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## INTERNET MISUSE OR ABUSE AT WORKPLACE A GROSS MISCONDUCT

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### INTRODUCTION

The internet supports a wide variety of communications with access to a vast amount of information and has allowed people virtually unrestricted access to the various websites from their computer. It is an effective means of communication, research, marketing and collaboration. The internet has also made it possible for individuals to work from their home and attend meetings without their physical presence or face-to-face appearance. Further, emails have largely replaced the ordinary postal mail and are the fastest mode of dissemination of messages, files, reports and presentations to more than one recipient at any one time.

In the workplace, access to internet and the use of electronic communications tools such as email facilities is the norm today and in many cases vital for the survival of the business. Many employees today are computer savvy and they frequently use internet and email as a communicative tool to promote the organisation's business. However, excessive use of internet unrelated to work or surfing the net for personal reasons during working hours such as YouTube, Twitter and Facebook can have negative impact on productivity. This includes using internet to check personal sites like social media, downloading videos, uploading photos, playing computer games, doing online shopping and paying bills through the company internet facilities, among others. It has a negative impact on the number of hours employees devote to work, their level of concentration during these hours, and the overall productivity.

Misuse and abuse of internet in the workplace such as downloading and installing unauthorised software and games onto the workplace computers may expose employers to potential liability for breach of copyright under the Copyright Act 1987. Likewise, sending slanderous letters to a public website or sending offensive or sexual emails to co-workers or displaying pornographic or obscene materials on the workplace computer screen, among others, could

*6 MLJ cxi at cxii*

expose the employer to various legal risks such failure to provide safe place of work or defamation suit, among others.<sup>1</sup> An employer may also be vicariously liable for the defamatory statements or publication made online by their employees which has the effect of injuring the reputation of another person or holding such person to hatred, ridicule or contempt.

Again, using the company's internet facilities to promote hatred or contempt or to excite disaffection against any Ruler, Government, the administration of justice or to promote feelings of ill will and hostility between different races or classes of the population among races could pose risk to the employer for abetting

sedition under the Sedition Act 1948. Offences relating to misuse of computers are also regulated by the Computer Crimes Act 1997.

In Malaysia, the courts have taken judicial notice of the fact that cyber and internet infiltrations and crimes are on the increase.<sup>2</sup> The Cybercrime Malaysia, an agency under the Science, Technology and Innovations Ministry, reported that fraud cases detected in cyberspace had jumped 20% in 2017 compared to 2015.<sup>3</sup> Besides fraud, hacktivism, online scams, espionage and harassment have also been on the rise in the past few years.<sup>4</sup> In *Fan Yew Teng v Public Prosecutor*<sup>5</sup> the Federal Court stated:

In any civilised society there must be law and order which are the prerequisites to the advancement of harmonious living and human happiness. It is important to bear in mind that Malaysia has a plural society. Therefore, it is the primary and fundamental duty of every Government to preserve law and order. It is in connection with this function of the Government that the offence of sedition must be looked at. Thus, acts, speeches, words or publications constitute sedition if they have a 'seditious tendency' as defined by the provisions of s 3 of the Act. It is, therefore, not difficult to see why they would be regarded as seditious if they seek to bring the Government into hatred or contempt or to

6 MLJ cxi at cxiii

excite disaffection against the Government; or to promote feelings of ill-will and hostility among races or classes of population in the country.

Again, in *Bax Global Imports (Malaysia) Sdn Bhd v Saravanan Rajagopal*<sup>6</sup> the claimant was dismissed for allegedly writing emails that contained abusive and offensive language in particular to female readers as they contained words of profanity. In upholding the dismissal of the claimant, YA Chew Soo Ho, Chairman of the Industrial Court, stated:

The provision of internet facility is basically for work related matters such as speedy communication via emails, submitting of reports or other relevant documents or materials, quick response to clients, research, internet banking and other legitimate use. It is an abuse to use it as a tool to attack the integrity of one's superior or other employees. Such act is an act which cannot be tolerated and is a violation of the internet policy, a serious misconduct in any organization or industry.

In *Rutinin bin Suhaimin v Public Prosecutor*<sup>7</sup> the appellant was charged and convicted under the Communications and Multimedia Act when he entered a comment 'Sultan Perak sudah gilaaaa' via his internet protocol account. The appellant's was asked to enter his defence mainly based on the inference that since the impugned entry was transmitted using the computer and the internet account of the appellant, it must have been the appellant who made and initiated the transmission of the impugned entry. On appeal, his conviction and sentence was set aside. The appellate court held, inter alia, that the prosecution had failed to establish beyond reasonable doubt that it was the appellant who made and initiated the transmission of the impugned entry. The inference made by the trial court was tantamount to invoking a presumption against the appellant which the existing law did not allow. Having said the above, this article seeks to examine the misuse or abuse of the employer's internet facilities by an employee such as circulating emails that contained abusive language, profanity or accessing prohibited websites among others and its consequence with reference to the awards of the Industrial Court.

### **INTERNET MISUSE OR ABUSE: A GROSS MISCONDUCT**

The relationship between the employer and employee must be one of complete confidence and trust. The employer placed trust and confidence in the employee and this includes trusting them with their properties. An employee

6 MLJ cxi at cxiv

should not betray the trust and confidence reposed on him and this would include misusing or abusing the workplace facilities. In *Southern Bank Bhd v Azmi Ali*,<sup>8</sup> the Industrial Court stated, inter alia, that honesty and integrity are amongst the key characteristics that any employee should possess, no matter what form of employment the employee is engaged in. It may be added that an employee must also uphold their employer's good name and reputation by maintaining a cordial relationship with the company's customers, suppliers, investors and public authorities, among others.

Disparaging remarks should not be made against the employer or cause the company grave embarrassment on the social media. Damage to employer's reputation is reasonably likely to occur when an employee commits sexual harassment against the company's clients,<sup>9</sup> using foul language to a client,<sup>10</sup> sending emails to customers disclosing company's internal problems,<sup>11</sup> publishing anonymous derogatory statements online against the employer and possession of obscene materials at the workplace<sup>12</sup> among other things.

Internet abuse or misuse at the workplace is strictly prohibited. Sending emails via the company email system should not contain illegal images, offensive, vulgar or harassing language. Similarly, sending or posting information that is defamatory to the company and its products or services among others is also prohibited. Again, browsing or accessing certain websites or downloading or uploading illegal files is also prohibited. Likewise, retaining pornographic material in the office computer, sending such materials via company email address to other staff,<sup>13</sup> and sending emails containing

*6 MLJ cxi at cxv*

derogatory, insolent and impertinent language towards a superior officer,<sup>14</sup> among others is viewed seriously and may warrant dismissal from employment, if found guilty.

It is noteworthy that sexual harassment is a serious misconduct at the workplace and in most cases may result in dismissal if the allegation against the complainant is proven. Sexual harassment includes explicit printed materials for example, showing pornographic materials, drawing sexually-based sketches or writing sexually-based letters. The mode of sending the obscene materials can include faxing, short message service (SMS) and electronic mail (email). It would also include visual harassment for example, the displaying of pornographic image on the computer screen. Such display could be something which is not directed to any particular person but which, nevertheless, creates a hostile or humiliating environment for others. This has the potential effect of degrading or offending the opposite sex.

Section 292 of the Penal Code specifically states that it is an offence to have in one's possession or to circulate obscene material. The distribution, exhibition and circulation of obscene books, pamphlets, among others, are also prohibited with penal consequences under the Penal Code. Further, the Communications and Multimedia Act 1998 prohibits communications of pornographic materials via the internet and action would not only be taken against the content providers, but also the service providers for allowing the transmission and the accessing of obscene materials.<sup>15</sup> Apart from the above, the Printing Presses and Publication Act 1984 prohibits pornographic materials under 'undesirable publication'.<sup>16</sup>

*6 MLJ cxi at cxvi*

An employer owes a common law duty to take reasonable care of his workers safety at the workplace.<sup>17</sup> This includes the duty to take necessary measures to protect workers from victimisation and harassment whether sexual or otherwise perpetrated by superiors, peers or subordinates. In *Melewar Corporation Bhd v Abu Osman*,<sup>18</sup> the Industrial Court held, inter alia, that the employer, upon receiving credible information of complaints committed against its employee, was under a duty to inquire into the allegations. If, pursuant to a due inquiry, the allegation of sexual harassment for example is proven, the employer has the duty to act firmly against the errant employee. And in *Waters v Commissioner of Police of the Metropolis*<sup>19</sup> Lord Hutton stated that:

A person employed under an ordinary contract of employment can have a valid cause of action in negligence against her employer if the employer fails to protect her against victimisation and harassment which causes physical or psychiatric injury. This duty arises both under the contract of employment and under the common law principles of negligence, although an employer will not be liable unless he knows or ought to know that the harassment is taking place and fails to take reasonable steps to prevent it.<sup>20</sup>

Further, s 81F of the Employment Act 1955 provides that an employer shall be deemed to have committed an offence if he fails to inquire into complaints of sexual harassment; fails to inform the complainant of the refusal to entertain the complaint of sexual harassment and the reasons for the refusal; fails to inquire into complaints of sexual harassment when directed to do so by the Director General; or fails to submit a report of inquiry into sexual harassment to the Director General. The employer shall, on conviction, be liable to a fine not exceeding RM10,000.

The internet misuse or abuse is further discussed below with reference to the Industrial Court's awards in relation to browsing or accessing prohibited websites, disseminating inappropriate materials to co-workers or external parties using the company computer facilities and sending email containing derogatory or vulgar language to company's senior officers, among others.

6 MLJ cxi at cxvii

### **Browsing and transmitting obscene material**

Assessing or browsing prohibited websites using the office computer and further disseminating the obscene materials to others via the office emails is viewed seriously and may warrant dismissal from employment. In *Ng Hock Cheng v Pengarah Am Penjara & Ors*,<sup>21</sup> the Federal Court stated, inter alia, that the act of disseminating pornographic material is a serious misconduct and more so using the employer's email facilities. In *Lim Chiew Seng v Jobstreet.Com Sdn Bhd*,<sup>22</sup> the claimant was dismissed after he was found guilty of assessing pornographic material using the office computer during working hours and this was witnessed by his colleagues. Again, in *Jaya Balan @ Sundra Raj Suppiah v Texas Instrument (M) Sdn Bhd*,<sup>23</sup> the claimant was alleged to have used the company's computer to receive, view and transmit pornographic material. Further, he had forwarded the obscene material via email to his friends who were not the company's staff. The Industrial Court held, inter alia, that the company's decision to dismiss the claimant had been reasonable.

In *Low Tiam Seng v Panasonic Electronic Devices Malaysia Sdn Bhd & Anor*,<sup>24</sup> the applicant was dismissed after he was found guilty of disseminating pornographic material via the company's official email facility. It was alleged that the claimant had on two occasions used the company's official email facility to disseminate pornographic material to various individuals in the company as well as to external third parties during office hours. In affirming his dismissal, the Industrial Court held, inter alia, that the claimant had performed immoral acts within the company's premises by way of disseminating pornographic materials using his official email. The claimant had also brought the company's image into disrepute as he had used the company's official email to transmit pornographic materials to third parties. In dismissing his application for judicial review against the award of the Industrial Court, Ahmad Nasfy Yasin JC stated:

The applicant contended that the punishment was not warranted and is unduly harsh. In this regard, I am of the view that the employer is the best person to judge the seriousness of a misconduct committed by an employee and accordingly, the appropriate punishment to be noted out.

6 MLJ cxi at cxviii

Again, in *Encik Kelana bin Sidek v Petronas Maritime Services Sdn Bhd*,<sup>25</sup> the claimant was dismissed for abusing the respondent's office computer assigned to him namely, retaining pornographic material in the office computer and further, sending the pornographic materials to numerous staff of the respondent. In affirming the claimant's dismissal, the Industrial Court held, inter alia, that the misconduct committed by the claimant was serious enough to warrant a dismissal. In *Rajakumar Somasundaram v Bursa Malaysia Berhad*,<sup>26</sup> the claimant was dismissed for storing pornographic materials on his office computer. These materials had also been circulated amongst the company staff via email. Likewise, in *Yahya Mat Wazir v Petroliam Nasional Berhad (Petronas)*,<sup>27</sup> the claimant was dismissed when he was found guilty of sending an email via company's facility, to the complainant, an employee of the company, which had amounted to acts of sexual impropriety. Lastly, in *Azami bin Ahmad v Bluescope Steel (Malaysia) Sdn Bhd*<sup>28</sup> the claimant was dismissed after he was found guilty for knowingly retaining and distributing pornographic material using the company's email, in breach of company policy.

### **Sending emails containing derogatory and vulgar language**

Apart from browsing the prohibited websites and disseminating the obscene materials to others within or outside the organisation, an employee should refrain from making offensive or derogatory comments directed at superior, co-worker or any other person in the workplace. The act of abusing the superior and worst still if done in front of his subordinates destroyed the very basis of trust and confidence. In *Intan Zafina A*

*Rahman v Power Cables Malaysia Sdn Bhd*,<sup>29</sup> YA Mary Shakila Azariah, Chairman of the Industrial Court stated: 'the use of derogatory, insolent and impertinent language towards superior officers is treated as a misconduct. Such are languages which lessens or impairs the authority, position or dignity of a person. Insolence is language that is contumacious. The test is whether such a language tends to lower the dignity or position of the superior officer. An employee is expected to act in a manner that is not inconsistent with his relationship which he has with his employer. Otherwise it would be impertinent or derogatory'. In *Florence Chang Mee*

6 MLJ cxi at cxix

*Kheng v Kelab Taman Perdana Diraja Kuala Lumpur*<sup>30</sup> the Industrial Court stated, inter alia, that if rude, sarcastic and abusive language towards superiors is allowed, it will be impossible to maintain discipline among employees and peace and harmony will have to be compromised in the workplace.

Again, in *Jong Siew Fah v Crystal Realty Sdn Bhd*,<sup>31</sup> the claimant was alleged to have banged the table and slam the door to demonstrate her rudeness to COW1, her immediate supervisor. Further, the claimant had the ghastly habit of moaning and groaning when she is assigned a little extra work. In relation to the above, the Industrial Court stated, inter alia, 'rudeness in a workplace is the highest form of disrespectful behaviour and disobedience which should not be tolerated by any employer. Disobedience is misconduct. It is even more serious when it is accompanied by rude behaviour. If an employee is rude to his employer or his agents, the fabric of mutual respect is destroyed and the employer has to move on with the employee just by tolerating him. There will come a time when the rudeness will take a steep gradient where all hell breaks loose and the employer will have no choice but to show the door to the employee with no hesitation. This is what has happened in the case before this court. The claimant's rudeness has gone beyond tolerance as it is manifested by her banging the table and slamming the door to demonstrate her rudeness. By her misconduct she has deemed herself to be a liability to her employer then being an asset, which is always an employer's wish'.

The use of obscene, vulgar, rude or discourteous language in an email against a superior, co-worker or any other person in the workplace is inexcusable and is in stark contrast to the values of a civilized society besides creating a hostile work environment. A worker who makes an unfounded remark about the company or its employees may harm the image and integrity of the company and thus, brings the company into disrepute. In *Perumal Govindasamy v Enkei (Malaysia) Sdn Bhd*,<sup>32</sup> the claimant, a supervisor, was questioned and taken into detention by the police for the loss of aluminium ingots. In the meantime he was suspended and issued a show cause letter by the company. In his reply to the show cause letter, the claimant made certain unfounded allegation against the company and this includes, had used unfair practice, of falsely reporting the claimant to the police as a suspect of theft, of not having conducted sufficient investigation before reporting of such thefts, of victimising the claimant, of not taking care of the welfare of employees in

6 MLJ cxi at cxx

general and the claimant in particular, of treating the claimant like an animal and being inhumane. The claimant further accused the company's management of being weak and old fashioned in its ideas. The company took issue with his reply and issued him another letter seeking an explanation from him. Dissatisfied with his explanation, the company conducted a domestic inquiry, at the conclusion of which he was found guilty of the charges levelled against him and dismissed from service. In affirming the claimant's dismissal to be with just cause or excuse, YA Jalaludin Hussain, Chairman of the Industrial Court, stated:

In this case, COW1 stated that no other employee had thrown accusations at the Management in the manner done by claimant. It would have been a simple matter if the claimant had merely explained to the letter without all the accusations or his reporting to the police or that the Management was weak and old-fashioned. That apart, the company was still prepared to give him a chance and to hear him out at the DI. But he was adamant as ever that he would not apologise or retract the accusation used and that he had written the letter CL2 willingly. He had also maintained his stand that he had no respect for the company and that he distrusted it. These events to mind are a dangerous precedent in an organisation where control, discipline, trust and cooperation were essential components to a good and harmonious relationship between Management and the employees. If no attempt was made to check such wild and baseless accusations and if any employer-employees could say such things about the Management without the realisation that the Management did not look at such behaviour in discipline and consequently the company will suffer from such actions.

Again, in *Jagdish Singh a/l Gill Amir Singh v Bayer Cropscience (M) Sdn Bhd*<sup>33</sup> the claimant altered the content of the banner advertisements in 'The Planter Magazine' and thus, posted an inaccurate representa-

tion of the product namely, that all generic and illegal pesticides were unsafe to the food chain and/or the crops and/or the environment. This inaccurate representation besides causing serious embarrassment to the company was injurious to the company's interest and reputation and exposed the company to potential legal liability. The Industrial Court held that the claimant had failed to discharge his duties and responsibilities expected of an employee at his level and position. The company's decision to dismiss the claimant was warranted and was for a just cause or excuse.

Hence, an employee should not abuse or misuse the employer's internet facilities to tarnish the good name of the company. An employee who violates

6 MLJ cxi at cxxi

the above is deemed to have committed a gross misconduct and may be subject to discipline up to and including dismissal. In *Monash University Sunway Campus Malaysia Sdn Bhd v Zuriati Zulkifli*<sup>34</sup> the claimant in her emails had belittled, ridiculed and discredited the company staff who had disseminated emails informing the university staff about the 'Employee Benefits -- ING Insurance' and 'Sunway Petting Zoo -- Staff tickets.' In fact, the claimant had in the past been sending emails which were rude, insulting and disrespectful. She was issued a written warning and a reminder not to do so the same. Despite the above, the claimant continued to send such emails and this include the subject matter of the charges in this case. The Industrial Court held, inter alia, that such persistent conduct of the claimant and her disregard to the instruction of the employer goes to show that she was uncontrollable and also disruptive to the industrial harmony at the workplace and thus, the university was justified in dismissing the claimant.

Again, in *Chippac Malaysia Sdn Bhd v Wan Ghazulee Wan Mohd Zain*,<sup>35</sup> the claimant was alleged to have sent an email to the other workers in the organisation belittling the good intentions of the company on its 'Employee Stock Purchase Plan'. He was found guilty of the charges level against him and was demoted. The Industrial Court held, inter alia, that the right to demote a workman pursuant to a finding of guilt of the charges of misconduct was a form of disciplinary action open to the employer under its inherent right to impose the most appropriate punishment. Consequently, the company's decision to demote the claimant could not be made subject of a claim for constructive dismissal. The claimant therefore failed to prove that he was constructively dismissed by the company.

In *Amran Ambodai v Telekom Malaysia Berhad*,<sup>36</sup> the Industrial Court held, inter alia, that the email disseminated by the claimant as per the second and third charges contained statements which were defamatory in nature against the company and its senior members. It was further stated that had the said email become viral, it would have adversely affected the image of the company as a major player in the telecommunication industry in Malaysia and would have indirectly impacted on the company's revenue. Again, in *Aliah Annamma Abdullah v Manpoweer Staffing Services (M) Sdn Bhd*<sup>37</sup> the claimant had sent an email to COW1, a senior officer, where her statement in the email was an attempt to lower COW1's reputation and credibility as the Human Resources

6 MLJ cxi at cxxii

Director of the company. The Industrial Court held that the claimant's actions amounted to insubordination and he had made baseless accusations against her superior which was contrary to employer-employee relationship.

In *Malaysia National Insurance Bhd v Ratnawati Mohamed Nawawi*<sup>38</sup> the claimant was dismissed after he was found guilty of having uttered derogatory and vulgar language against her superiors while chatting with her colleagues. The Industrial Court held, inter alia, the punishment of dismissal meted out against the claimant was unjust. It was stated that although the words used were vulgar and derogatory, the said words were not hurled at the faces of the superior officers concerned. It would only amount to gross misconduct if these words were uttered inter-praesentes (face to face) which was not the case here.

Again, in *Ruyati Adanan & Anor v Etika Insurance Bhd*,<sup>39</sup> the first claimant and the second claimant, an assistant manager and vice-president corporate and financial services, respectively were issued show cause letters for allegedly abusing the company's email facilities. They were alleged to have casted aspersions and undermined the authority of the senior management of the company by using derogatory, disparaging and offensive language. Relying on *Ratnawati Mohamed Nawawi's* case, the Industrial Court held that although the words used in the said emails had been derogatory but since it had not been hurled at the face of the senior manager, it does not amount to gross misconduct. Thus, the company had failed to make out the misconduct that had justified the claimants' dismissals. Accordingly, their dismissals had been without just

cause and excuse. Finally, in *ULF Ernst Keil v Siemens (M) Sdn Bhd*<sup>60</sup> the claimant was dismissed after he was found guilty of emailing to the company's customers of his dissatisfaction with his immediate superior. The company found that the claimant's acts rather unbecoming of the claimant and a serious misconduct that he had communicated internal matters to its customer.

Having said the above, it is worth noting that today many organisations have provisions on internet access policy in their employment handbook which provides inter alia, that internet access should be limited to job-related activities and thus, personal use of it is prohibited. The company reserves the right to monitor, record and review the use of the email traffic, internet access and internet based communications. The company is also empowered to monitor access to or distribution of all data which enters the company network,

6 MLJ cxi at cxxiii

undertakes software audits to ensure compliance to licensing obligations and to review any other information stored on company's computers. Breach of the company's internet access policy could result in disciplinary and/or legal action leading up to and including dismissal from employment. Further, the employee may also be held personally liable for damages caused by any violations of this policy.

## CONCLUSION

The internet facilities and company-provided telecommunication equipment's should not be used for transmitting, retrieving or storing any communications of a defamatory, discriminatory, harassing or pornographic nature. Workers should not use the company internet facilities to infringe the company and third party copyright or intellectual property rights. Likewise, they should not use company emails to distribute political, violence, obscene, profane, racist, defamatory, fraudulent or harassing messages. Misuse and abuse of workplace internet facilities may expose the employer to various legal risks such as breach of copyright, abetting sedition, failure to provide safe place of work or defamation suit, among others.

In order to prevent liability the employer must take prompt action against the errant employee who has violated the company's internet policy. Using company's computer and internet facilities for any of the following purposes may warrant dismissal if found guilty namely, viewing, downloading or sending pornographic materials, sending hate email or slanderous letters containing words which damages the company's reputation, downloading protected music/software files, uploading illegal materials to a public website, hacking or cracking passwords and viewing illegally gained access to a network, among other things. In short, workplace internet access should be limited to job-related activities and any misuse or abuse of it could result in disciplinary action leading up to and including dismissal from employment.

1 See for example *Public Prosecutor v Rutinin Suhaimin* [2013] 2 CLJ 427, where the accused was charged in the sessions court for committing an offence under s 233 of the Communications and Multimedia Act 1998 for posting a remark on the online visitor book of the homepage of the HRH Sultan of Perak stating that the HRH Sultan of Perak was mad. Again, in *Ahmad Rizal Mat Noh v Naza Bikes Sdn Bhd* [2013] 2 LNS 0927 the claimant's dismissal allegedly on grounds of sending emails that contained statements insulting the respondent's superiors was held to be with just cause or excuse.

2 See *Md Daud Baba v Bank Islam Malaysia Berhad* [2013] 2 LNS 1308.

3 *Cybercrime Surge in Malaysia* at <https://www.thestar.com.my/business/business-news/2017/05/20/rates-of-cyber-crime-higher-now/#HLvR6Gi9jXB3tllm.99>.

4 *Cyber threats on the rise in Malaysia* at <https://themalaysianreserve.com/2017/07/24/cyber-threats-rise-malaysia/>.

5 [1975] 2 MLJ 235; [1975] 1 LNS 38. See also *Pendakwa Raya v Karpal Singh a/l Ram Singh* [2012] 4 MLJ 443; [2012] 5 CLJ 580.

6 [2007] ILJU 504; [2007] 3 ILR 434.

7 [2014] 5 MLJ 282; [2015] 3 CLJ 838.

8 [2003] 1 ILR 614.

9 See *Colgate-Palmolive (M) Sdn Bhd v Yap Shyan Meng* [2007] 2 ILR 313.

10 See *Perabut Van Hin Sdn Bhd v Lee Lay Lay* [2002] 3 ILR 824.

11 See *Ulf Ernst Keil v Siemens (M) Sdn Bhd* [2015] 1 ILR 73.

12 In *Che Omar Ahmad v Petroliam Nasional Bhd* [2011] 2 LNS 0137, the claimant, the Head of Security, was found guilty of having in his possession obscene pictures.

13 See *Encik Kelana bin Sidek v Petronas Maritime Services Sdn Bhd* [2010] ILJU 1361; [2011] 1 ILR 155.

14 See *Rachel Mathews & Anor v BASF (Malaysia) Sdn Bhd* [2008] 3 ILR 709; *Intan Zafina A Rahman v Power Cables Malaysia Sdn Bhd* [2010] 1 ILR 338; *Molex (M) Sdn Bhd v Kang Siew Bee* [2004] 1 ILR 684. In *Mior Rosli bin Mohd Jaafar v Bumi Armada Berhad* [2009] ILJU 153; [2009] 2 ILR 39, the claimant was dismissed for being rude in his email where he had stated in that email that it had been illogical for him to be transferred to Johor to manage the human resources of the third company given his qualifications, seniority and experience in the first and second companies. The contents of the second email had been grossly insubordinate and had gone beyond acceptable bounds. In *Encik Chen Kong Men @ Chen Tat Kuan v Asia Travel Mart Sdn Bhd (formerly known as Asia Travel Network Sdn.Bhd)* [2006] ILJU 24; [2006] 4 ILR 2343 the claimant's email contained rude, abusive and derogatory remarks about COW1.

15 See ss 211 and 233 of the Act.

16 Section 7 of the Act defines 'undesirable publication' as articles, photographs, writing, sound, music and statements in any manner which is prejudicial to the order of the society.

17 See *Gelau Anak Paeng v Lim Phek San & Ors* [1986] 1 MLJ 271.

18 [1994] 2 ILR 807, 840.

19 [2000] 4 All ER 934 (HL).

20 *Ibid*, at p 942.

21 [1998] 1 MLJ 153 at p 159.

22 [2013] 3 ILR 664.

23 [2013] 3 ILR 502.

24 [2012] MLJU 452 (HC); [2011] 1 ILR 567 (IC).

25 [2010] ILJU 1361; [2011] 1 ILR 155.

26 [2015] 3 ILR 162.

27 [2015] 2 ILR 201.

28 [2009] ILJU 148; [2009] 1 ILR 433.

29 [2010] 1 ILR 338.

30 [2013] 2 LNS 1895.

31 [2006] ILJU 50; [2006] 2 LNS 1115.

32 [2013] 3 ILR 408.

33 [2014] 1 ILJ 356; [2013] 2 LNS 1645.

34 [2008] 2 LNS 1114.



35 [2012] 4 ILR 336.

36 [2014] 2 LNS 1209.

37 [2014] 2 LNS 1189.

38 [2007] 1 ILR 189.

39 [2010] 2 ILR 36.

40 [2015] 1 ILR 73.

