

**IN THE DISTRICT COURT
AT AUCKLAND**

**CIV-2017-090-000738
[2017] NZDC 21148**

IN THE MATTER OF	THE HARMFUL DIGITAL COMMUNICATIONS ACT 2015
BETWEEN	[VICTORIA GIBBONS] Applicant
AND	HAYLEY IZZARD Defendant

Hearing: 19 September 2017

Appearances: Ms [Gibbons] in Person
Ms B Smith for Defendant
Ms Baigent and Mr Teague for Google NZ
Mr S Shute, Technical Adviser

Judgment: 20 September 2017

DECISION OF JUDGE N R DAWSON

[1] The defendant in this case has posted content and a photo of the applicant on a website known as [website name deleted], which is offensive and distressing to the applicant. An application has been made pursuant to s 19 of the Harmful Digital Communications Act 2015 (the Act) seeking an order requiring the defendant to take down the posting from that site.

[2] The defendant accepts she has an obligation to remove the content from that site and has already taken steps to try to have it removed, including employing The Investigators to assist her to have the content removed from the site. To date that has been unsuccessful.

[3] At today's hearing other potential avenues were identified pursuant to which the material could be taken down. This Court therefore makes the following orders:

- (a) That the defendant is to take all possible steps now and in the future to take down or disable the online material referring to and showing a photo of Ms [Gibbons], including giving notice to [the USA based online hosting service and website names deleted]. The intent of this order is that it should have at least the same effect as a DMCA notice in USA law.
- (b) The defendant is to cease or refrain from this type of conduct concerning Ms [Gibbons].
- (c) It is accepted that the entities concerned that might have the ability to take down the material are based in the United States of America and are not subject to the jurisdiction of this Court. Notwithstanding that lack of jurisdiction, the entities concerned are invited to be cognisant of the fact that a Court has seen fit to make this order and are thereby encouraged to comply with it.

[4] It is accepted by the parties that Google NZ should not be part of these proceedings and are released from them accordingly.

N R Dawson
District Court Judge