issue two | summer 2013

L'avvocato

CANADIAN ITALIAN ADVOCATES ORGANIZATION

www.ciaocanada.com

What's Inside

President's Message/ Messaggio del Presidente

Vince A. Pileggi

Vince A. Pileggi

One year ago, we charted an ambitious course for the Canadian Italian Advocates Organization. It was a year of rebuilding, repositioning, and strengthening our brand. It was a plan that was wholly supported by a new Board of 15 committed and like-minded individuals. Building on our rich history, we set out to not only bolster our membership base but to make our organization more accessible and more meaningful for our members.

I am pleased to report that after much hard work and perseverance, we achieved these lofty goals and objectives and, in many respects, we have surpassed them. This report is intended to highlight some of these achievements.

Continuing Professional Development

For the first time, CIAO has hosted three top-tier, robust, Continuing Professional Development seminars accredited by the Law Society for professionalism hours. We have succeeded in attracting key presenters such as our legal insurer, members of the judiciary, and other respected legal experts. These seminars were offered free of charge for attendees and, as is the case with many of our functions, they included a great meal.

Given that this was our first foray into this highly competitive domain of continuing legal education, this was not an easy feat.

This experience has, however, given us the opportunity to develop a tried and tested delivery protocol upon which future programs will be based. We have a great line-up of seminars the upcoming year. Visit our website at ciaocanada.com for details.

Seminars for Students

Last year marked the first time we held a legal symposium for Summer and Articling students. Given its popularity, we are planning another one this year. It will focus on best practices for setting up a law practice.

Membership

Membership is a perennial challenge for organizations such as ours especially when there is a limited base and when many much larger organizations appear to have much

CONTINUED ON PG. 2

CONTINUED FROM PG. 1

more to offer. I would argue, however, that our uniqueness, our warm approach, and our rich history set us apart from all others.
We will continue to reach out to law students across the Province and, indeed, across the country seeking to attract new members. We have also made it a priority to keep in constant contact with our members.

Sponsorships

One other project of which we are very proud is CIAO's recent sponsorship of the Chief Justice of Ontario Fellowship in Legal Ethics and Professionalism. This worthy initiative is aimed at promoting professionalism in the practice of law, encouraging scholarship in the academic discipline of legal ethics and developing uniquely Canadian materials in this discipline. Upon completion of the fellowship, CIAO will become the beneficiary of this material which we hope to share with our membership.

Reaching out

Last year, we had the opportunity to reach out and make allegiances with other organizations. Last spring, for instance, we spent time with our colleagues at the Canadian Association of South Asian Lawyers Annual Gala. It soon became obvious that there is much opportunity for dialogue and for planning joint events.
We were also proud to become patrons of the Metro Toronto Lawyers' Association Diversity Soiree.

New website

Our Board has also seen fit to invest in a much improved, state of the art, website. Although designed primarily as a communicative tool, the site's functionality will have the capacity not only to facilitate online bookings for legal seminars, social events and annual meetings, but we will also be able to merge member information with our own data bases. This will go a long way in ensuring that member information is kept current and that memberships are annually maintained. By the end of this year, we will also have a social presence on Facebook, Twitter and Linked in.

Public Education

Finally, building on the successes of the past, CIAO has always demonstrated its commitment to public education. Last year was no exception. In April each year, CIAO hosts an annual Mock Criminal Trial held to commemorate the entrenchment of the Canadian Charter of Rights and Freedoms. Each year, members of this organization put on a demonstrative exercise for high school students taking them through the criminal process from arrest to verdict. Last year over 800 students attended the event. We expect the same positive response this year. We also recently launched an essay-writing competition for high school students. For more information, visit ciaocanada.com.
I would like to thank the members of our Board and the many members of the Judiciary who have, over the years, given much time and effort towards these initiatives.

Festa Di Natale

Our ever-popular Festa Di Natale also proved to be very successful. It was great to see and catch up with so many colleagues and members of the judiciary.

Judges Night

Our annual Judges Night was, yet again, a resounding success. Held in downtown Toronto, we had the pleasure of honouring the achievements of Justice Anthony Cusinato who recently retired after serving some 28 yeasrs on the Bench. We wish Justice Cusinato all the very best on his retirement.

AGM

On February 13, 2013, we held our Annual General Meeting. Most of the Board was re-elected for another term. Antonietta Raviele was also elected as a new director. Welcome aboard Antonietta!

Although proud of our achievements, much work remains. We have an ambitious agenda over the course of the remaining year which we can only accomplish with your continued support. We welcome new ideas. If you have a suggestion for a cpd topic, an initiative or would simply like to volunteer, please do not hesitate to contact me. You may do so by sending me an email at president@ciaocanada.com or by phone at 416-744-9595.
Rimaniamo sempre fieri delle nostre radici.
Distinti Saluti

PJ Enforcement

Adam Nathanson & Grace Latini

As a litigator, you've drafted your claim, served it on the other party, and that party has now failed to defend the action. Thereafter, you obtain judgment for all claimed amounts.
Now what?
Many unsecured creditors find themselves in this position. It is important that lawyers understand the various mechanisms for post-judgment enforcement included in Ontario's Rules of Civil Procedure.
A happy client is a client who can collect their outstanding debt. An unhappy client is one who collects unenforceable judgments. This article briefly summarizes three post-judgment enforcement mechanisms enforceable against individuals and available to unsecured creditors in Ontario.
First, if a debtor owns property, a lawyer should immediately issue and file a writ of seizure and sale in the jurisdiction(s) where the debtor resides. The writ is effective for six years and precludes the debtor from disposing of or refinancing their property, unless the creditor withdraws their writ. This writ

CONTINUED ON PG. 3

CONTINUED FROM PG. 2

can be renewed before the expiry of the six-year term without leave of the court. In circumstances where a judgment amount is high enough and the debtor's property has sufficient equity, an unsecured creditor may consider directing a Sheriff's sale of the debtor's equity in the property.

A lawyer must be careful to file the writ with the exact same name displayed on the title of the property. If the debtor's name on title is different from the name on the writ, the writ does not bind the property. Therefore, the prudent lawyer will conduct a property search before issuing a claim to ensure that the spelling of the debtor's name is properly included as an "aka" within the title of proceedings.

Adam Nathanson (Associate)
Kronis, Rotsztain, Margles, Cappel LLP
Barristers & Solicitors

Grace Latini (Partner)
Kronis, Rotsztain, Margles, Cappel LLP
Barristers & Solicitors

If a debtor has monies owed to them, a creditor may garnish these funds. For instance, if the debtor is employed, a lawyer may advise their client to garnish the debtor's wages. A lawyer should confirm the debtor's employment with the payroll department of the potential employer (aka the "garnishee") before proceeding with garnishment.

If the debtor is considered an employee of another, under Ontario's Wages Act, a creditor may garnish twenty percent of the debtor's net wages. If the debtor qualifies as an independent contractor of the garnishee and not an employee, a creditor could garnish one hundred percent of the debtor's commissions or other amounts owed from the garnishee to the debtor. A garnishment is also effective for six years for every pay period, and can be renewed before the expiry of this term without leave of the court.

In such cases, the lawyer must determine the proper name of the garnishee through a corporate name search. If the garnishee is misnamed on garnishment documents, a creditor may have no recourse against the garnishee if they refuse to remit the debtor's wages or commissions pursuant to the garnishment.

Last, if a lawyer is unable to ascertain information on the debtor which allows for collection, a creditor may conduct an out-of-court examination in aid of execution of the judgment. This type of examination is under oath, and the creditor could learn about potential property ownership, employment, and bank accounts held by the debtor to aid post-judgment enforcement.

Missed a Limitation Period?

All is Not Lost if a Limitation Period is Missed

Joseph J. Bellissimo

Missing the limitations period for bringing a court action to recover a debt does not extinguish other legal rights and remedies in respect of that debt, such as bringing an application for bankruptcy or proving a claim in a bankruptcy estate.

In Re Bankruptcy of Kenneth Temple, a 2010 decision of the Ontario Superior Court, the Gores lent money to Temple and his business partner in 2006 to fund a number of real estate ventures. Temple made some payments against the debt, the last of which was made in 2007. In 2011, the Gores brought an application for a bankruptcy order against Temple. At the time of the application, the Gores were owed $350,000 in principal and more than $475,000 in accrued interest.

Joseph J. Bellissimo
Joseph J. Bellissimo is a partner with the Restructuring and Insolvency Group at Cassels Brock.

The bankruptcy application was issued more than two years after the debt was due and no action had been commenced to collect on the debt, as required under Ontario's Limitations Act, 2002 (the "Limitations Act"). One defence raised by Temple was that the debt owing to the Gores was statute-barred. Temple argued that the expiration of the limitation period prevented the Gores from taking action against Temple

Eleonore L. Morris
Eleonore L. Morris is a lawyer in the Restructuring and Insolvency Group and Financial Services Group at Cassels Brock.

CONTINUED ON PG. 4

Events & News

Upcoming Events

JUNE 20TH	Estates & Family Law: Crossover Issues
SEPT. (TBA)	Health Law (CPD)
OCT. (TBA)	Judges' Night
NOV. 29TH	Festa Di Natale - at *Columbus Centre*
JAN. 22ND, 2014	Research Techniques (CPD)

C.I.A.O.'s New Board of Directors

Vince A. Pileggi
President

Tony Di Poce
Secretary/Treasurer

Frank Mendicino
Vice-President

Rosanne Giulietti
Vice-President

Glen Perinot
Vice-President

Antonietta Raviele

Rudi Covre

John Spina

Joe Bellissimo

Joanne Bruno

Lisa-Marie Buccella

Lisa Corrente

Antonio DiDomenico

Marco Falco

Deanna Stea

CONTINUED FROM PG. 3

in respect of the debt, including by way of an application for bankruptcy.

In the first Canadian case to deal with this issue, the Superior Court ruled that the Limitations Act does not apply to a bankruptcy application.

The Limitations Act works to prevent a party from commencing a proceeding in respect of a "claim" after a designated period. The Limitations Act defines "claim" to mean "a claim to remedy an injury, loss or damage that occurred as a result of an act or omission". The Court held that it could not reasonably be said that a bankruptcy application is a proceeding in respect of a "claim to remedy an injury, loss or damage that occurred as a result of an act or omission".

After a thorough analysis of the common law, including English cases, and a comparison of other provincial limitations regimes, the Court concluded that the Limitations Act does not extinguish the debt itself, but only bars an action from being commenced in respect of it. In other words, it extinguishes a procedural remedy.

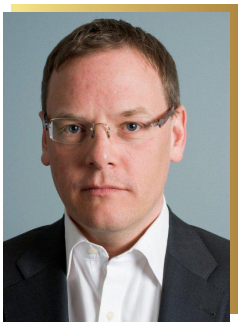
Accordingly, the debt continues to exist and can form the basis for a bankruptcy application. The Court also held the debt can form the basis for a provable claim by a creditor in bankruptcy. This conclusion would not, of course, preclude an order in a proper case under section 43(11) of the Bankruptcy and Insolvency Act, i.e. staying a bankruptcy application if it were inequitable to permit the application. Presumably, if a significant time has elapsed between the expiration of the applicable limitations period and the commencement of a bankruptcy application, a court may find the application to be inequitable notwithstanding that there is a debt still due.

Book Review

Mario Bellissimo & Louie R. Genova,
Immigration Criminality and Inadmissibility
(Toronto: Carswell: 2009) Looseleaf, approx. 556 pages, $150.00

Joseph Di Luca

The intersection of criminal and immigration law is visited daily by lawyers in busy urban centres and elsewhere. The intersection is not only interesting from a legal perspective, but is vitally important from a policy perspective in that it directly shapes the communities we live in. In the post 9/11 world , the international movement of people has gained attention and prominence. Governments have taken a liking to "clamping down" on the arrival of immigrants and getting "tough on crime."



Joseph DiLuca
Certified Specialist
(Criminal Law)

At the same time, human rights issues remain front and center as public inquiries have revealed abuses in relation to individuals suspected of terrorist activity. Needless to say, having a working knowledge of this increasingly technical and complicated area of law is important.

The authors, each highly accomplished in their respective fields of immigration and criminal law, make it their primary task to "make sense of the confusion" that arises from separating serious criminals from those who have made a mistake but, if given a chance, will go on to become productive members of Canadian society. This is not a simple task. Like many areas of law, immigration law is a specialty. This book aims to provide a practical and strategic guide to navigating a complex area of law and in my view, it succeeds.

The book consists of ten chapters, each starting with a brief executive summary, providing the reader with a useful overview of the content its contents. The substance of the chapters are neatly divided by topical headings,at times using a helpful question and answer style to further elaborate on notable issues. The statutory framework relevant to each chapter topic is set out, supplemented by a discussion of key issues related to the statutory provisions and related policies in question. The substantive discussion is followed by case summaries detailing key decisions interpreting or applying the statutory provisions. Where appropriate, the authors have included a discussion of emerging trends from recent reported decisions. Several of the chapters conclude with "Top Ten Practical Tips," a list of practical advice

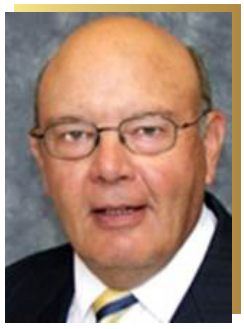
CONTINUED ON PG. 5

CONTINUED FROM PG. 4

not easily gleaned by simply reading the Act or related policies, but rather picked up over time by practising in the area. These tips are most useful for practitioners new to the area, who may be familiar with the law but not certain on the mechanics and strategies that are most useful in advancing a client's case. In addition, some of the chapters include detailed precedents that can serve as a starting point for various written submissions, letters and legal arguments. Again, these precedents provide a useful and practical tool for bridging the gap between technical legal knowledge and practical skill and experience.

In my opinion, this book should be in the office of anyone who practices immigration and criminal law. Indeed, this is an area of law where criminal lawyers routinely operate blindly. Case resolutions are often reached without a proper consideration of the immigration consequences. The impact of these ill-advised resolutions has reached the appellate level (see for example R. v. B.R.C., [2010] ONCA 561). In the interests of properly serving one's clients, this book will enable lawyers (and judges) to get up to speed on the immigration law consequences of criminal law proceedings.

Multi-Cultural Issues in Mediation



Paul Iacono

Paul M. Iacono Q.C. was called to the Ontario bar in 1972. Up until 2002, he practiced civil litigation, primarily in the area of insurance and damage disputes. In 2003, he founded YorkStreet Dispute Resolution Group Inc. and has worked as a third-party neutral right up until the present time He is currently on the board of governors of the international Academy of mediators.

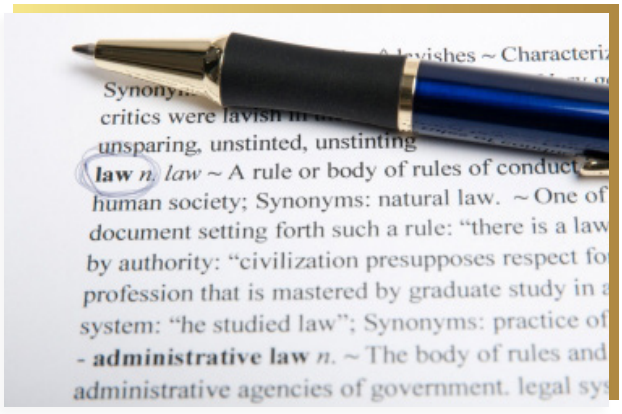
Paul Iacono

In the province of Ontario currently, any legal dispute that becomes part of the civil justice system will almost certainly end up at mediation. Alternative dispute resolution and especially mediation is so entrenched in our current civil justice regime that any lawyer who intends to practice in this area must be prepared to hone his or her skills when representing a client at mediation.

One of the things that dramatically affects the outcome of the mediation, is the chemistry created by the people who are in attendance at the session. Thinking about who will be in attendance at the session is something every lawyer and every mediator should think about. It is a crucial part of everyone's preparation for the session. I have seen situations where a mediation fails because due consideration has not been given to this issue. Clearly, our jurisdiction is a beehive of multiculturalism.

This issue affects dramatically the atmosphere in which the mediation takes place. It is an issue that must be considered. Think of the difference there would be in mediating a fatal accident case, where the family of the deceased was Italian as opposed to German or English. I recognize that it is politically incorrect to stereotype races, but cultural issues are a significant factor. Think about the example of the fatal accident; let's suppose the family of the deceased is Italian. The author Luigi Bardzini once compared our fellow countrymen to a thoroughbred racehorse; "the Italians think with their blood." This kind of mediation in these circumstances is going to be emotionally charged. This requires special preparation. This would be a legal dispute where a catharsis would be necessary. Bringing this about, is the responsibility of the mediator, but he or she will need the assistance of counsel. In these circumstances premeditation telephone calls between the mediator and Counsel are helpful. Some things that might be discussed with Counsel for the family are whether or not one family member is more sensitive than the other, or whether or not the family, or individual members of the family have come to grips with their grief. With that knowledge the mediator will know where to focus attention. A conversation that might be useful between the mediator and the defense counsel is whether or not the lawyer or his client, who will be in attendance, can handle the expression of condolences and/or an apology. This can be a risky strategy. The mediator should not suggest this unless he or she is fairly confident that it can be accomplished, by the defense. If it doesn't work, the result is disaster. Not everyone can pull it off. This is all about setting the stage for a successful mediation. It is a certainty that the emotional issues will have to be settled before you can deal with the legal issues.

When the mediator makes an opening statement in the mediation, if he or she is armed with the right information, coming from counsel, these emotional issues can be dealt with right at the outset. Sometimes in these kinds of disputes there is an element of bitterness between the parties, or sometimes the lawyers



themselves do not get along. Counsel should warn the mediator, when ever a "hot button issue" exists. This can be done by a telephone conversation before the session begins. Armed with this knowledge in advance a good mediation will turn all their concerns into non issues.

Once again referring to the specific kind of case, the cultural issues have to be considered during the specific negotiations. In a situation where emotional issues are running high, on the part of the plaintiff it is incumbent upon the defense to make proposals that can be supported logically and with good jurisprudential arguments. In these kinds of circumstances, it is a significant strategic error to make lowball offers that the other side will find insulting. It makes the catharsis, an impossible goal.

CONTINUED ON PG. 6

CONTINUED FROM PG. 5

It may be that counsel for the plaintiff is having client management issues in terms of their expectations; if he is; he should alert the mediator in advance. If as a result of his client's expectations the plaintiffs representative makes an offer that is beyond the range of an achievable result opposing counsel should point this out, while responding with a proposal that is within that range.

In these kinds of cases negotiating issues are sensitive and must be handled carefully. At the very least the mediator should be able to say to the opposing client this is an achievable result based on the jurisprudence.

Think of how different this mediation would be if the participants were from the Middle East or Southwest Asia. In those cultures, a potential fatal accident is around every corner and sudden death is a part of every day life. When these cultures become engaged in a legal dispute; it is almost like a chess match. They are ultimately trying to out maneuver their opponent, sometimes using spurious arguments. They're negotiating style is very different as well. For them, negotiating a legal dispute is no different than a day at the "Kensington market". For them, the process of negotiating and bargaining is as important as the outcome. It creates a different kind of chemistry at the mediation that is separate and apart from the legal issues, and/or the damage issues, and it must be dealt with and thought about, is advance.

I have discussed only a few situations where cultural aspects play a role in the outcome; I am sure you could think of many others. The thrust of my comments, is merely to illustrate that these are things you must think about when you go into a mediation, whether you are the mediator or counsel.

Health Law: Student Advocacy Project

Rosanne Giulietti - CIAO Vice-President

One of the many community projects in which CIAO and its members are involved is the Health Law Student Advocacy Project (the "Advocacy Project"), a unique access-to-justice initiative established by CIAO's Past President, Joe Colangelo.

In partnership with the Medico-Legal Society of Toronto (the "MLST"), the Faculty of Law at the University of Toronto, and Osgoode Hall Law School, the Advocacy Project provides pro bono legal assistance to complainants before the Health Professions Appeal and Review Board (HPARB). The programme also serves as an invaluable teaching tool to its law student participants.

The HPARB is an administrative tribunal which reviews decisions made by the Complaints Committees of Ontario's health professional Colleges. The request for a review typically involves an allegation that the regulated health college erred in refusing to pursue disciplinary proceedings against a health care professional. As is often the case with administrative tribunals, many of the complainants are unable to afford legal representation. The Advocacy Project seeks to address this problem by providing complainants with legal assistance by law students, who are trained, mentored, and supervised by volunteer doctors and lawyers. Working in teams of two, the students meet with complainants, prepare written and oral submissions, and advocate on behalf of their clients at the review hearing. They receive training in how to understand medical records, the principles of professionalism and civility for lawyers, and general training in health law. Prior to their hearing, the students engage in a mock hearing before a panel of the legal and medical mentors in order to practice and hone their advocacy skills.

A Student's Perspective

Deanna Barbieri - Law Student: University of Toronto

Becoming involved in an association like CIAO is a great way for lawyers and law students to expand their networks, develop skills, and engage in the community.

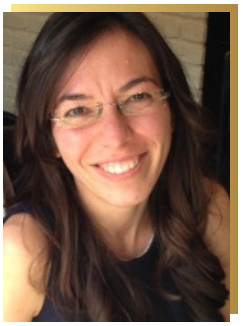
In the legal field, networking is essential to making connections and building relationships with other members of the profession and potential clients and employers. For many, networking is not something that comes naturally and it can be a very stressful experience. Belonging to an association like CIAO offers members the opportunity to meet other lawyers with similar interests, various levels of experience, and in the case of CIAO, a shared cultural background. It is a great means through which young lawyers and law students can interact with senior members of the bar in a collegial environment. In addition to networking, there are also opportunities for continuing professional development as CIAO offers a number of educational seminars on various topics.

For law students, joining an association like CIAO can be particularly beneficial. In my own personal experience, as a student going through the process of applying for articling positions, my membership in CIAO is something that interviewers often express interest in. In a couple of instances, those interviewing me were themselves members of the association, making for a great conversation starter. More valuable than the networking and learning opportunities though, membership in an association like CIAO offers a sense of belonging; a feeling that you are part of a community, made up of individuals connected by a shared profession and a common cultural heritage. From the perspective of a student member, this connection is invaluable. I encourage members to continue to reach out to students and to other young lawyers who I think can benefit greatly from belonging to an association such as this one.

La diffamazione col mezzo della stampa: il caso Sallusti

Sabina D'Antonio

La vicenda che ha coinvolto il direttore del noto quotidiano italiano "Il Giornale", Alessandro Sallusti, ha recentemente riacceso un vivace dibattito nell'ambiente giornalistico, nonché a livello legislativo e politico, sul tema della responsabilità dei direttori per i reati commessi col mezzo della stampa e del rapporto tra libertà di espressione e la diffamazione a mezzo stampa.



Tutto ha avuto inizio nel 2007 con la pubblicazione sul quotidiano "Libero", di cui il Sallusti all'epoca era direttore, di un'intervista, firmata con lo pseudonimo "Deyfrus", avente ad oggetto il delicato caso di aborto di una tredicenne autorizzato dal Tribunale e nella quale sarebbe stato diffamato un membro dell'organismo giudiziario statale. Ferma l'impossibilità di individuare l'autore effettivo, l'allora direttore è stato condannato in primo grado all'ammenda di 4mila euro ed in secondo grado alla pena di 14 mesi di reclusione.

Lo scorso 26 settembre, infine, la Suprema Corte di Cassazione con la sentenza n. 41249 ha confermato la condanna per il reato di diffamazione aggravata ad un anno e due mesi di reclusione.

Nella storia del giornalismo italiano sono numerosi i casi di condanna per diffamazione, ma del tutto eccezionali sono quelli che hanno comportato l'applicazione dell'extrema ratio della reclusione. Il clamore e le polemiche suscitati dal caso specifico, infatti, hanno fatto riemergere l'opinione, largamente diffusa, della sproporzione della misura della pena detentiva rispetto al reato di diffamazione ed hanno reso urgente ed attuale l'esigenza di modifica della disciplina del reato contenuta nella legge 8 febbraio 1948 n. 47 (cosiddetta Legge Stampa) e nel codice penale italiano.

Gli artt. 57 e seguenti c.p. si occupano dei reati commessi a mezzo della stampa periodica e non periodica, configurando in particolare la responsabilità del direttore della testata. Quest'ultimo risponderà a titolo di colpa del reato, in quanto il mancato impedimento dell'evento (il reato commesso a mezzo stampa) è attribuibile alla sua colpa, ovvero solo se abbia omesso il controllo sulla pubblicazione, sempre che fosse prevedibile ed evitabile. Il principale reato commesso attraverso la stampa è senza dubbio la diffamazione, fattispecie che, ai sensi dell'art. 595 c.p. si realizza tutte le volte in cui taluno, "comunicando con più persone, offende l'altrui reputazione", fuori dei casi di configurabilità del reato di ingiuria ex art. 594 c.p.; il colpevole è punito con la reclusione fino a un anno o con la multa fino a euro 1.032, salvo l'inasprimento della pena in presenza delle circostanze aggravanti enucleate nei commi successivi. Pertanto, quando viene commesso un delitto doloso mediante la pubblicazione su un periodico, al direttore l'illecito può essere rimproverato in due forme: per colpa, ex art. 57 c.p., qualora si possa ipotizzare che egli non abbia volontariamente contribuito alla realizzazione del medesimo; oppure direttamente (per concorso) quando sussistano indici che, in ordine al fatto concreto, consentano di ritenere che, viceversa, egli abbia previsto e voluto la condotta o l'evento. Nella fattispecie, la Cassazione Penale ha ascritto al Sallusti il delitto di diffamazione ex art. 595 c.p., aggravata dall'art. 13 Legge Stampa, in concorso con l'autore dell'articolo (e non quello di omesso controllo ai sensi dell'art. 57 c.p.).

Immediata è stata l'iniziativa legislativa di presentazione del DDL S. 3491 e abb., Modifiche alla legge 8 Febbraio 1948, n. 47 e al codice penale in materia di diffamazione, contenente, tra l'altro, l'abolizione del carcere per i giornalisti, proprio il 28 settembre, durante la pendenza del termine legale di sospensione di trenta giorni concessi per l'esecuzione della sentenza di condanna del Sallusti. L'iter legislativo del disegno di legge parlamentare di riforma, tuttavia, è stato bloccato nel momento dell'approvazione finale, in occasione del quale, attraverso l'esercizio del voto segreto, il testo è stato bocciato. Resta ferma l'urgenza dell'intervento normativo in materia, dettata dall'esigenza di adeguamento della legislazione italiana, anche attraverso un confronto con altri sistemi normativi occidentali (ad esempio, in Gran Bretagna il reato di diffamazione è stato depenalizzato nel 2009; nei Paesi Scandinavi sono previte le sole pene pecuniarie), soprattutto in ottemperanza alle indicazioni della Corte Europea dei Diritti dell'Uomo di Strasburgo che, nella sentenza del 2 aprile 2009 relativa al ricorso 2444/07, Kydonis, ha così statuito: "Il carcere, ancora previsto in casi di diffamazione a mezzo stampa negli ordinamenti dei Paesi membri, ha un effetto deterrente sulla libertà del giornalista di informare, con conseguenze altrettanto negativo per la collettività che ha il diritto ricevere informazioni e opinioni." I Giudici Europei hanno affermato, inoltre, che la pena detentiva per chi esercita la professione di giornalista è incompatibile con la libertà di espressione sancita dalla Convenzione Europea dei diritti dell'uomo, ciononostante, potrebbe essere prevista solo per chi incita alla violenza o all'odio.

La presente vicenda si e' conclusa il 21 dicembre, quando il Presidente della Repubblica, Giorgio Napolitano, ha concesso la grazia al direttore Sallusti.

ADDENDUM: La presente vicenda si e' conclusa il 21 dicembre, quando il Presidente della Repubblica, Giorgio Napolitano, ha concesso la grazia al direttore Sallusti.

Sabine D'Antonio

Sabina D'Antonio was called to the Lanciano Bar in 2010. Her practice is focused on Civil Litigation, in particular in Inheritance and Property issues. She offers legal aid in Italy, Toronto and Melbourne

C.I.A.O. Photo Gallery

C.I.A.O Board of Directors

Vince. A. Pileggi addressing attendees of our Festa di Natale

C.I.A.O student representatives at Osgoode Hall Law School during our orientation week