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Standing Up For Yourself

Marika Takes Perpetrator to Court

by Marika Jackson

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... I know this person (and his immediate circle of associates) will think twice before ever repeating the same behaviour.

I hope you managed to have a wonderful festive season and a well-deserved summer break. A summer marked by relaxation, social comforts, positive reflection and optimistic

expectations for the year ahead. If, however, this pretty well sums up your past few months, I envy you. I'm sure that, like me, many brothers and sisters in our L.G.B.T.I. community may feel as I do. It's at times like these, when many families and friends, regardless of faith or creed, come together in a spirit of love, generosity and joyful celebration, that memories of such occasions can trigger an aching sense of loss. A loss, I think I share with many of you, especially in terms of broken connections with children that made these and other occasions such a delight in the past.

... difficult and stressful though it was, my self respect has enjoyed a tremendous boost and that alone made the whole procedure worthwhile.

This is not the maudlin whimper of an old grannie, but simply a statement of fact, especially with regard to those of us whose gender or sexual preference issues were confronted in less enlightened times, times when it was so much more difficult for those close to us to come to terms with those issues.

Don't get me wrong. I've had a lovely season none-the-less, thanks to some wonderful friends but, following the trend of the last few years since my transition, I've developed a determination to embrace every opportunity to maximise the quality of my new life in the years left to me. Consequently, I tend to sometimes 'bite off more than I can chew'. (Incidentally this is particularly pertinent with regard to a rapidly deteriorating dental situation that I can ill-afford to have fixed.)

So, although this season has been fine for me, it's been overshadowed by events that I could have side-stepped had it not been for my dogged refusal to just let them pass. Among these, some serious house- (and very old dog) sitting for friends and then nursing my friend Joanne through her recovery from a hip operation, all of which necessitated absence from my own place for a few months. My most consuming occupation over this period, however, has been a series of judicial procedures following an incident in October when I was subjected to vilification and threats of violence.

The matter was finally settled to my satisfaction by the end of February, but only after a series of stressful proceedings over a period of five months. Now, unfortunately, the law prevents me from discussing these events in any detail that might be prejudicial to any of the parties involved, which puts me into a bit of a bind because my main reason for initiating the proceedings was to prove to myself and others that we don't have to just let things go when we're subjected to threats of violence and/or sexual vilification because relevant laws, as they currently stand are there to protect us, and we should take advantage of this. What I can do, however, is to share my experience by way of an outline of the procedural steps and possible consequences you may wish to consider in the event of ever being faced with similar circumstances.

Do keep in mind, though that what's to follow is by no means a suggestion that my reaction to the triggering events should be regarded as the right one. Your response, whatever it may be, has to be right for you. In fact, I'm very much conscious of the possibility that what I did might, quite justly, be regarded as being one of excessive intolerance to what were, in the final analysis, just words, regardless of the manner in which they were delivered.

My first step was to contact the Inner City Legal Centre by phone. They were very helpful in terms of possible courses of action open to me, none of which, however, offered the involvement of the I.C.L.C. itself. I also reported to the local police and to a relevant local authority. The police officers who came to see me were helpful and sympathetic and it was they who suggested that the threats of violence would justify my applying for an Apprehended Violence Order (AVO) should I choose to do so. After some serious consideration and more than a little trepidation I finally did so, about a week later. My initial hesitation was largely due to a number of warnings from well-meaning friends. Their advice was to the effect that they all seemed to know someone who had attempted legal proceedings following similar circumstances, only to fail and make things worse for themselves.

The court hearing was set for a date in November. I arrived at the courthouse at 9:30am, as directed, but it wasn't until around 11:30am

that the matter was called. I represented myself. The magistrate advised me that the best I could hope for was to opt for a mediation meeting because the evidence I had supplied was insufficient. I declined the offer and agreed to submit a more detailed complaint for a further hearing at a later date. This date was set for early January. On that occasion the respondent had supplied a number of signed affidavits from friends and relatives claiming to have witnessed anti-social behaviour on my part and, at the same time, bore witness to the excellence of the defendant's character. The magistrate again deferred the hearing, directing the defendant to present these 'witnesses' at a further meeting at another court. At this third meeting, in mid-February, I also produced my character witnesses. The A.V.O. was finally granted.

I had also been advised by the I.C.L.C. to get in touch with the Anti-Discrimination Board of N.S.W., which I did. The A.D.B. were equally responsive and posted me the relevant forms explaining the functions of the Board along with some forms on which to document my claim, by return of post. This I did and, following a number of phone conversations with them, I agreed to a 'conciliation conference' at the Board's premises in the City, scheduled for early December. The day before the arranged meeting, however, the respondent notified his inability to attend due to a serious family matter. The hearing was postponed until a date to be fixed well after the holiday season.

The conciliation conference was eventually set for a date in mid-February. I was advised that I would be allowed to be accompanied by one 'support person' only, and this person was to be in no way involved in the proceedings. I decided to ask Tahlia Trijbetz, who had recently joined the Gender Centre as the contact person for the Transgender Anti-Violence Project.

Her presence was of enormous comfort to me and I was impressed by her poise and the ease with which she related to me and the conciliator. The three-hour conference went very well, and the conciliator drafted a memorandum of agreement, the details of which I am not allowed to share or discuss. Suffice it to say that it ended amicably and I know this person (and his immediate circle of associates) will think twice before ever repeating the same behaviour.

So, would I recommend using the law when faced with serious vilification or threats of extreme violence? Well, in all honesty, I could only do so if I were able to press strongly upon anyone choosing to take this course that it can be very stressful. This especially if the defendant, in an attempt to justify their behaviour in terms of extreme provocation, attempts to turn the tables with mendacious claims about one's character or behaviour. In my case I found this to be extremely stressful, costing me many sleepless nights. Fortunately though, the magistrates saw right through this, so I needn't have worried. But you should also be prepared to spend hours in court waiting to be heard, which could be quite costly in terms of working hours lost.

I was fortunate, also, to enjoy the support of friends, especially those who were prepared to stand up in court if necessary. As it happened, it turned out not to be necessary but it was wonderful to have them there.

Finally, there will always be friends who will tell you your chances of winning are outweighed by the chances of losing. They may well be right but what will you feel if the situation repeats, again and again? I'm glad the matter is over but I can honestly say that, difficult and stressful though it was, my self respect has enjoyed a tremendous boost and that alone made the whole procedure worthwhile.

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The Gender Centre is committed to developing and providing services and activities, which enhance the ability of people with gender issues to make informed choices. We offer a wide range of services to people with gender issues, their partners, family members and friends in New South Wales. We are an accommodation service and also act as an education, support, training and referral resource centre to other organisations and service providers. The Gender Centre is committed to educating the public and service providers about the needs of people with gender issues. We specifically aim to provide a high quality service, which acknowledges human rights and ensures respect and confidentiality.