believed. The court further noted that the all-pervasive and interactive nature of the internet gave it a distinctive capacity to cause instantaneous and irreparable damage to reputation.

The Court of Appeal’s decision and, in particular, its comments about the instantaneous, far-reaching and persuasive impact of internet defamation, suggest that damages for “cyber-libel” could surpass traditional damages for defamation.

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