

A real estate agent's failure to use an apostrophe in a Facebook post could prove costly after a [New South Wales](#) court declined to dismiss a defamation case against him on the basis it was trivial.

Late on 22 October last year, Anthony Zadravic posted that another real estate agent was "selling multi million \$ (sic) homes in Pearl Beach but can't pay his employees superannuation".

"Shame on you Stuart!!! 2 yrs and still waiting!!!" the post read.

There is a suggestion the NSW Central Coast realtor meant to have an apostrophe after the word employee and was only referring to his experience.

He says the post, written about 10.30pm, was deleted within 12 hours and wasn't capable of defaming the people as claimed.

The legal costs and court resources required to determine the claim would also be out of all proportion to the interest at stake, he claimed.

But the NSW district court last week turned down his application to dismiss, pointing to the seriousness of the claims in the post and finding the alleged defamatory meanings reasonably capable of being conveyed.

Judge Judith Gibson said the difficulty for Zadravic was the use of employees in the plural as it suggests "a systematic pattern of conduct".

"To fail to pay one employee's superannuation entitlement might be seen as unfortunate; to fail to pay some or all of them looks deliberate," she said on Thursday.

She heard the estimated cost of the trial was \$160,000, rising to \$250,000 if senior counsel was retained.

But it wasn't relevant that those costs far exceeded the potential award of damages.

"I agree this is a matter for concern but, unlike other jurisdictions such as the United Kingdom, Australian legislators have shied away from any inquiries or research projects into defamation costs in this country, so this is unlikely to change at any stage in the future," Gibson said.

The court noted two recent Queensland decisions in which [Facebook](#) posts cost their authors dearly.

In 2020, a Brisbane vet and his company were awarded \$25,000 after a former client repeatedly claimed on Facebook and other websites the vet had grossly overcharged her.

A year earlier, the court awarded \$15,000 over claims on Facebook posts and comments that an aged care nurse was sacked for alcohol use.

Meanwhile, the federal court in August found in favour of basketballer Ben Simmons's half-brother over

baseless child abuse claims about him.

In the same court the defence minister, Peter Dutton, is suing a refugee activist over a tweet dubbing him a “rape apologist”.

Dutton said the tweet was deeply offensive because it was the opposite of who he was.

Defamation lawyer Rebekah Giles said there is often a casual dismissal of defamatory comments on social media.

“When one considers the devastating effect that widely shared defamatory posts can have on one’s life, it’s plain that that approach is unjustified,” she said.

By their very nature, social media platforms disseminate information easily, widely and quickly.

“A social media post can reach a wider audience than the front page of the Sydney Morning Herald – in a matter of hours. Serious harm can be inflicted with ease,” she said.

Giles said most cases are sensibly resolved with the deletion of a post, an apology and payment of legal costs.

But some of her clients have been awarded \$500,000 after being subject of defamatory social media posts.

Melbourne lawyer Katarina Klaric said the past decade has brought exponential growth in social media defamation cases, with particular growth in work related to Google reviews.

Often the reviews are fake, made by competitors or disgruntled customers, she said.

“You can create a Gmail account under any name,” Klaric said.

Removing offending posts made under fictitious names requires sending legal takedown notices to Facebook or Google or requesting the tech giants hand over the IP address. Often forensic IT experts are engaged to investigate and ascertain the origin of the defamatory post.

“Some cases are so serious they require the involvement of the police,” Klaric said.

While nine in every 10 cases settle before reaching court, Klaric said there’s a need for change in the law to avoid requiring people to engage in the “very expensive” court process.

“You want to be able to have the defamatory posts removed quickly but you want to do it cost-effectively,” she said.

Zdravic will return to court in the coming weeks to determine how the case against him will proceed.

Source: [Missing apostrophe in Facebook post lands NSW real estate agent in legal hot water](#)