

What You Don't Know Can Really Hurt You™

WHAT EVERY DOCTOR SHOULD KNOW ABOUT EMPLOYMENT LAW™



Greetings!

What's your most valuable asset? When I used to teach Professional Ethics at law schools, I would start the class by asking students to write their names lengthwise across a sheet of paper. They would generally think I did that so that I could call on them in the "Socratic method", grilling them like John Houseman's Professor Kingsfield in *Paper Chase* fashion (am I dating myself?) Instead, I would tell them to turn the paper toward themselves, and I'd say: "What you are looking at--*your name*--is the single most valuable professional asset you will ever have. Guard it jealously!"



Never before this internet age, has a professional reputation been so vulnerable nor so important to protect, as was demonstrated by yet another case we recently won for one of our dentists. Dr. Matthew Gewarges ("Dr. G") had employed a receptionist named Charlee Adams. Dr. G was a generous and kind-hearted man and had provided free dental services to Charlee and several members of her family, including her brother, Peter Adams. Dr. G found that he had to terminate Charlee's employment. Fortunately, Dr. G had a Practice Protection Package™ (MBC's gold standard contracts and workplace policies) meaning that he could terminate her with minimal expense or trouble. He simply provided her with the *Employment Standards Act* minimum pay in lieu of notice per her contract.

continued below...



*"Since implementing a PPP™ in my practice a few years ago, I have obtained a **12 times return** on my investment thus far."*

Jordan L Soll, BSc. (Hon), DDS, Dip. ABAD

Co Chairman, Editorial Board, *Oral Health Journal*
Principal, Central Dental Group Toronto, Ontario

Dr. G's practice, Small Town Family Dental ("STF Dental") maintained a Facebook page that could be accessed by anyone with a Facebook account. Shortly after Charlee was fired, her brother, Peter, both under a pseudonym and using his own name, posted very disparaging posts to STF Dental's Facebook page as well as to ratemds.com about Dr.

G. Among other things, Peter suggested (ironically, given how generous Dr. G had been to Peter and his family) that Dr. G was “money-hungry”, implying that Dr. G inappropriately hired “hot young girls” and impugning Dr. G’s technical competence.



Most readers will likely identify with the helpless feeling of having “reviews” (which term sounds independent, impartial and fair, none of which is actually a given) posted about their work and practice that are not accurate nor representative. Many online reviews are posted by competitors, disgruntled former employees, estranged spouses, or litigants. Many lay people do not realize that Canadian defamation law imposes very considerable restraints on “free speech” as it relates to a person’s reputation or standing. Defamation law presumes that statements that tend to lower a person’s reputation in the eyes of a reasonable person are untrue. And when such statements are spoken (libel) or published (slander) to third parties, the subject may sue and the defendant must then prove they are true or establish another defence (such as privilege).

Dr. G called us and we wrote a cease and desist letter to Charlee and Peter explaining that unless all the defamatory material was removed by the next day, we would commence legal proceedings. Rather than stopping, Peter actually posted the cease and desist letter online (...millennial much?) along with the following comment on STF Dental’s Facebook page:



“I was declined service when I was in pain due to a broken tooth with the nerve exposed after I had been a patient in the past. I had complications on previous extractions and remained a trusting patient til [sic] now. I was approached by his lawyer this week for my previous review and they are trying to bully me into removing my review.”

As the Court found, Dr. G was entitled to stop treating Peter because there had been a breakdown in trust between them following Charlee’s firing that rendered the continuation of the doctor-patient relationship untenable.

The Court found Peter had defamed Dr. G. and ordered him to pay Dr. G \$18,000 (which is especially significant given that Peter appears to be in his early twenties and is believed to live at home with his parents...not a great way to start a young career)! Even more importantly, we were able to persuade the Court to grant Dr. G an injunction restraining Peter from disseminating, posting on the internet or publishing further defamatory statements concerning Dr. G or his practice.



If you have been defamed (online or elsewhere) consider whether you should pursue the matter legally.

Defamation is a particularly specialized area of law as it has special time limitations and special rules around what must be pleaded, among other things.

At MBC, we are fortunate to have a star litigator, Patti Latimer, with particular expertise in defamation able to represent our clients. Her work in the Courtroom was instrumental in obtaining this great victory for Dr. G.

If someone is sullyng your good name, don’t take it lying down. Give us a call: 905-825-2268 or [email](#) us.

Sincerely,

Mariana,
Dirk,

and your **MBC** team



Turnkey Workplace Programs & Training



Most doctors have neither the time, nor the inclination, to train their staff on the myriad issues on which the law now requires that staff must be trained.

When doctors delegate the task to an employee, they find almost invariably that the end product is not sufficient to meet legislative requirements. Everyone is then frustrated that all that staff time and effort (and the wasted payroll) was all for naught. The regulatory requirements are complex so it is understandable that a medical or dental office employee will extremely rarely have the requisite knowledge, training or experience to produce a program and training that is legally compliant.

We can help. If your staff have not been trained on Health and Safety, IPAC, Accessibility or Anti-Violence, we have programs that will do it all for you:

i. Workplace Infection Control Program

ii. Workplace Health and Safety Program

Both programs are **turnkey solutions**. When shopping for programs, ensure that you are comparing apples to apples: how much of the program will you end up having to do yourself? MBC programs *do it all for you* and include everything you need: assessments, posters, forms, compliance checklists, comprehensive manuals and training of your staff.

For more information or to reserve one of the remaining spots in our roster, contact Maria at 905-464-2545 or mct@mbclegal.ca.

How can we help you?

- Litigation
- Health and safety training
- Practice Protection Package TM
- Consultations
- Optimizing your practice for sale

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MBC BROKERAGE

All you need to know about the appraisal and sale of dental / veterinary / optometry and other professional practices

Do You Know What Your Practice is Worth?

We do! For a limited time, MBC Legal clients are eligible for a **30% professional courtesy** off of a professional practice appraisal from our brokerage division. Call us today to learn why so many of your colleagues love and trust us with their baby: 905-825-2268 or email: mbc@mbcbrokerage.ca.



Jon Walton
General Manager, MBC Brokerage

Contact Your Team

Listings

Request Appraisal



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Address: 15 Belvedere Drive, Oakville
Ontario, Canada L6L 4B5

Now I'm getting a little verklempt!

Thanks to everyone who voted in our recent poll. We are very proud to report that you rated this monthly e-lerter series (out of 5 stars):



(a) on how informative it is: 4.8 stars;
(b) on how interesting it is: 4.9 stars.

We put a tonne of work into making it both informative and interesting for you, and are thrilled to know that you find it so.

Now talk amongst yourselves...

[Click here to give us any other feedback](#)



We have set out as much general information as possible here for you in order to be as helpful as possible. However, please understand that nothing here constitutes legal advice, nor does it create a solicitor-client relationship. If you are an existing MBC client, or you wish to become one, please **contact us** so that we can address your specific situation and advise you properly. We would love to hear from you.