

Dear Sir,

In reply to your letter dated 21 November, 2014 concerning your client Mr Blair Ussher.

Much has changed since Mr Ussher instructed you, and I confirm that correspondence between your office that of Hutchinson Legal is no longer relevant. This is because the Legal Services Commissioner found, in effect, that my allegations against Mr Ussher have substance.

As you will appreciate, Mr Ussher's criminal and professional misconduct continues to cause me loss, of both a financial and in terms of my personal and professional reputation. It is my intention to restore my reputation to the extent possible, and to this end I intend to publish a factual account of my dealings with Mr Ussher.

As I am determined to ensure that all I publish is factual, I wish to give Mr Ussher every opportunity to advise me of any inaccuracies he may find in my account of events.

My starting point is the email below, followed by a number of observations. I will allow Mr Ussher 7 days to respond through your office, or direct to me. Please ensure that this letter is passed on to Mr Ussher so that you can inform me as to his instructions regarding future communications.

In a complaint dated 28 October, 2014 Mr Blair Ussher, General Counsel, Consumer Affairs Victoria claimed that I had falsely accused him of a serious criminal offence of dishonesty, namely criminal blackmail (a serious indictable offence which carries a maximum penalty of 15 years imprisonment).

A lawyer who falsely accuses another lawyer of having committed a serious criminal offence of dishonesty commits an act of Professional Misconduct, and is likely to be struck off the Register of Legal Practitioners, and prohibited from practicing law in the future.

Mr Ussher sought to have the Legal Services Commissioner find me guilty of Professional Misconduct, and in his formal Complaint to the Legal Services Commissioner he answered the question, "1. What do you hope to achieve by making this complaint?" Mr Ussher responded with the words, "DISCIPLINARY ACTION".

It was Mr Ussher's intention that he would have his close colleagues at the office of the Legal Services Commissioner's office find me guilty of Professional Misconduct and struck off, and then sue me for defamation.

I received a letter from the Legal Services Commissioner, informing me that Mr Ussher had lodged his complaint. Mr Ussher referred to statements I had made on my website and in a formal complaint I had lodged against him with the Minister for Consumer Affairs. Mr Ussher set out my allegations as follows:

"The statements made by Mr Mericka related to my involvement in the proceedings. Mr Mericka asserted that, in the context of the proceedings, I had:

1. attempted to blackmail him;
2. threatened to knowingly bring "false charges" of contempt against him;
3. engaged in extortion;
4. made a demand upon him "*accompanied by menaces*";
5. sent a communication to him which contained "*all the essential elements of an extortion*";
6. attempted to blackmail him into make false admissions;
7. attempted "*to use the Supreme Court as a laundry for the purpose of cleansing the false Contempt of Court charges*";
8. implicated the Supreme Court in a blackmail attempt;

9. conspired with *“corrupt officials and judicial officers”* to ruin him financially and to ruin his reputation;
10. acted in an unprofessional manner and in breach of my obligations and duties as a legal practitioner; and
11. handled the legal proceedings in an improper manner from the outset and for corrupt purposes, and that I was *“not a fit and proper person to be representing CAV”* in legal matters.

Mr Mericka also placed a posting on the website entitled – “Protected: Consumer Affairs Victoria – the Blair Ussher Blackmail”.

On 17 March, 2015 I replied to the Legal Services Commissioner’s office with the following email:

Hi Cara,

Complaint by Mr Blair Ussher – COM-2014-1529 – Cara O’Shanassy

Well, just when I thought I had put all of this trouble behind me, and I could plan to develop my practice and prepare for my retirement, Mr Ussher steps into my life once again.

You will recall that, through counsel, I had informed VCAT that “the crusade is finished” and that I would not be pursuing my complaints against Consumer Affairs Victoria and Mr Ussher. Perhaps it was this statement to VCAT that has now emboldened Mr Ussher, and prompted him to lodge this false and vexatious complaint against me.

What I do know is that my plans to move on, to focus on my legal practice and to start living a normal life again, have been dashed. I had recently committed to applying to become an Accredited Specialist in Property Law, but as the process involves checks with your office to ensure that I am not a person under investigation, even that small ambition is now on hold until the next round of accreditation for Property Law, two years from now.

I must now return to where I left off. Before I wrote to the Chief Justice in reaction to Mr Ussher's blackmail letter it was my intention to lodge formal complaints against Mr Ussher and others, first through your office and then possibly with IBAC (assuming that legislation would eventually allow that body to investigate more subtle forms of corruption than those currently within its purview).

I no longer feel bound by my statement to VCAT that the crusade is finished, as it is necessary for me to pursue issues and complaints that provide evidence of the illegal conduct of Consumer Affairs Victoria generally, and Mr Ussher in particular.

I will now advise the Law Institute of Victoria that I must withdraw my candidacy for accreditation as a specialist, and I will focus instead on assisting you in the proper investigation of the false allegations made by Mr Ussher, and my formal complaints against Mr Ussher of professional misconduct, misconduct in public office and criminal blackmail.

Of course, I will require more time in order to gather the necessary evidence and materials, but in the meantime I will deal specifically with the most obvious of Mr Ussher's false claims, namely his assertion that my former lawyer, Mr Tim Dixon “disavowed” or otherwise withdrew his report to me that Mr Ussher had acted unprofessionally and maliciously by threatening to “crush” me and to ruin my business. I will be requesting that you obtain a full written statement from Mr Dixon regarding his having reported Mr Ussher's conduct to me, but first I do need to provide you with background information by way of a series of emails received from Mr Dixon prior to and subsequent to those referred to by Mr Ussher.

In view of the above, would you please consider granting me an extension of today’s return date for my response to Mr Russell Daily’s letter dated 24 February 2015. The last paragraph of Mr Daily’s letter provides for this contingency. An extension to Friday, 20 March 2015 would be very much appreciated.

Many thanks in anticipation of your advice.

In a letter to the Legal Services Commissioner date 4 February 2015, Mr Ussher set out further examples of professional misconduct on my part:

“...Mr Mericka identifies me as CAV’s general counsel and as the lawyer responsible for prosecuting the *Mericka* case. In any event, his allegations that a regulator and public officials have:

- **instituted legal proceedings in contravention of the law;**
 - **conspired to lay false charges;**
 - **conspired to pervert the course of justice;**
 - **made threats accompanied by menaces;**
 - **engaged in blackmail; and**
 - **generally engaged in “*behaviour that constitutes serious professional misconduct and corruption*”**
- **are, in themselves, sufficient to bring the administration of justice into disrepute.”**

On 1 May 2015 Mr Ussher complained to the Legal Services Commissioner about my response to his allegations:

“I note that Mr Mericka does not resile from the scandalous allegations he has made against me. He does not offer any apology for his conduct but has added to his allegations. He now asserts that I:

- **was instrumental in having an article published in the MaroonDAH Leader that concerned Mr Mericka;**
- **am stalking him;**
- **am mentally unbalanced;**
- **knowingly and deliberately entrapped him;**
- **denied him natural justice;**
- **bribed a member of the legal profession;**
- **contributed to false and misleading statements published on the CAV website; and**
- **manipulated the justice system to bring about an unjust result.**

I note that he concludes his response with the statement:

“I further submit that Mr Ussher’s conduct constituted not only a denial of Natural Justice, but also professional misconduct, misconduct in public office, criminal blackmail and stalking. Doubts about Mr Ussher’s mental health are highlighted by the fact that, despite the inevitability of his conduct being called into question by re-opening this matter, he has continued to pursue me and has taken the extraordinary step of attempting to have the Legal Services Commissioner investigate his spurious complaints.”

The Legal Services Commissioner opened an investigation into my allegations against Mr Ussher to determine whether any elements Mr Ussher’s complaint had been substantiated and whether it was likely that a disciplinary tribunal would find me guilty of unsatisfactory professional conduct.

After almost 2 years of investigation by a number of Senior Investigators on behalf of the Legal Services Commissioner, the matter was concluded in my favour.

In a letter dated 8 July 2016 the Legal Services Commission informed me as follows:

“Having considered all of the material available to me during the course of the investigation, and taken advice from counsel in relation to the matter, I am now satisfied that there is no reasonable likelihood that the Tribunal would find you guilty of unsatisfactory professional conduct.

Accordingly, section 4.4.13(5) of the Act requires that no further action be taken against you.

The file in this matter will now be closed...”

The letter also stated:

“...I understand and acknowledge that the process has been an unpleasant and stressful one for you and your family.

Accordingly, I record my appreciation for your general cooperation in relation to this investigation, and wish you every success for the future.”

I have now been left to ponder about the attitude of the Legal Services Commissioner towards a lawyer who makes a false complaint against another lawyer, particularly when a finding against the complaining lawyer indicates that the complaints have substance and that serious criminal and professional conduct has been confirmed to have been committed by the complainant.

I would appear that the Legal Services Commissioner considered that the unnecessary unpleasantness and stress that Mr Ussher put me and my family through has been fully and finally addressed with the words, ***“I record my appreciation for your general cooperation in relation to this investigation, and wish you every success for the future.”***

I really do believe that I am entitled to better conclusion than this.

Peter Mericka