



OFFICE COPY

DISTRICT COURT OF QUEENSLAND

REGISTRY: CAIRNS
NUMBER: 136/21

Plaintiff:

WILLIAM JAMES MITCHELL

AND

Defendant:

KARL JOBST

CLAIM

The plaintiff claims:

- 1 Damages for defamation of \$400,000.
- 2 Aggravated damages of \$50,000.
- 3 Interest thereon pursuant to section 58 of the Civil Proceeding Act 2001.
- 4 Costs.

The plaintiff makes this claim in reliance on the facts alleged in the attached Statement of Claim.

The plaintiff believes that the Court at Cairns has jurisdiction to decide the claim.

ISSUED WITH THE AUTHORITY OF THE DISTRICT COURT OF QUEENSLAND:

And filed in the Cairns registry on: 13 SEP 2021

Registrar:



To the defendants: **TAKE NOTICE** that you are being sued by the plaintiff in the Court. If you intend to dispute this claim or wish to raise any counterclaim against the plaintiff, you must within 28 days of the service upon you of this claim file a Notice of Intention to Defend in this registry. If you do not comply with this requirement judgment may be given against you for the relief claimed and costs without further notice to you. The Notice should be in Form 6 to the *Uniform Civil*

CLAIM

Filed on behalf of the plaintiff
Form 2 - R.22

Miller Bou-Samra Lawyers
Level 1, 20-32 Lake Street
CAIRNS QLD 4870
Phone: 07 40301444
Fax: 07 40514277
Our Ref: RJM:200097



Procedure Rules. You must serve a sealed copy of it at the plaintiff's address for service shown in this claim as soon as possible.

Address of registry: 5d Sheridan Street, Cairns QLD 4870

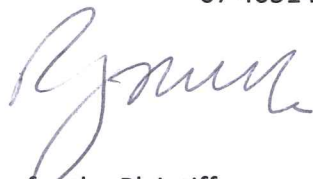
If you assert that this Court does not have jurisdiction in this matter or assert any irregularity you must file a Conditional Notice of Intention to Defend in Form 7 under Rule 144, and apply for an order under Rule 16 within 14 days of filing that notice.

If you object that these proceedings have not been commenced in the correct district of the Court, that objection must be included in your Notice of Intention to Defend.

PARTICULARS OF THE PLAINTIFF:

Name:	William Mitchell
Residential or business address:	c/- Level 1, 20-32 Lake Street CAIRNS QLD 4870
Solicitor's name:	Robert Miller
and firm name:	Miller Bou-Samra Lawyers
Solicitor's business address:	Level 1, 20-32 Lake Street CAIRNS QLD 4870
Address for service:	Level 1, 20-32 Lake Street CAIRNS QLD 4870
Telephone:	07 40301444
Fax:	07 40514277

Signed:



Description: Solicitor for the Plaintiff

Dated: 13 September 2021

This claim is to be served on:	Karl Jobst
of:	Unit 38, 35 Kathleen Street RICHLANDS QLD 4077

DISTRICT COURT OF QUEENSLAND

REGISTRY: CAIRNS
NUMBER: 136/21

Plaintiff: WILLIAM JAMES MITCHELL

AND

Defendant: KARL JOBST

13 SEP 2021

Filed in the Cairns registry on

STATEMENT OF CLAIM

This claim in this proceeding is made in reliance on the following facts –

- 1 The plaintiff is and was at relevant times:
 - a) a natural person residing in Weston, Florida in the United States of America;
 - b) well known in Queensland, Australia and elsewhere as a competitive videogame player;
 - c) recognised by the Guinness Book of World Records as having achieved certain videogame records.
- 2 The defendant is and was at all relevant times:
 - a) a natural person residing in Brisbane in the State of Queensland; and
 - b) the publisher on the digital platform YouTube of videos which he makes available for publication throughout Queensland and the other states and territories of Australia on the worldwide web;
 - c) the publisher of the video entitled *Biggest Conman in Video Game History Strikes Again!*;
 - d) the user of the Twitter handle @karljobstgaming.
- 3 Ben Smith otherwise known as Benjamin Q Smith, otherwise known as Apollo Legend is and was at all relevant times the defendant in a complaint and summons instituted against him by the plaintiff in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward, Florida, case number : CACE20-002818(02).

Publication



STATEMENT OF CLAIM

Filed on behalf of the plaintiff
Form 16 - RR.22, 146

Miller Bou-Samra Lawyers
Level 1, 20-32 Lake Street
CAIRNS QLD 4870
Phone: 07 40301444
Fax: 07 40514277
Our Ref: RJM:200097

- 4 On or about 26 May 2021 and continuing thereafter the defendant published of and concerning the plaintiff a video entitled *Biggest Conman in Video Game History Strikes Again!* containing the following:

He also sued Youtube's Apollo Legend for \$1,000,000. I haven't spoken about this publicly but this lawsuit ultimately ended with Apollo giving in and settling with Mitchell. He was forced to remove all his videos about Mitchell's cheating and paid him a large sum of money. This left him deeply in debt which required him to find extra work but with his ongoing health issues this was all too much of a burden and he ultimately took his own life. Not that Billy Mitchell would ever care though, in fact when Billy Mitchell thought Apollo died earlier he expressed joy at the thought. The lawsuit against Apollo was just as frivolous as the rest and Apollo definitely would have won in court but again he was extremely ill and couldn't handle the ongoing stress.

("the words").

- 5 Ben Smith, otherwise known as Benjamin Q Smith, was identified in the video as being the person referred to therein as Apollo Legend.

- 6 On or about 5 June 2021 the defendant removed the words set out in paragraph 3 in this statement of claim from his video entitled *Biggest Conman in Video Game History Strikes Again!* save for the words in the first and last sentences therein, namely the words:

He also sued Youtube's Apollo Legend for \$1,000,000.

and

The lawsuit against Apollo was just as frivolous as the rest and Apollo definitely would have won in court but again he was extremely ill and couldn't handle the ongoing stress.

- 7 On or about 11 June 2021 and continuing thereafter the defendant republished of and concerning the plaintiff the words set out in paragraph 4 herein in his video entitled *Biggest Conman in Video Game History Strikes Again!*

- 8 The words in their ordinary and natural meaning meant and were understood to mean that:

- a) The plaintiff required Ben Smith to pay him a large amount of money to settle his defamation claim which caused Ben Smith to go into considerable debt and to take on extra work to survive.
- b) A major contributing factor in Ben Smith's decision to take his own life was the plaintiff's requirement that he pay the plaintiff a large sum of money to settle the defamation claim.

- 9 The words and the imputations are defamatory of the plaintiff.

- 10 The publication and the re-publication were constituted or evidenced by or to be inferred or implied from the publication being publicly accessible and amenable to download, further or alternatively by the defendant's failure from in or about June 2021 to remove or expunge to prevent general public access to the publication, further from the comments published about the publication.
- 11 As at the date of this pleading the video entitled *Biggest Conman in Video Game History Strikes Again!* and the words set out in paragraph 4 herein had received 7874 public comments.
- 12 On or about 5 June 2021 the defendant published on his Twitter page the following:

So @billypacman claims he will sue me for saying Apollo Legend paid him money. I removed that portion from my video, not because it is wrong, but because this isn't the issue I want to go to Court with. I'd rather he sue me over his fake Donkey Kong scores.

As at the date of this pleading the tweet received 111 re-tweets and 2.2k likes.

Injury & Hurt

- 13 By reason of the publication of the words and the imputations the plaintiff have been injured:
- a) in his personal and professional reputation;
 - b) in that the plaintiff apprehends that he has, since the date of the publication, and will continue to be, generally shunned and avoided by his peers, which has contributed to a sense of social shame and resultant social isolation suffered by him;
 - c) in that the plaintiff has suffered, hurt, embarrassment and a perception of ridicule shown generally by his peers which has further contributed to the sense of social shame and resultant social isolation suffered by him.

Aggravated Circumstances

- 14 Each of the imputations is false because the settlement of the legal claim between the plaintiff and Ben Smith did not require Mr Smith to pay any money to resolve the claim and nor did the settlement terms contribute to Mr Smith taking his own life.
- 15 The plaintiff claims damages to:
- a) vindicate his reputation;

- b) compensate him for the stress and embarrassment he has suffered as a result of the publication of the words and meanings set forth in the statement of claim;
 - c) to reflect the fact the defamation of the plaintiff occurred in a place in which he is known.
- 16 The plaintiff claims aggravated damages in reliance upon the attenuated sense of hurt, grievance and injury suffered by him caused or occasioned by each of the matters referred to in paragraph 9 in this statement of claim, and caused or occasioned by the plaintiff having further apprehended:
- a) malice or other unjustifiable or improper conduct of the defendant having:
 - i) published the defamatory matter with reckless indifference manifested by her failure to make any or any proper pre-publication enquiry as to the true position;
 - ii) the extravagant and sensationalised content of the imputations;
 - iii) the defendant's evident intention to diminish the credibility and standing of the plaintiff.
- 17 The amount of general damages claimed is an amount sufficient to ensure that, the defamation having spread along the grapevine and, being apt to emerge "from its working place in some future date" is an amount sufficient to convince a person to whom the publication was made of the baselessness of the allegations.
- 18 The likely exacerbation of damage through and from the grapevine effect should be inferred or implied from the public accessibility of the publication through the medium of a public website page, being a forum evidently intended to provoke commentary.

The plaintiff claims the following relief –

- 1 Damages for defamation of \$400,000.
- 2 Aggravated damages of \$50,000.
- 3 Interest thereon pursuant to section 58 of the Civil Proceeding Act 2001.
- 4 Costs.

Signed:

Description: Solicitor for the Plaintiff



NOTICE AS TO DEFENCE

Your defence must be attached to your notice of intention to defend.