

**From:** Lawrence Krauss <lkrauss@asu.edu>  
**To:** "jeffrey E." <jeevacation@gmail.com>, nancy dahl <[REDACTED]>  
**Subject:** Fwd: hi.. hope all is well  
**Date:** Mon, 03 Sep 2018 05:11:42 +0000

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more sage advice.. except for suing the media perhaps..

**Lawrence M. Krauss**

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Begin forwarded message:

**From:** Alison B  
**Subject:** Re: hi.. hope all is well  
**Date:** September 2, 2018 at 9:30:02 PM PDT  
**To:** Lawrence Krauss <[REDACTED]>

Hello there, good luck! I made a couple of calls and have a couple of thoughts for you.

1) what jurisdiction do you want to sue for defamation? In NSW? in the Federal Court? in Victoria? This makes a difference I think because a barrister acting in Victoria will perhaps not be able to act in NSW.

Thoughts (just for what it's worth, I could be really wrong):

Be really careful with Defamation -- don't forget that in the court process you must go through "Discovery" and that is where the other party can demand your documents, files, photos etc.

All the allegations get hauled out in the court, in the public arena, to be reported on.

Sometimes it makes it all worse.

Stuart Littlemore has worked in media here for a lot of years, hosting media watch etc, so if he is your representative he would have good advice regarding the PR aspect of it all as well as being capable of fighting the defamation legally.

In your case, the PR is the entire battle it seems to me. So you want to win, but you want to win the public more.

Craig McLaughlan, an actor here famous for being in Neighbours, was accused in a #MeToo style case - he is using Barrister Matthew Richardson to sue for defamation. This barrister will have practical experience here so perhaps if you don't like Stuart Littlemore, you could try this guy?

report on his case is here: <https://www.smh.com.au/national/nsw/defence-in-craig-mclachlan-defamation-case-should-be-released-court-hears-20180629-p4zok0.html>

Matthew is from 153 Phillip Barristers here: <https://153phillip.com.au/barristers/matthew-richardson/> [REDACTED]

The people you call first are the instructing solicitors.

For Matthew Richardson that is:

Banki Haddock Fiora [REDACTED] - email the partner that handles defamation cases:

[REDACTED]  
or: Mark O'Brien Legal [REDACTED] You want the partner, Mark who is on leave right now - he will back October 2 -- email: [REDACTED]

NOTE: They are in NSW, so not much good to you if you want to sue in Victoria, possibly useful if in the ACT (Canberra).

vis the substance of your three points. To play devil's advocate and give you some risk analysis:

1) your risk is that even though this woman has not so far produced another photo, she may have one. You may be completely innocent but it may have caught an angle that is misleading. She may have it up her sleeve. I know when I fought HT I told nobody I had a witness all through the complaints process, while the other side accused me of lying, I kept my mouth shut until I got to the Tribunal where it mattered. They didn't even know I had a friend there. We didn't even sit together or enter or leave at the same time. Then, when it mattered, in the Tribunal, I produced my witness. Case closed. In my case I was telling the truth. In your case, your accusers are twisting the truth and making it seem like a lie. But your risk is they have stuff they have not yet revealed. Be careful because it will be more devastating if revealed later.

2) your risk here with this point is that the opposition might say: so what? The defamers claimed the organisation wouldn't have you back but they did. Did that really damage your reputation? What is the evidence that it led to material harm?

3) The claim that you threatened litigation in the past. OK she made you sound like a bully. This has damaged your reputation. But now you really are suing her for defamation -- so here you have to reconcile two opposing PR positions: 1) no i never threatened litigation in the past, but 2) yes i'm litigating now.

4) That someone else had a similar complaint, but it wasn't actually similar. Your risk: that it won't be relevant to your reputation if she made a mistake about that one, but there have been others.

On balance, I think the target selection is the problem here. Instead of going after the woman who is attacking you, instead you should be suing the media outlets that reported her vicious attacks. It is the BuzzFeed and other articles that caused the damage. If this woman had been shouting into a void then her vexatious complaints would not have done any damage beyond a routine investigation that would have been over and done with. It's the media circus that has been so damaging.

I think the best strategy is:

1) to win the appeal at ASU, try to take action as far as possible there.

2) Sue the media outlets in the jurisdiction with the most draconian defamation laws (probably Australia - maybe NSW, but ask the instructing solicitor what is the best jurisdiction long before you engage anyone so that you pick a barrister that operates in that jurisdiction's system. The internet publishes everywhere so you are free to pick the best jurisdiction for this).

3) At the same time all of this is going on do some very public good works to remind everyone that you are a good person. The success of these malcontents hinges on defamation, so show the world how great you are. I wish you had gone to Dana's school when you had the chance and put it on YouTube, that would have done a lot for them and a lot for you. Unfortunately Dana quit that job and isn't going back to the Reservation now... so that one has gone. But you could do something similar. Pick a cause you like that helps people and do it, and do it publicly without courting publicity (a paradox I know). Do it quietly, do it with sincerity, do it with hard work and care and love -- but make sure a friend quietly puts it on YouTube also!

So good luck with it.

I am back in Sydney though I haven't looked up Western Australian media outlets yet (sorry my bad, I was lazy but I will do it! )

all the best  
alison

On Mon, Sep 3, 2018 at 6:45 AM Lawrence Krauss <[REDACTED]> wrote:

I think we are planning on going ahead with a possible defamation suit.. restricting it to the known things she has said publicly that are false:

- (1) the claim made to ANU and also online that another photograph existed that showed me touching someone's breast
- (2) the claim made online that the organization in question indicated they were not having me back (although they did)
- (3) The claim made during the podcast and online that I have threatened litigation to those who have defamed me in the past
- (and maybe) (4) the claim (on the podcast) that the young woman at CWRU had a similar complaint.... that woman's false complaint was about language..

thoughts? Littlemore seems dodgy to me, but he is probably the best anyway? There is a firm in Canberra that people there like <https://aulich.com.au/civil/#the-team>

In the meantime, I provided OEI with two memos providing new evidence, asking them to reopen case and consider it, but I bet they won't... here they are..fyi along with my 45 page appeal letter submitted a week ago 5 min before the deadline (after 3 days and 45 hours of putting the final touches on it..) (all confidential)

best

Lawrence

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On Aug 17, 2018, at 11:55 PM, Alison B wrote:

Hello there, i am sorry to hear that, Lawrence. Sorry if my reply is a bit late as i have been out of internet range as i am in Tonga.

That is terrible that ASU sent the report to Mel Thomson and horrible that she distributed it. Don't these people have any serious battles to fight? There are so many huge problems in the world and they are attacking a great person for what? Trivia. It is trivial.

Vis a vis defamation, be a bit wary and have a think about the action is the tight course of action for you, and consult your misses who is extremely wise, also.

On the one hand if you can prove this woman lied, you may win a defamation case against her.

On the other hand, if you start that fight it could drag on for 2 or 3 years and thus keep appearing in the news. Worse she could make extravagant claims and make demands in the Discovery process which would then get wide and repeated coverage.

Sometimes defamation cases can make everything worse, especially if she is able to make it appear as though you are persecuting her, and she is weak and defenceless crusading for principles and you are strong and powerful.

That would make it all worse.

On the other hand if you can prove she is a malicious actor who really had it in for you and can successfully win the PR war as well as the legal battle then it may be worth it.

Ideally you would join the publications that printed her claims to the suit. They should be your primary target as it is their job not to destroy lives with unsubstantiated claims. That also deters other publishers from having a go at you if they see you are likely to litigate and to win.

ASU determining against you complicates matters as people can print what they have determined in their report. However they are not a court. Are you able to take legal action against ASU in a court?

You need to appeal that decision and preferably take legal action against ASU. I am not sure how or under what legislation that could fall. But i think that universities must be bound by some sort of laws not to unfairly dismiss or find against staff because their internal processes are not courts. If laws are broken we have courts to deal with them. This is extra-judicial. So if they violate your own rights with their non-court determination i would think there should be some form of legal redress, but you would need a US lawyer for that one.

I think you need to attack this issue at the root

I would say nothing publicly until you have all your ducks in a row.

I would first appeal the ASU verdict and hit that with everything. That uncomplicates everything and allows you a free swing at everything else.

Because these things take time, i would ask the good defamation lawyer in Australia (just pay the money and get the best advice) about whether you can file against the publishing houses that published the false claims by Mel and then just add her on to the suit (but dont make it about her)

With the point about it being someone you had met before and not a stranger in the selfie, i would not rely on this point as it is not really relevant to the case and she can just say "i was mistaken it wasnt a malicious lie" and then she is off the hook on that point. Just stick to the actual best points, number 5 sounds promising.

I think you really need to make an appointment with the lawyer that briefs Stuart Littlemore.

Also weigh up the risk that if you sue, it will be news and that means others may be emboldened to come forward with claims of their own.

But ask Stuart Littlemore's briefing lawyer about your best course of legal action and what the pros and cons are.

It is complicated and there are lots of parts to weigh up. I am so sorry this is an awful thing to happen to a lovely person who is great fun and really kind hearted.

Make an appointment, don't delay, talk to the good lawyer

And really good luck I am on your side.

On Saturday, August 18, 2018, Lawrence Krauss <[REDACTED]> wrote:

Hi Alison:

Just touching base, as you may know ASU determined I did touch the woman in Australia and therefore violated ASU policy, in spite of the fact that even the woman in question did not say it was anything intentional.. More below (extracted from a letter to a colleague about this). Anyway, ASU in their wisdom sent a copy of the report to Mel Thomson, who, within hours distributed it to the press, even though ASU had led me to believe that at this stage things were still confidential. So, while I am still appealing ASU's decisions, I am thinking about Ms. Thomson, and have thought that since there are at least 5 provable public lies she has told about me and the incident (independent of the actual touching), whether I might sue her for defamation in Australia, and wanted to get your opinion. Here are some details, extracted from that other email:

"ASU eventually did talk to the woman in question, who was undoubtedly pressured by Ms. Thomson to talk to them. But, there is no evidence whatsoever that the alleged touching was intentional. I have now seen the photo in question and it is obvious I was not ready for a selfie when this woman backed up into me. ( I am sending it confidentially to you Alison.. I did not send it to my colleague) I am not smiling at all and was moving in reaction to her presence. I have taken perhaps 10,000 selfies with members of the public and there is not a single one in which I am not smiling, for example (or a single other one in which there is a complaint). Moreover, the woman in question, who refused to be part of the original complaint and also refused to speak to the media, and insisted on remaining anonymous when she finally spoke to ASU, said three things: (1) it was a 'clumsy interaction'—consistent with my claim of accidental touching, (2) she did not feel victimized, (3) she did not want a complaint filed and asked her friend not to file a complaint, a request her friend ignored. It is also worth pointing out that after making their own investigation of the same incident, and speaking to the complainant and others, Australian National University dismissed the claim and said there was no substantiated violation of their policy.

As far as Melanie is concerned', she has lied 5 separate times either in her official complaint to ASU, her complaint to Australian National University, and to the press and public. These include:

- (1) the claim that the woman in question complained to the Organizers.. As the Organizers testified, they did not receive a single complaint from anyone either during or after the event. Rather the reaction to my lecture and attendance at the meeting was universally positive.
- (2) the public claim that the organization was never having me back for any events. Again false. Six months later I was invited back to Melbourne to speak and the organization helped coordinate my event.
- (3) the claim made to ANU that there was another photograph showing me explicitly touching the woman's breast. After repeated requests Ms. Thomson could not produce such a photo.

(4) the claim was made, in the report made by Ms. Thomson attached to her original complaint, that the woman I allegedly touched did not know me and came up asking for a selfie. As the woman herself later described it to ASU, she had met me on multiple occasions in the past and had mutual friends with me. This was someone quite familiar with me who leaned into me for a selfie, not a stranger as claimed.

(5) Finally, this week Ms. Thomson said on a public broadcast that not only did her friend not want her to make a complaint but that she herself did not think the episode worthy of a complaint, but it was only six months later, in April, when she heard me speaking on a panel about the March for Science, and disliked some of my comments, that she decided I needed to be punished for my views and initiated a complaint. This not only directly contradicts her earlier statements about complaining at the time and about the alleged severity of the offense as she interpreted it at the time, but also made clear her bias and reasons for making the complaint.

So, in short, I must have accidentally touched a woman's breast at a private atheist event in Australia when she leaned back into me as I was adjusting to allow her to take a selfie, and she and I, who knew each other, resolved this between ourselves, presumably with a short apology and/or discussion (I wish I had some recollection of this event, which I would have had it been something serious or severe) , and another woman (Melanie) decided, for many reasons known only to her, eventually to try and seek publicity by turning it into something it wasn't. ...

In this regard, I cannot help but include one more thing, which I hope will demonstrate the ridiculous bias of the investigation process. Ms Thomson was not content to make the allegation about breast touching to ASU, so she later made another claim, that I had 'photobombed' a picture of her and another attendee at the event the next day, after she had publicly kissed her friend, leaving a big lipstick mark on her cheek, after which she claimed I said "girl on girl" action. She actually had the temerity to send to ASU the photograph in question, which I append below!

<IMG\_7825.jpg>

And moreover, ASU spoke to her friend, who not only said that she did not recall me saying a word at the time, but only Ms. Thomson, on the right, telling her right after the photograph that she "hated that man".

When I saw this, I was heartened because I thought for certain that the investigators would realize how Melanie was willing to make false claims against me (after all, this is as much an example of photobombing as the other photograph was of groping), and also how the fact that I was clearly invited to do a selfie with these people the day after the alleged infraction would suggest that there was no concern about me at the time, and finally that this woman had malicious intent in her efforts to impugn my reputation. But to my immense surprise, when I got the final investigator report I discovered that they ruled that this too was a violation of University policy and represented some kind of harassment by me. "

So, ALison, do you think I have a case for defamation because of the 5 public lies about me, independent of the actual breast touching questions?

Lawrence

p.s. here is the breast photo..

<melphoto.tiff>

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