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NATIONAL NSW DEFAMATION

Former mayor awarded \$120,000 over defamatory Facebook posts

By **Michaela Whitbourn**

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A former mayor in country NSW has been awarded more than \$100,000 in damages after a local resident defamed him in a series of "bullying and high-handed" Facebook posts accusing him of corruption and intimidation.

Conrad Bolton, who served on Narrabri Shire Council for well over a decade – including four years as mayor – sued "ratepayer activist" Stephen Stoltenberg in the NSW Supreme Court over a string of posts Mr Stoltenberg made on a Facebook page called "Narri Leaks".

Mr Bolton also sued a current councillor, Ann Loder, who commented on and "liked" one of the Facebook posts.



Conrad Bolton, who served on Narrabri Shire Council for well over a decade. MOREE CHAMPION

The costly dispute is the latest in a string of defamation cases over slurs on social media, including recent cases exploring whether a person can be held liable for "liking" a Facebook post by a third party.

The Narri Leaks Facebook page was set up by Mr Stoltenberg, who was a former town clerk – a role now known as general manager – at a number of municipal councils. The court heard Mr

Bolton and Mr Stoltenberg had a falling out after a woman called Diane Hood was appointed general manager of Narrabri Council in December 2013.

Justice Anthony Payne observed in his judgment, [handed down on Monday](#), that Mr Stoltenberg appeared to believe "Ms Hood's gender made it somehow less likely that she could fix the 'shitfight' that the previous General Manager had created".

"A women [sic]!!!" Mr Stoltenberg exclaimed in an email to Mr Bolton. "Your [sic] been around too many strong chemicals in the spraying game ... Even if she is reasonable, [the former general manager] ... left a complete shitfight that only a truly experienced BLOKE could fix."

Mr Bolton launched defamation proceedings against Mr Stoltenberg in 2015 over a series of five posts on the Narri Leaks page, and subsequently added a sixth made in 2016 after the case had commenced. As a result of the posts, the former Narrabri mayor decided not to stand for re-election in September 2016.

Justice Payne found Mr Stoltenberg had not made out a defence to five of the posts, including two posts suggesting Mr Bolton had made a "Captain's Call" to hire Ms Hood and had "deliberately corrupted" the selection process for the general manager position.

But he found Mr Stoltenberg was not liable for a Facebook comment made by a reader, which was promptly deleted.

Ms Loder, who was elected to council in September 2016 and remains on council, was found liable for one defamatory post because she added a comment underneath it saying: "Anyone else agree about getting ICAC and The Minister for local government involved need to like this post."

Justice Payne said she had, by words and conduct, endorsed the post and had become liable for it. He said that while there might have been a way Mr Bolton's lawyers could have shown she became liable for the post merely by liking it, in this case there was "no sufficiently compelling evidence before me that Ms Loder 'liking' a Narri Leaks posts had that effect".

He ordered Mr Stoltenberg to pay \$120,000 in damages, including \$20,000 in aggravated damages and \$10,000 in interest. Ms Loder was ordered to pay damages of \$10,000.

Professor David Rolph, a defamation law expert at the University of Sydney, said the damages bill was "not the largest award of damages in a Facebook defamation case" but the judgment served as another reminder that defamation law applied to social media posts "as it does to other media".

He said defamation cases involving social media raised "novel, often difficult questions for courts applying established principles" of law.



Michaela Whitbourn



Michaela Whitbourn is The Sydney Morning Herald's Legal Affairs and Investigations reporter.