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HARPER GREY LAWYERS BRYAN BAYNHAM, QC AND DANIEL REID QUOTED IN VANCOUVER SUN REGARDING HOW SOCIAL MEDIA IS CREATING A GROWING BUSINESS IN DEFAMATION

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VANCOUVER SUN

January 21 – *Vancouver Sun* – Singer Courtney Love is perhaps the highest profile Twitter user to be sued for defamation over her online comments, but her case is only one of a growing number of legal battles spurred by social media.

Hotels incensed by critical travel reviews have threatened legal action, commenters on a newspaper's website have found themselves sued, and anonymity is fast-disappearing as a safeguard for loose-lipped and libellous online comments.

"In posting things online, [a lot of people] often have this illusion that they are anonymous," said [Bryan Baynham QC](#) of the commercial litigation group at Harper Grey LLP.

"The reality is that there is often information identifying you."

The combination of access, immediacy and anonymity in social media is creating a growing business in online defamation say Vancouver lawyers who are fielding increasing numbers of calls as individuals and businesses are fighting back against online critics. "In my own practice I see a trend increasingly towards defamation claims based on online communication, whether it's in social media or the Internet or email," said Marko Vesely, head of the defamation and media law group at Lawson Lundell LLP.

A lot of the commentary that crosses the line into defamation probably wouldn't be seen in traditional media, said Vesely.

"People don't understand that the same rules of defamation law apply to them just as they apply to major newspapers and TV stations," said Vesely.

The increasingly uncivil tone of comments coupled with rising concerns about libel is persuading some sites to simply cut off anonymous comments altogether.

[Daniel Reid](#), also in the commercial litigation group at Harper Grey, said companies such as Google and Microsoft are generally good at complying with the court process to identify a person who has posted defamatory material.

Baynham questions the value of anonymous comments, a debate that is continuing in the online community.

"I don't think there is any justifiable basis for having anonymous comments, especially among major media outlets," he said. "The problem is you can spread some really nasty information that really harms people, without any practical way of chasing them down without incurring significant costs."

Baynham and Reid said calls regarding online defamation have increased four or fivefold as more people are realizing they have rights and can do something about online defamation.

So you Google your name and up pops something that crosses the line into defamation. What can you do?

1. Don't ignore it. It won't go away and it could only get worse.

"Increasingly, as reporters use blogs as a source for research and the Internet allows content to be quickly republished, one does want to address problems when they arise, before they spread beyond control," said Vesely.

2. Don't think that simply because the poster is anonymous that you can't act to have the offending post taken down. And you can take up the issue with the site hosting the defamatory material.

"If notice is given that something is defamatory and you don't take it down, then you'll be liable for damages from that point on," Baynham said of sites that leave defamatory material online.

3. While you can seek damages from someone who defames you – a route you may want to take if comments cost you business, or your job, or have another significant impact – you can also have defamatory material removed without having to sue.

"For many people who feel aggrieved by something said about them online, they hire a lawyer and the goal is to try and get the material taken down," said Vesely. If the material comes down, accompanied perhaps by an apology, the lawsuit may never proceed.

Read more: on the [Vancouver Sun website](#).