

# Victorian Libs' defamatory claims against Dan Andrews may be electoral suicide

If the premier chooses to sue, the opposition would have one possible defence: truth. It would have to prove he had committed some possibly criminal act.



(IMAGE: DAN ANDREWS/TWITTER)

The Victorian Liberal Party lifted its gaze and saw nothing but doom — and so it started doing crazy things. Things Victorian Premier Dan Andrews may be able to sue over.

It's understandable that it would be very, very frustrating to be in opposition to the Andrews-led Labor government: the state is in its fourth major lockdown, it has suffered way harder in COVID-19 cases, deaths and economic carnage than the rest of the country combined, and some of that is demonstrably the state government's fault.

Plus Andrews has the charisma of a holidaying librarian.

But the premier just keeps getting more popular. And that has driven the opposition mad — possibly suicidal.

The Liberals have spent the whole of COVID-19 complaining about everything Andrews does, happily contradicting themselves day to day as they follow the guiding principle that opposition means nothing more than to oppose.

That hasn't worked at all. The Liberals' leader has achieved name recognition equivalent to the recently former Labor leader in NSW, and a presence in the public mind akin to that of a Mr Whippy van that always seems to be a few streets away — unseen but annoyingly heard.

Nothing's working — and presumably the idea of being constructive never made it on to the whiteboard. So they've gone nuclear.

Yesterday the opposition put out a press release noting that Andrews has been on sick leave for 91 days since he suffered a serious injury after a fall and asking a series of questions, including:

- What is the address of the house where the accident occurred, and who owns it?
- Who called the ambulance and what time did it arrive?
- Were the police contacted and did they attend?
- Has Daniel Andrews been interviewed either informally or formally by the police in relation to anything that occurred over that long weekend?

What the public was told at the time, and remains the official account, is that Andrews took a tumble at a holiday home and suffered a very bad injury requiring a long convalescence. He has been unable to return to work but is expected back some time this month.

Rumours have been flying for a while, off the mainstream in the turgid sewers of social media. Something about the accident having occurred at someone else's house, some embarrassing/scandalous thing that is being kept hidden. Or that Andrews is in a far more grave condition or even dead, like Paul McCartney in 1966.

I can happily say I have no idea what the truth is here, and I definitely don't care beyond hoping that Andrews is OK and will recover fully.

The Liberals apparently really do care — that is, they care that the public should be roiling with suspicion. There is no other possible explanation for the press release, launched into a public square that knows nothing more than that the premier is unwell.

The release says nothing, but conveys much. The questions are carefully crafted, not to allege, but to imply. They achieve that in spades. Whose house? Police? The hints couldn't be broader if they were delivered by a dump truck.

What might the law say about this if Andrews is sufficiently offended to call it in? I think it would say that he has a very good case.

Defamation is not about what is said, but what the audience hears. That is contextual; it includes the words in their literal meanings, but also how they are commonly understood. And it includes the other words, the ones hiding between the lines.

Why, an ordinary reader would ask, is the opposition asking these questions about Andrews' injury? What does it know that I don't? It must know something.

The mind goes — because it has been directed — towards something sinister. Perhaps criminal. Definitely concealed. Absolutely something that the public is entitled to know.

The release is, I think, defamatory. If Andrews chose to sue, there would be one defence possible: truth. The publishers of the release would have to be able to prove that the defamatory imputations they have conveyed — essentially that Andrews' injury arose in the context of some form of possibly criminal act, that the police were involved, and that the truth has been concealed from the public — are substantially true.

Otherwise Andrews would be entitled to potentially massive damages. The reputational harm is more than obvious.

This leaves two tantalising possibilities. One is that the Liberals do know something, and there is a massive scandal regarding what really happened to Andrews which could consume his government entirely. The other is that the Liberals have no idea, and have just committed electoral suicide, a defamation so grievous that it might even qualify as criminal, and the grubbiest political act in living memory.

Guess we'll know which it is soon enough.

---

#### ABOUT THE AUTHOR

## Michael Bradley

CRIKEY COLUMNIST [@MARQUELAWYERS](#)

Michael Bradley is a freelance writer and managing partner at Sydney firm Marque Lawyers, which was created in 2008 with the singular ambition of completely changing the way law is practised.

