



Beware when using social media during family law proceedings

Date: Monday October 16, 2023

E&A Lawyers has made the decision to no longer provide family law services. While we no longer take on any new family law matters, we are happy to assist by referring you to lawyers specialising in this area. Please don't hesitate to contact us if you would like a referral.

[CALL US IF YOU'D LIKE A REFERRAL TO A FAMILY LAWYER: 02 9997 2111](tel:029972111)

Social media is such a normalised part of our everyday lives. People often turn to these platforms to share personal insights regarding family matters and seek advice or validation from their online communities during times of difficulty. However, it is important for separated couples to be very careful with what they post on social media platforms like Facebook, Instagram, X (formerly Twitter), Threads and TikTok when engaged in family law proceedings like [divorce](#), [property settlement](#) and [parenting negotiations](#).

Family law legislation makes it illegal to publish certain information

For individuals who have initiated or are contemplating initiating Family Law Court proceedings, it is important to become familiar with sections 114N to 114T of *the Family Law Act 1975* (Cth) ("the Act") (formerly 121 section of the Act)

Section 114N of the Act makes it illegal to communicate:

1. an account of family law proceedings to the public if it identifies a party to the proceedings, witnesses in the proceedings or a person who is related to a party in the proceedings;
2. a list of family law proceedings to the public that identifies names of the parties in proceedings.

"Communicate" means communicate by any means, including but not limited to the publication or communication via the internet (including the use of a social media service).

The provisions of this section are quite broad, and even the most obscure reference could be taken to be a breach of this provision, which, if proven, can be punishable upon conviction for **imprisonment of up to one year**.

Cases illustrating social media use in breach of the Family Law Act

Stepmother uses social media to make disparaging remarks about the other party

In the 2020 case of [Yabon & Yabon \(No4\) \[2020\] FamCA 1001](#), the father's new spouse uploaded video footage to her social media profile featuring the 12-year-old stepdaughter who was a central figure in the family law parenting proceedings. The post included disparaging remarks about the child's mother and stepfather.

Simultaneously, she distributed a letter of complaint concerning a judicial decision to various individuals, media outlets, and organisations without the father's prior knowledge or consent. The Court condemned these actions by the father's new spouse as "*horrendously inappropriate*" and subsequently referred her to the Australian Federal Police for further investigation and potential prosecution.

Father uses Facebook to vent about his family law proceedings

In the 2013 case of [Lackey & Mae \[2013\] FMCAfam 284](#), a father used his Facebook account to vent about his family law proceedings, posting critical 'status updates,' where he criticised the mother, her legal counsel, and the Independent Children's Lawyer throughout the course of their family law parenting proceedings.

The Court subsequently ruled that in making these posts, the father had breached the provisions of former Section 121 of the Act, and he was ordered to remove all Facebook posts and comments relevant to the proceedings.

Furthermore, a Court Marshal was entrusted with periodically monitoring the father's social media accounts for any references to the ongoing Court proceedings. Any such references were to be reported to the Australian Federal Police for subsequent investigation and potential prosecution.

Other uses of social media that may adversely impact your family law proceedings

Beyond refraining from posting information regarding ongoing Court proceedings on social media, it is important to be cautious about posting various other types of content that could negatively impact your family law case.

This applies even if the content is only visible for a short period of time, such as on your Instagram or Facebook story or a Snapchat message that disappears upon viewing. Remember, social media users can still screenshot short-life messages and share them on their own feeds.

Some examples of social media posts that can be problematic include:

- posting screenshots of private messages exchanged with the other parent;
- information boasting about extravagant new purchases such as cars or jewellery;
- posting videos suggesting excessive alcohol consumption or illicit drug use;
- posting provocative or inappropriate images of yourself or someone else;
- posts or status updates about your poor mental health; or
- posts alluding to engaging in criminal activity.

How to minimise risk when using social media during family law proceedings

To mitigate the risks associated with social media usage during family law proceedings, it is advisable to implement the following precautions:

- Do not disparage your former partner on your social media platforms;
- Be cautious about updating your relationship status;
- Regularly update and maximize privacy settings on social media profiles to retain control over your audience.
- If your former partner is making allegations about the status of your mental health, be careful about posting anything in public forums or on social media, as this may be used as evidence. Seek advice from a family lawyer to address this.
- Refrain from making posts that display a lavish lifestyle;
- Don't make [threats of violence](#) or engage in aggressive behaviour online, as this can support an assertion that you have a tendency to be abusive or aggressive.
- Don't discuss any aspect of your family law matter on social media platforms.
- Treat every post or status update that you make as though it may one day end up before the court.

Get help from a family lawyer

Family law proceedings are often highly emotive, particularly when there are parenting or financial disputes. Many parties to proceedings feel the need to vent their frustrations from time to time. But beware that social media is not the place to do this. Poor

judgement when writing social media posts related to your dispute can have significant negative impacts on your case.

Engaging an experienced family lawyer to guide you through every step of your proceedings is one of the best ways to mitigate the potential that you engage in activities that are not beneficial to the results you are seeking to achieve.

Contacting E&A Lawyers

For more information or to arrange a consultation with a lawyer, you can call or email us.

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