

Court Book

No. NSD102 of 2023

Federal Court of Australia
District Registry: New South Wales
Division: General

Bruce Lehrmann
Applicant

Network Ten Pty Ltd
First Respondent
Lisa Wilkinson
Second Respondent

Lisa Wilkinson
Cross-Claimant

Network Ten Pty Ltd
Cross-Respondent

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202	30/01/2023	Email from Ms Wilkinson to Ms Saunders with further queries to draft 1529	MRS-1	204 - 210	844 - 850
203	30/01/2023	Email from Ms Wilkinson asking further questions in reply to Ms Saunders 1529	TTS-1	393 - 399	851 - 857
204	30/01/2023	Email from Ms Saunders in reply to Ms Wilkinson's further queries 1659	MRS-1	211 - 214	858 - 861

205	30/01/2023	Email from Ms Saunders in reply to Ms Wilkinson's further questions 1659	TTS-1	400 - 403	862 - 865
206	1/02/2023	Email from Ms Wilkinson to Ms Saunders providing link to media reports 1210	MRS-1	215 - 217	866 - 868
207	1/02/2023	Email from Ms Wilkinson to Ms Saunders, Mr Fordham and Ms Smithies 1210	TTS-1	404 - 406	869 - 871
208	1/02/2023	Email from Ms Wilkinson in reply to Ms Smithies 1210 1334 1713	MRS-1	224 - 229	872 - 877
209	1/02/2023	Email from Ms Wilkinson in reply to Ms Smithies 1210 1334 1713	TTS-1	412 - 417	878 - 883
210	1/02/2023	Email from Ms Smithies to Ms Wilkinson 1210 1334 1713 1724	MRS-1	218 - 223	884 - 889
211	1/02/2023	Email from Ms Saunders to Ms Wilkinson 1210 1334 1713 1724	MRS-1	230 - 234	890 - 894
212	1/02/2023	Email from Ms Smithies in reply to Ms Wilkinson clarifying Ms Saunders' advice 1210 1334 1713 1724	TTS-1	407 - 411	895 - 899
213	1/02/2023	Email from Ms Wilkinson in reply to Ms Saunders 1210 1334 1713 1808	MRS-1	235 - 242	900 - 907
214	1/02/2023	Email from Ms Saunders in reply to Ms Wilkinson and Ms Wilkinson's response 1210 1334 1713 1808	TTS-1	418 - 424	908 - 914
215	2/02/2023	Email from Ms Saunders in reply to Ms Wilkinson's response	MRS-1	243 - 249	915 - 921
216	2/02/2023	Email from Ms Saunders in reply to Ms Wilkinson	TTS-1	425 - 431	922 - 928
217	3/02/2023	Email from Mr Fordham to Ms Smithies, Ms Wilkinson and Ms Saunders 0817	MRS-1	250	929 - 929
218	3/02/2023	Email from Mr Fordham to Ms Wilkinson, Ms Saunders and Ms Smithies 0817	TTS-1	432	930 - 930
219	3/02/2023	Email chain between Mr Fordham and Ms Smithies 0817 1714	AJJ-1	113 - 117	931 - 935
220	3/02/2023	Email chain between Mr Fordham and Ms Smithies of 3 February 2023 0817 1714	LW-1	103 - 106	936 - 939
221	3/02/2023	Email from Ms Smithies in reply to Mr Fordham 0817 1714	MRS-1	251 - 252	940 - 941
222	3/02/2023	Email from Ms Smithies in reply to Mr Fordham 0817 1714	TTS-1	433 - 434	942 - 943
223	6/02/2023	Email from Ms Saunders to Ms Wilkinson	MRS-1	253 - 255	944 - 946
224	7/02/2023	Email from Ms Saunders to Ms Wilkinson confirminf ACT enquires 0957 1224 1924	MRS-1	261 - 264	947 - 950
225	7/02/2023	Email from Ms Saunders to Ms Wilkinson regarding Daily Mail article 1224 1924	MRS-1	256 - 259	951 - 954
226	7/02/2023	Text Messages between Ms Saunders and Ms Wilkinson 1315	MRS-1	268 - 270	955 - 957
229	7/02/2023	Email from Ms Saunders to herself attaching a file note of a conversation with Ms Wilkinson 1653	MRS-1	260	958 - 958
230	7/02/2023	Emails between Ms Saunders and Ms Smithies regarding next steps with defamation suit 1733 1750 1834	TTS-1	435 - 437	959 - 961
231	7/02/2023	Email chain between Ms Smithies and Ms Saunders 1733 1750 1834	MRS-1	265 - 267	962 - 964
232	8/02/2023	Email from Ms Wilkinson to Ms Smithies and Ms Saunders of 8 February 2023 0729	LW-1	150	965 - 965
233	8/02/2023	Email from Ms Wilkinson to Ms Smithies and Ms Saunders regarding The Australian article 0729	MRS-1	271	966 - 966
234	8/02/2023	Email from Ms Wilkinson to Ms Saunders and Ms Smithies regarding the Australian article 0729	TTS-1	438	967 - 967

235	8/02/2023	Email chain including emails from Ms Wilkinson and Mr Fordham to Ms Smithies, Ms Saunders and Ms McGarvey 0729 0740	AJJ-1	127 - 128	968 - 969
236	8/02/2023	Email from Mr Fordham in response requesting Ten's crisis team to correct the article 0729 0740	MRS-1	272	970 - 970
237	8/02/2023	Email from Mr Fordham in reply to Ms Wilkinson asking Ten to correct the reports 0729 0740	TTS-1	439	971 - 971
238	8/02/2023	Email from Ms Smithies to Ms Wilkinson 0729 0740 0746	TTS-1	442 - 443	972 - 973
239	8/02/2023	Email from Ms Smithies to Ms Wilkinson regarding press receiving claim document 0729 0740 0746	MRS-1	275 - 276	974 - 975
240	8/02/2023	Email chain between Mr Fordham, Ms Smithies and others of 8 to 10 February 2023 0729 0740 0813	LW-1	151 - 153	976 - 978
241	8/02/2023	Email from Ms Saunders to Ms Wilkinson 0745	TTS-1	440 - 441	979 - 980
242	8/02/2023	Email from Ms Saunders to Ms Wilkinson regarding serving of documents 0745	MRS-1	273 - 274	981 - 982
243	8/02/2023	Text messages between Ms Wilkinson and Ms McGarvey of 8 February 2023 0925	LW-1	154 - 155	983 - 984
244	8/02/2023	The Australian article "Recklessly indifferent to truth": Bruce Lehrmann sues Lisa Wilkinson for damages' 1022	AJJ-1	129 - 131	985 - 987
245	8/02/2023	The Australian article 'Recklessly Indifferent to Truth. Lehrmann Sues Lisa for Damages' 1022	LW-1	146 - 149	988 - 991
246	8/02/2023	Email from Mr O'Beirne to Mr Svilans accepting service on behalf of Ten and Ms Wilkinson 1148	MRS-1	277 - 278	992 - 993
247	8/02/2023	Email from Mr O'Beirne to Ms Smithies 1217, 1224	TTS-1	444 - 446	994 - 996
248	8/02/2023	Email from MOB to TG serving originating application and SOC 1222	MRS-1	279 - 314	997 - 1032
249	8/02/2023	Email from Ms Saunders to Ms Wilkinson providing court documents 1225	MRS-1	315 - 348	1033 - 1066
250	8/02/2023	Email from Ms Saunders in reply to Ms Wilkinson's response 1226, 1250, 1307	MRS-1	350	1067 - 1067
251	8/02/2023	Email from Ms Wilkinson in reply to Ms Saunders 1249	MRS-1	349	1068 - 1068
252	8/02/2023	Email from Mr Fordham to Ms Stellas, Ms Wilkinson, Ms Saunders and Mr O'Beirne 1345	MRS-1	351 - 352	1069 - 1070
253	8/02/2023	Email from Mr O'Beirne to himself regarding file note of conference 1522	MRS-1	353 - 354	1071 - 1072
254	8/02/2023	Text Messages between Ms Wilkinson and Ms Saunders 2000	MRS-1	355	1073 - 1073
255	14/02/2023	Email from Mr Fordham to Ms McGarvey 0853	TTS-1	447	1074 - 1074
256	14/02/2023	Email chain between Mr Fordham, Ms McGarvey and Ms Smithies	AJJ-1	132 - 134	1075 - 1077
257	14/02/2023	Email chain between Mr Fordham and Ms McGarvey of 14 and 15 February 2023	LW-1	156 - 158	1078 - 1080
258	14/02/2023	Email from Ms Saunders to Ms Smithies regarding file note of Anthony Jefferies conversation	MRS-1	367 - 368	1081 - 1082
259	14/02/2023	Email from Ms Saunders to Ms Smithies regarding Anthony Jefferies	TTS-1	448 - 449	1083 - 1084

260	14/02/2023	Emails and texts between Ms Wilkinson and Ms Saunders regarding draft letter to MOB	MRS-1	356 - 360	1085 - 1089
261	14/02/2023	Email from GD to Ms Saunders	MRS-1	361 - 366	1090 - 1095
262	15/02/2023	Email from Ms Wilkinson to Mr Fordham 1007	AJJ-1	118 - 126	1096 - 1104
263	15/02/2023	Email from Ms Wilkinson to Mr Fordham of 15 February 2023 1007	LW-1	107 - 116	1105 - 1114
264	15/02/2023	Email from Ms Smithies in reply to Mr Fordham's email to Ms McGarvey 1217	TTS-1	450 - 453	1115 - 1118
267	27/02/2023	Email chain between Ms Saunders and Mr Jefferies of 27 and 28 February 2023	AJJ-1	135 - 139	1119 - 1123
268	28/02/2023	Emails between GD and Ms Saunders	MRS-1	369 - 375	1124 - 1130
269	28/02/2023	Email from Dr Collins to Mr Senior, Ms Saunders and Mr O'Beirne	TTS-1	454 - 458	1131 - 1135
270	28/02/2023	Email from Ms Saunders to Ms Wilkinson 2128	TTS-1	459	1136 - 1136
272	1/03/2023	Email from Ms Saunders to Ms Chrysanthou and others and further emails in chain between Ms Saunders and Mr Jefferies 0839, 1221, 1727	AJJ-1	140 - 142	1137 - 1139
273	1/03/2023	Email from Mr Quill to Mr Jefferies 0839, 1221, 1727, 1730	AJJ-1	143 - 146	1140 - 1142
275	1/03/2023	Emails between Anthony Jefferies and Ms Saunders 1727	MRS-1	376 - 377	1143 - 1144
276	1/03/2023	Email from Mr Quill to Mr Jefferies 1730	MRS-1	378	1145 - 1145
277	3/03/2023	Letter from Gillis Delaney Lawyers to Thomson Geer	AJJ-1	147 - 150	1146 - 1149
279	3/03/2023	Letter from GD to TG	MRS-1	379 - 381	1150 - 1152
280	3/03/2023	Email from Mr Quill to Ms Smithies and Mr Thomas 2117	TTS-1	460 - 464	1153 - 1157
281	7/03/2023	Email chain between Ms McGarvey, Ms Wilkinson and Mr Fordham	AJJ-1	151 - 153	1158 - 1160
282	7/03/2023	Email chain between Mr Fordham and Ms McGarvey of 7 March 2023	LW-1	159 - 161	1161 - 1163
283	7/03/2023	Letter from Baker McKenzie to Gillis Delaney Lawyers	AJJ-1	154 - 156	1164 - 1166
285	15/03/2023	Email from Ms McGarvey to Mr Fordham of 15 March 2023 and attachment to that email	LW-1	162 - 168	1167 - 1173
286	17/03/2023	Advice from Mr Walker and Mr George	AJJ-1	157 - 165	1174 - 1182
287	17/03/2023	Advice from Mr Walker SC and Mr George of 17 March 2023	LW-1	169 - 177	1183 - 1191
288	17/03/2023	Email chain between Mr Fordham and Ms McGarvey	AJJ-1	166 - 176	1192 - 1202
289	17/03/2023	Email chain between Mr Fordham and Ms McGarvey of 17 to 21 March 2023	LW-1	178 - 188	1203 - 1213
291	20/03/2023	Email from Ms McGarvey to Mr Fordham 1832	TTS-1	465 - 466	1214 - 1215
292	22/03/2023	Letter from Baker McKenzie to Gillis Delaney Lawyers	AJJ-1	177	1216 - 1216
293	22/03/2023	Draft cross-claim	AJJ-1	180 - 191	1217 - 1228
295	24/03/2023	Letter from Baker McKenzie to Gillis Delaney Lawyers	AJJ-1	178 - 179	1229 - 1230
297	24/03/2023	Letter from Baker McKenzie to Gillis Delaney Lawyers of 24 March 2023	LW-1	189 - 190	1231 - 1232
298	27/03/2023	Letter from Gillis Delaney Lawyers to Baker McKenzie	AJJ-1	192	1233 - 1233
300	3/04/2023	Email chain between Mr Jefferies and Ms Saunders of 3 to 11 April 2023 without attachment	AJJ-1	193 - 197	1234 - 1238

301	3/04/2023	Correspondences between Gillis Delaney Lawyers and Thomson Geer	LW-1	117 - 128	1239 - 1250
303	8/05/2023	Letter from Baker McKenzie to Gillis Delaney Lawyers	AJJ-1	198 - 200	1251 - 1253
307	7/06/2023	Email from Ms McGarvey to Ms Smithies forwarding her email to Mr Fordham 1933	TTS-1	469 - 470	1254 - 1255
308	7/06/2023	Email from Ms McGarvey to Mr Thomas, Ms Smithies, Mr McCarthy and Mr Villani 2149	TTS-1	467 - 468	1256 - 1257
309	14/06/2023	Email from Ms McGarvey to Ms Smithies forwarding her email to Mr Fordham and Ms Taylor	TTS-1	471 - 472	1258 - 1259
311	3/08/2023	Wilkinson in damning report from Sofronoff inquiry	LW-1	129 - 145	1260 - 1276
Part C - Affidavit evidence					
■				■	■
319	16/01/2024	Affidavit of Lisa Wilkinson		1 - 28	1301 - 1328
320	25/01/2024	Affidavit of Tasha Tanya Smithies		1 - 44	1329 - 1372
321	25/01/2024	Affidavit of Marlia Ruth Saunders		1 - 31	1373 - 1403
322	2/02/2024	Affidavit of Lisa Wilkinson		1 - 9	1404 - 1412

AUSTRALIAN CAPITAL TERRITORY
BOARD OF INQUIRY - CRIMINAL JUSTICE SYSTEM

In the matter of the Inquiries Act 1991

Inquiries (Board of Inquiry - Criminal Justice System) Appointment 2023 (NI2023-49)

Subpoena 2023/S/0037

STATEMENT OF TASHA TANYA SMITHIES

I, Tasha Tanya Smithies, of 1 Saunders Street, Pyrmont, in the State of New South Wales, say on oath:

1. I am a solicitor admitted in the New South Wales and an employed by Network Ten Pty Limited (**Network Ten**) in the position of Senior Litigation Counsel.
2. In that role, my duties include:
 - a. managing litigation in which Network Ten and its related entities are involved; and
 - b. providing legal advice to Network Ten and its employees engaged in the production of television programs.
3. I have been in this role since February 2014.
4. As part of my duties, I have been involved in providing legal advice to Network Ten and employees of Network Ten in the preparation of a story to be broadcast as part of the program titled "The Project" relating to the allegations by Ms Brittany Higgins that she was allegedly sexually assaulted at Parliament House.
5. One of the employees to whom I provided advice was Lisa Wilkinson who at the relevant time was one of the presenters of The Project.
6. I am aware that after the broadcast of the program, Mr Bruce Lehrmann was charged in relation to an alleged sexual assault.
7. On 15 June 2022, I attended a meeting, conducted on the Microsoft Teams platform between Lisa Wilkinson, and each of the following:
 - a. Mr Shane Drumgold QC, Director of Public Prosecutions, ACT;
 - b. Sky Jerome, Junior Counsel; and
 - c. Mitchell Greig, Prosecutor Associate, Office of the Director of Public Prosecutions, ACT.

Ms Wilkinson and I were in the Boardroom of Network Ten's office at Pyrmont.

8. The purpose of the meeting was for Mr Drumgold to explain to Ms Wilkinson the process of giving evidence, the likely topics of her evidence and to provide her with guidelines for responding to questions while she was giving evidence. During the meeting I took brief notes of those matters.



9. During the meeting, one of the DPP officers asked Lisa if she had any questions. She asked a number of questions and then referred to the fact that she and the Project were nominated for a TV Week Logie Award. I recall that Ms Wilkinson said words to the effect of:

I have been nominated for a Logo. I don't think I will win. However, I have prepared a speech just in case.

10. Ms Wilkinson then started to read from the speech. I recall that she got up to the part of the speech which included the words "belongs to a woman who said enough".

11. Mr Drumgold then interrupted Ms Wilkinson and said words to the effect of:

I am not a speech writer. It's not our place to advise you, or approve a speech.

12. I then said to Ms Wilkinson words to the effect of:

This isn't a matter they can deal with, we can chat about this later.

13. To the best of my recollection during the meeting there was no other discussion regarding the potential impact of an acceptance speech by Ms Wilkinson. I do not recall any discussion or comments by Mr Drumgold or anyone in his office regarding potential publicity or impact upon the then impending trial which may arise from the acceptance speech by Ms Wilkinson and I do not recall that Mr Drumgold gave any kind of warning.

14. I did not take notes of this part of the meeting as it did not relate to the purpose of the meeting, was brief and at the time I did not consider the giving of the speech a matter which Mr Drumgold or his office could consider.

SWORN before me at Sydney in the State of New South Wales on 8 May 2023.

Sworn by Tasha Tanya Smithies

_____ at Barangaroo on 2 May 2023 in the presence of

Andrew Gavin Stewart of 100 Barangaroo Ave, Barangaroo in the state of NSW
Solicitor

From: Priestly, Erin <[REDACTED]>
Sent: Thursday, May 26, 2022 2:43 PM
To: Myles Farley <[REDACTED]>
Cc: Greig, Mitchell <[REDACTED]>; Tasha Smithies <[REDACTED]>
Subject: RE: R v Lehmann - Witness Lisa Wilkinson

OFFICIAL

Dear Mr Farley

Thank you for letting me know – I have passed that information on to the officer.

Kind regards



Erin Priestly
Senior Prosecutor
Office of the Director of Public Prosecutions (ACT)
GPO Box 595, Canberra ACT 2601 (DX 5725)
T: [REDACTED] (Direct)
T: [REDACTED] (Reception)
E: [REDACTED]
W: www.dpp.act.gov.au

For a full range of victims rights, please go to www.dpp.act.gov.au and go to the Witnesses and Victims link.

Please consider the environment before printing this e-mail

From: Myles Farley <[REDACTED]>
Sent: Thursday, 26 May 2022 2:19 PM
To: Priestly, Erin <[REDACTED]>
Cc: Greig, Mitchell <[REDACTED]>; Tasha Smithies <[REDACTED]>
Subject: RE: R v Lehmann - Witness Lisa Wilkinson

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Dear Erin

Thanks for the further information. As I'm Melbourne-based, I'm happy for D/S Fahey to contact me directly to liaise with Lisa for service, as needed.

Kind regards

Myles Farley

Senior Legal Counsel

O [REDACTED] M [REDACTED]

Como Centre, Level 4, 620 Chapel Street South Yarra, Melbourne, VIC 3141



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Priestly, Erin <[REDACTED]>

Sent: Thursday, 26 May 2022 2:08 PM

To: Tasha Smithies <[REDACTED]>

Cc: Greig, Mitchell <[REDACTED]>; Myles Farley <[REDACTED]>

Subject: RE: R v Lehmann - Witness Lisa Wilkinson

OFFICIAL

Good afternoon

Further to the below, Detective Sergeant Peter Fahey has advised he will be in contact with you to arrange service. He is aware of the time/location requirements for service.

Kind regards



Erin Priestly

Senior Prosecutor

Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

T: [REDACTED] (Direct)

T: [REDACTED] (Reception)

E: [REDACTED]

W: www.dpp.act.gov.au

For a full range of victims rights, please go to www.dpp.act.gov.au and go to the Witnesses and Victims link.

Please consider the environment before printing this e-mail

From: Priestly, Erin

Sent: Wednesday, 25 May 2022 3:07 PM

To: Tasha Smithies <[REDACTED]>

Cc: Greig, Mitchell <[REDACTED]>; Myles Farley <[REDACTED]>
Subject: RE: R v Lehrmann - Witness Lisa Wilkinson

OFFICIAL

Hi Tasha

Thank you for getting back to me and thank you to Ms Wilkinson for being so accommodating.

We have arranged for an AFP member to serve Ms Wilkinson on Friday 27 May 2022 in the South Yarra area. I will liaise with them about where this is to occur and will update you.

I have attached the subpoena, for your own records.

Kind regards



Erin Priestly
 Senior Prosecutor
 Office of the Director of Public Prosecutions (ACT)
 GPO Box 595, Canberra ACT 2601 (DX 5725)
 T: [REDACTED] (Direct)
 T: [REDACTED] (Reception)
 E: [REDACTED]
 W: www.dpp.act.gov.au

For a full range of victims rights, please go to www.dpp.act.gov.au and go to the Witnesses and Victims link.

Please consider the environment before printing this e-mail

From: Tasha Smithies <[REDACTED]>
Sent: Wednesday, 25 May 2022 7:07 AM
To: Priestly, Erin <[REDACTED]>
Cc: Greig, Mitchell <[REDACTED]>; Myles Farley <[REDACTED]>
Subject: RE: R v Lehrmann - Witness Lisa Wilkinson

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Hi Erin,

Lisa, will be in Melbourne on Thursday and Friday this week, is it possible for her to collect the subpoena from a sheriff's office close to the network (Como Centre, Level 4, 620 Chapel Street South Yarra, Melbourne, VIC 3141) on Friday – most likely closer to lunhctime.

As I mentioned when we spoke, Lisa travels extensively and often isn't based in the one location. At this stage she is travelling interstate this week and over the weekend.

Kind regards,
 Tasha

Tasha Smithies
 Senior Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Priestly, Erin <[REDACTED]>
Sent: Friday, 20 May 2022 1:29 PM
To: Tasha Smithies <[REDACTED]>
Cc: Greig, Mitchell <[REDACTED]>
Subject: R v Lehrmann - Witness Lisa Wilkinson

OFFICIAL

Dear Ms Smithies

I understand you act for Ms Wilkinson.

The Director wishes to subpoena Ms Wilkinson for the trial of R v Lehrmann, commencing in the ACT Supreme Court on 6 June 2022.

The last day for service of interstate subpoenas in this matter is 23 May 2022 and, unfortunately, ACT subpoenas must be personally served (we cannot serve them on legal representatives unless the witness is a party to proceedings). Would you please be able to provide a suitable address for service for Ms Wilkinson?

Thank you.

Kind regards



Erin Priestly
 Senior Prosecutor
 Office of the Director of Public Prosecutions (ACT)
 GPO Box 595, Canberra ACT 2601 (DX 5725)
 T: [REDACTED] (Direct)
 T: [REDACTED] (Reception)
 E: [REDACTED]
 W: www.dpp.act.gov.au

For a full range of victims rights, please go to www.dpp.act.gov.au and go to the Witnesses and Victims link.

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RE: The Project Logie nomination

From: Myles Farley <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Date: Wed, 08 Jun 2022 11:10:59 +1000

Thanks Tasha, makes sense – will send to Anthony and CC you.
 Myles

Myles Farley
 Senior Legal Counsel
 O [REDACTED] M [REDACTED]
 Como Centre, Level 4, 620 Chapel Street South Yarra, Melbourne, VIC 3141



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Tasha Smithies <[REDACTED]>
Sent: Wednesday, 8 June 2022 10:45 AM
To: Myles Farley <[REDACTED]>
Subject: RE: The Project Logie nomination

Hi Myles,
 Slight tweaks below.
 Tasha

Just a reminder that the trial for the man accused is set to commence on 27 June in the ACT Supreme Court. Lisa has kept this in mind when providing the responses below if used in their entirety.

Tasha Smithies
 Senior Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Myles Farley <[REDACTED]>
Sent: Wednesday, 8 June 2022 10:02 AM
To: Tasha Smithies <[REDACTED]>
Subject: Re: The Project Logie nomination

Hi Tasha - is this ok?

Wording:

Just a reminder that the trial for the man accused is set to commence on 27 June in the ACT Supreme Court. Lisa has kept this in mind when providing the responses below if used in their entirety.

Myles

From: Myles Farley <[REDACTED]>
Sent: Wednesday, 8 June 2022 9:12 AM
To: Tasha Smithies <[REDACTED]>
Subject: Fw: The Project Logie nomination

Hi Tasha - is this wording fine or too legal (purple highlights)?
 Myles

From: Anthony McCarthy <[REDACTED]>
Sent: Wednesday, 8 June 2022 9:10 AM
To: Myles Farley <[REDACTED]>
Subject: Re: The Project Logie nomination

Hi Myles,

Here's the email for TV Week.

Morning Laura!

Here are Lisa's responses for her nomination story. With Brittany's trial set to commence as early as Monday, June 20 in Canberra. Network 10 takes no responsibility for what TV Week/ABC Media choose to publish from Lisa's words, and this also includes the story headline and how it's published.

- Brittany Hinggin's story was one of the biggest, most shocking reports of the year. How did you lock in the exclusive interview with her?

Brittany approached me in January of 2021 and over the course of a number of conversations, and eventually meeting, she told me her story. I knew immediately that what she had to say would be explosive, and that it would call into question the behaviour of a number of incredibly powerful people and the workplace cultures that exist in some of the highest offices in our land. What I don't think I appreciated at the time though, was just how many women across the country would see so much of themselves and their own story in Brittany's, and what a powerful force she would unleash across the country.

- Why did you feel that it was important for you, and The Project, to be the one to interview Brittany?

As a political media adviser, Brittany knew that if she was going to tell her story on camera, she would only tell it once, and it had to be definitive. I was fortunate that she had seen a lot of the work I had done around women's safety over the years, and she told me she felt she could trust my - and The Project's - handling of what was going to be a very politically and legally sensitive story. My producer Angus Llewelyn and I had to keep all our investigations completely under wraps for four weeks until we went to air on Monday February 15th, as we covered off every possible aspect of the story. I don't think either of us slept for a month.

- In the interview, which I can only imagine was incredibly difficult for Brittany, she spoke with such strength. I got the impression that she felt very comfortable with you. What is your relationship like with her?

As you saw with the March 4 Justice rallies exactly four weeks after we put our interview to air, Brittany's courage and determination to finally see change happen for women, inspired an untold number right across the nation to come forward. I think many, who for years had stayed silent, identified with Brittany, and saw a lot of themselves, and their own stories, in her experience. I am in awe and utterly inspired by how Brittany has handled the past, very difficult, 16 months...and I particularly love the very strong friendship that she and Grace Tame have forged. Together, they are such strong advocates, and a powerful, clear-eyed force working towards a better future for women.

-How did you feel when you found out this segment was up for a Logie for the Most Outstanding News Coverage or Public Affairs Report?

Humbled. This is a category that honours the best that Australian journalism has to offer. I am also very aware of the other important work that's been nominated in this category, so it means a lot to be counted alongside such fine, investigative journalism.

- What would it mean to you to win?

It would be an incredible honour.

There are also a couple of pics of Brittany and Lisa together on Lisa's instagram page. November 5 last year, there's a posed two shot to camera that might work, plus a two shot at the Canberra rally. If you do use them, can you be sure you credit Lisa's instagram handle @Lisa_Wilkinson please?

Thanks,
Anthony

Anthony McCarthy
Senior Publicist
Como Centre, Level 4, 620 Chapel Street South Yarra Melbourne VIC 3141
t. [REDACTED] f. [REDACTED] m. [REDACTED]



VIACOMCBS



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From: Masia, Laura <[REDACTED]>
Sent: Monday, June 6, 2022 8:34 AM

To: Anthony McCarthy <[REDACTED]>
Subject: RE: The Project Logie nomination

I cannot express how bloody excited I am for Hunted! I did a set visit earlier in the year and I was transfixed. Can't wait for more info! x

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Thanks for letting me know Laura, much appreciated.

While I have you, I'm working with the lovely Kristy Harper on Hunted, who is currently swamped with Neighbours, as you can imagine. I will drop you a separate email about this sometime today.

X

Anthony McCarthy
 Senior Publicist
 Como Centre, Level 4, 620 Chapel Street South Yarra Melbourne VIC 3141
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LAURA MASIA (SHE/HER)

Senior Writer
 TV WEEK Magazine

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- How do you think Brittany's landmark case has shaped Australia?
- How did you feel when you found out this segment was up for a Logie for the Most Outstanding News Coverage or Public Affairs Report?
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Thank you!

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Hi Laura,

I'm so sorry I completely missed your email last week.

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Hope that's ok? Send questions across when you have a moment.

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Be captivated

From: Masia, Laura
Sent: Wednesday, May 25, 2022 12:23 PM
To: [REDACTED]
Subject: The Project Logie nomination

Hey Anthony,

How are you? I hope you're going well!

I just wanted to touch base about The Project's very exciting nomination for the Most Outstanding News Coverage or Public Affairs Report! We're having a chat to a bunch of nominees and I was wondering whether Lisa Wilkinson might be available for a chat or email Q&A about the interview she did with Brittany Higgins?

Kindest,

LAURA MASIA (SHE/HER)

Senior Writer
TV WEEK Magazine

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RE: The Project Logie nomination

From: [REDACTED]
To: Anthony McCarthy <[REDACTED]>
Date: Wed, 08 Jun 2022 12:17:58 +1000

Hey Anthony,

Thanks SO much for this, and for Lisa's consideration of the court case. I appreciate it!

Kindest,

LAURA MASIA (SHE/HER)

Senior Writer
 TV WEEK Magazine

Are Media
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 Sydney NSW 2000

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P + [REDACTED]

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From: Anthony McCarthy <[REDACTED]>
Sent: Wednesday, June 8, 2022 11:39 AM
To: Masia, Laura <[REDACTED]>
Subject: Fw: The Project Logie nomination

Morning Laura!

Here are Lisa's responses for her nomination story. Just a reminder that the trial for the man accused is set to commence on 27 June in the ACT Supreme Court. Lisa has kept this in mind when providing the responses below if used in their entirety.

- Brittany Hiddin's story was one of the biggest, most shocking reports of the year. How did you lock in the exclusive interview with her?

Brittany approached me in January of 2021 and over the course of a number of conversations, and eventually meeting, she told me her story. I knew immediately that what she had to say would be explosive, and that it would call into question the behaviour of a number of incredibly powerful people and the workplace cultures that exist in some of the highest offices in our land. What I don't think I

appreciated at the time though, was just how many women across the country would see so much of themselves and their own story in Brittany's, and what a powerful force she would unleash across the country.

- Why did you feel that it was important for you, and The Project, to be the one to interview Brittany?

As a political media adviser, Brittany knew that if she was going to tell her story on camera, she would only tell it once, and it had to be definitive. I was fortunate that she had seen a lot of the work I had done around women's safety over the years, and she told me she felt she could trust my - and The Project's - handling of what was going to be a very politically and legally sensitive story. My producer Angus Llewelyn and I had to keep all our investigations completely under wraps for four weeks until we went to air on Monday February 15th, as we covered off every possible aspect of the story. I don't think either of us slept for a month.

- In the interview, which I can only imagine was incredibly difficult for Brittany, she spoke with such strength. I got the impression that she felt very comfortable with you. What is your relationship like with her?

As you saw with the March 4 Justice rallies exactly four weeks after we put our interview to air, Brittany's courage and determination to finally see change happen for women, inspired an untold number right across the nation to come forward. I think many, who for years had stayed silent, identified with Brittany, and saw a lot of themselves, and their own stories, in her experience. I am in awe and utterly inspired by how Brittany has handled the past, very difficult, 16 months...and I particularly love the very strong friendship that she and Grace Tame have forged. Together, they are such strong advocates, and a powerful, clear-eyed force working towards a better future for women.

- How did you feel when you found out this segment was up for a Logie for the Most Outstanding News Coverage or Public Affairs Report?

Humbled. This is a category that honours the best that Australian journalism has to offer. I am also very aware of the other important work that's been nominated in this category, so it means a lot to be counted alongside such fine, investigative journalism.

- What would it mean to you to win?

It would be an incredible honour.

There are also a couple of pics of Brittany and Lisa together on Lisa's instagram page. November 5 last year, there's a posed two shot to camera that might work, plus a two shot at the Canberra rally. If you do use them, can you be sure you credit Lisa's instagram handle @Lisa_Wilkinson please?

Thanks,
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10 BOLD **10 Peach** **10 SHAKE** **10 play>** **10 speaks :))**

Paramount+ **nickelodeon** **nick jr.** **ML** **COMEDY CENTRAL** **Spike** **10**

CBS **SHOWTIME** **BET** **PLUTO** **SIMON & SCHUSTER** **5** **telefe** **colors**

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Re: TV Week Most Outstanding Nomination Q & A - PRIVILEGED & CONFIDENTIAL

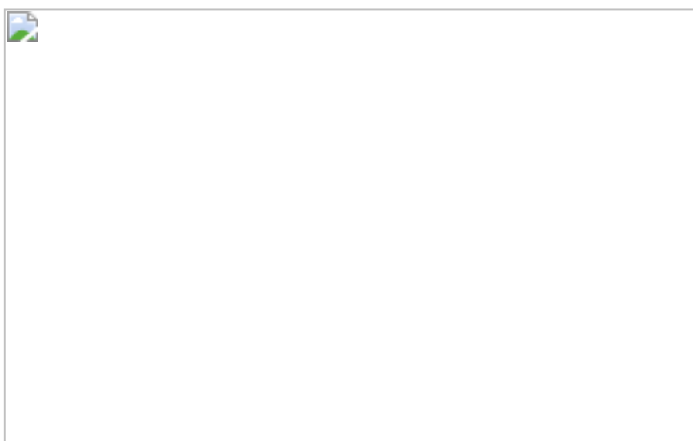
From: Anthony McCarthy <[REDACTED]>
To: Lisa Wilkinson External <[REDACTED]>; Myles Farley <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>
Date: Wed, 08 Jun 2022 07:23:03 +1000

Thanks Lisa for your well-considered responses, noting that I will remove "Enough is enough". I will make sure TV Week investigate the image options too.

Myles, I will give you a call this morning to confirm the legal wording that I will include in my response to TV Week. Just want to make sure that it's bullet proof.

Have a great day.

Anthony McCarthy
 Senior Publicist
 Como Centre, Level 4, 620 Chapel Street South Yarra Melbourne VIC 3141
 t. [REDACTED] f. [REDACTED] m. [REDACTED]



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From: Lisa Wilkinson <[REDACTED]>
Sent: Tuesday, June 7, 2022 9:40 AM
To: Myles Farley <[REDACTED]>
Cc: Anthony McCarthy <[REDACTED]>; Tasha Smithies <[REDACTED]>
Subject: Re: TV Week Most Outstanding Nomination Q & A - PRIVILEGED & CONFIDENTIAL

Hey team. I have put answers in down the bottom (weirdly, my answers have all come up in different colours so please ignore that aspect of it), but all are totally subject to Myles' and Tasha's approval.

Let me know if you think the answers pass legal muster.

Myles, as you know I am on a pretty tight schedule filming all day today up in Lismore, so if you do have concerns, please text and I will get back to you ASAP.

Also, Anthony, the photographer Mike Bowers (who does the cartoon segment on Insiders on the ABC every Sunday morning) took an incredible photo of Brittany and me hugging on stage in Canberra at the March 4 Justice rallies last year. You may want to suggest to TV Week that they use that pic.

There are also a couple of pics of Britt and me together on my instagram page. If they do use them, can you be sure that they credit my instagram handle @Lisa_Wilkinson please?

Cheers,

Lisa.

Sent from my iPad

On 6 Jun 2022, at 10:50 am, Myles Farley <[REDACTED]> wrote:

Hi Anthony

I've now had a chance to consider this in detail as well as discuss it with Tasha.

We suggest we provide answers to only the questions in green below and use 'story' not 'case' in responses.

[REDACTED] – while I know you're well across issues of contempt and statements likely to undermine a fair trial, we'd suggest you make any responses personal to your own experience rather than Brittany's.

In the reply to TV Week can we also note that we take no responsibility for contempt issues in what TV Week publish given the upcoming trial – or words to that effect.

Responses should be run by us.

Happy to discuss/consider further.

Thanks

Myles

Myles Farley

Senior Legal Counsel

O [REDACTED] M [REDACTED]

Como Centre, Level 4, 620 Chapel Street South Yarra, Melbourne, VIC 3141



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From: Anthony McCarthy <[REDACTED]>

Sent: Friday, 3 June 2022 3:46 PM

To: Myles Farley <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>

Subject: Re: TV Week Most Outstanding Nomination Q & A

Hi Myles,

I've asked the question and awaiting a response. I will let you know asap.

They gave me a deadline of Wednesday so that could potentially make their issue out on Monday June 13. The Logies are the following Sunday, June 19.

Thanks,

Anthony

Anthony McCarthy

Senior Publicist

Como Centre, Level 4, 620 Chapel Street South Yarra Melbourne VIC 3141

t. [REDACTED] f. [REDACTED] m. [REDACTED]



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From: Myles Farley <[REDACTED]>
Sent: Friday, June 3, 2022 1:37 PM
To: Lisa Wilkinson External <[REDACTED]>; Anthony McCarthy <[REDACTED]>
Subject: RE: TV Week Most Outstanding Nomination Q & A

Thanks Lisa, I'll take a look.

[REDACTED] – do we know when this may be published?

Cheers

Myles

Myles Farley
 Senior Legal Counsel
 O [REDACTED] M [REDACTED]
 Como Centre, Level 4, 620 Chapel Street South Yarra, Melbourne, VIC 3141



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From: Lisa Wilkinson <[REDACTED]>
Sent: Friday, 3 June 2022 1:36 PM
To: Myles Farley <[REDACTED]>; Anthony McCarthy <[REDACTED]>
Subject: Fwd: TV Week Most Outstanding Nomination Q & A

Dear Myles,

I have been approached via Anthony in Ten Publicity (cc'd here) to answer a Q&A for TV Week regarding my Logie nomination around the Brittany interview.

Can you please have a look at the below questions and let me know what is permissible, given the case is currently subject to serious legal restrictions.

With thanks,

Lisa.

Sent from my iPad

Begin forwarded message:

From: Anthony McCarthy <[REDACTED]>
Date: 3 June 2022 at 12:36:06 pm AEST
To: Lisa Wilkinson External <[REDACTED]>
Subject: TV Week Most Outstanding Nomination Q & A

Hi Lisa,

Good to chat earlier.

Below are the questions from TV Week. There's a few here I'm not sure about (namely the first and third question in my opinion) but Laura was happy for you to reword her questions to suit you better. She would appreciate your responses back by Wednesday.

- Brittany Higgins's story was one of the biggest, most shocking reports of the year. How did you lock in the exclusive interview with her?

Brittany approached me in January of 2021 and over the course of a number of conversations, and eventually meeting, she told me her story. I knew immediately that what she had to say would be explosive, and that it would call into question the behaviour of a number of incredibly powerful people and the workplace cultures that exist in some of the highest offices in our land. What I don't think I appreciated at the time though, was just how many women across the country would see so much of themselves and their own story in Brittany's, and what a powerful force she would unleash across the country.

- Why did you feel that it was important for you, and The Project, to be the one to interview Brittany?

As a political media adviser, Brittany knew that if she was going to tell her story on camera, she would only tell it once, and it had to be a definitive. I was fortunate that she had seen a lot of the work I had done around women's safety over the years, and she told me she felt she could trust me - and The Project's - handling of what was going to be a very politically and legally sensitive story. My producer Angus I Jewell and I had to keep all our investigations completely under wraps for four weeks until we went to air on Monday February 15th, as we covered off every possible aspect of the story. I don't think either of us slept for a month.

- In the interview, which I can only imagine was incredibly difficult for Brittany, she spoke with such strength. I got the impression that she felt very comfortable with you. What is your relationship like with her?

As you saw with the March 4 Justice rallies exactly four weeks after we put our interview to air, Brittany's courage and determination to finally see change happen for women, inspired an untold number right across the nation to come forward and say "Enough Is Enough". I think many, who for years had stayed silent, identified with Brittany, and saw a lot of themselves, and their own stories, in her experience. I am in awe and utterly inspired by how Brittany has handled the past, very difficult, 16 months...and I particularly love the very strong friendship that she and Grace Tame have forged. Together, they are such strong advocates, and a powerful, clear-eyed force for a better future for women.

- How do you think Brittany's landmark case has shaped Australia?

- How did you feel when you found out this segment was up for a Logie for the Most Outstanding News Coverage or Public Affairs Report?

Humbled. This is a category that honours the best that Australian journalism has to offer. I am also very aware of the other important work that's been nominated in this category, so it means a lot to be counted alongside such fine, investigative journalism.

- What would it mean to you to win?

It would be an incredible honour.

Thanks,

Anthony x

Anthony McCarthy

Senior Publicist

Como Centre, Level 4, 620 Chapel Street South Yarra Melbourne VIC 3141

t. [REDACTED] f. [REDACTED] m. [REDACTED]



VIACOMCBS

10 BOLD 10 Peach 10 SHAKE 10 play> 10 speaks :))

Paramount+ **nickelodeon** **nick jr.** **MV** **COMEDY CENTRAL** **Spike**

10 CBS **SHOWTIME** **BET** **PLUTO TV** **5** **telet** **colors**

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Re: The Project Logie nomination

From: Anthony McCarthy <[REDACTED]>
To: Myles Farley <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>
Date: Wed, 08 Jun 2022 11:39:15 +1000

Great! Thank you both.

Anthony McCarthy
 Senior Publicist
 Como Centre, Level 4, 620 Chapel Street South Yarra Melbourne VIC 3141
 t. [REDACTED] f. [REDACTED] m. [REDACTED]



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From: Myles Farley <[REDACTED]>
Sent: Wednesday, June 8, 2022 11:26 AM
To: Anthony McCarthy <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>
Subject: RE: The Project Logie nomination

Hi Anthony

Tweaks below to first para re commencement of trial, as discussed with Tasha. Otherwise ok.

Thanks
 Myles

Myles Farley
 Senior Legal Counsel
 O [REDACTED] M [REDACTED]
 Como Centre, Level 4, 620 Chapel Street South Yarra, Melbourne, VIC 3141



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From: Anthony McCarthy <[REDACTED]>
Sent: Wednesday, 8 June 2022 9:11 AM
To: Myles Farley <[REDACTED]>
Subject: Re: The Project Logie nomination

Hi Myles,

Here's the email for TV Week.

Morning Laura!

Here are Lisa's responses for her nomination story. Just a reminder that the trial for the man accused is set to commence on 27 June in the ACT Supreme Court. Lisa has kept this in mind when providing the responses below if used in their entirety.

- Brittany Higgins's story was one of the biggest, most shocking reports of the year. How did you lock in the exclusive interview with her?

Brittany approached me in January of 2021 and over the course of a number of conversations, and eventually meeting, she told me her story. I knew immediately that what she had to say would be explosive, and that it would call into question the behaviour of a number of incredibly powerful people and the workplace cultures that exist in some of the highest offices in our land. What I don't think I appreciated at the time though, was just how many women across the country would see so much of themselves and their own story in Brittany's, and what a powerful force she would unleash across the country.

- Why did you feel that it was important for you, and The Project, to be the one to interview Brittany?

As a political media adviser, Brittany knew that if she was going to tell her story on camera, she would only tell it once, and it had to be definitive. I was fortunate that she had seen a lot of the work I had done around women's safety over the years, and she told me she felt she could trust my - and The Project's - handling of what was going to be a very politically and legally sensitive story. My producer Angus Llewelyn and I had to keep all our investigations completely under wraps for four weeks until we went to air on Monday February 15th, as we covered off every possible aspect of the story. I don't think either of us slept for a month.

- In the interview, which I can only imagine was incredibly difficult for Brittany, she spoke with such strength. I got the impression that she felt very comfortable with you. What is your relationship like with her?

As you saw with the March 4 Justice rallies exactly four weeks after we put our interview to air, Brittany's courage and determination to finally see change happen for women, inspired an untold number right across the nation to come forward. I think many, who for years had stayed silent, identified with Brittany, and saw a lot of themselves, and their own stories, in her experience. I am in awe and utterly inspired by how Brittany has handled the past, very difficult, 16 months...and I particularly love the very strong friendship that she and Grace Tame have forged. Together, they are such strong advocates, and a powerful, clear-eyed force working towards a better future for women.

- How did you feel when you found out this segment was up for a Logie for the Most Outstanding News Coverage or Public Affairs Report?

Humbled. This is a category that honours the best that Australian journalism has to offer. I am also very aware of the other important work that's been nominated in this category, so it means a lot to be counted alongside such fine, investigative journalism.

- What would it mean to you to win?

It would be an incredible honour.

There are also a couple of pics of Brittany and Lisa together on Lisa's instagram page. November 5 last year, there's a posed two shot to camera that might work, plus a two shot at the Canberra rally. If you do use them, can you be sure you credit Lisa's instagram handle @Lisa_Wilkinson please?

Thanks,
Anthony

Anthony McCarthy
Senior Publicist
Como Centre, Level 4, 620 Chapel Street South Yarra Melbourne VIC 3141
t. [REDACTED] f. [REDACTED] m. [REDACTED]



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BOLD **Peach** **SHAKE** **play** **speaks**

Paramount+ **nickelodeon** **nick Jr.** **MV** **COMEDY CENTRAL** **Spike** **USA**

CBS **SHOWTIME** **BET** **PLUTO TV** **SWANSON & SCHLISTER** **5** **telefe** **colors**

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From: Masia, Laura <[REDACTED]>
Sent: Monday, June 6, 2022 8:34 AM
To: Anthony McCarthy <[REDACTED]>
Subject: RE: The Project Logie nomination

I cannot express how bloody excited I am for Hunted! I did a set visit earlier in the year and I was transfixed. Can't wait for more info! x

From: Anthony McCarthy <[REDACTED]>
Sent: Monday, June 6, 2022 8:31 AM
To: Masia, Laura <[REDACTED]>
Subject: Re: The Project Logie nomination

Thanks for letting me know Laura, much appreciated.

While I have you, I'm working with the lovely Kristy Harper on Hunted, who is currently swamped with Neighbours, as you can imagine. I will drop you a separate email about this sometime today.

x

Anthony McCarthy
Senior Publicist
Como Centre, Level 4, 620 Chapel Street South Yarra Melbourne VIC 3141
t. [REDACTED] f. [REDACTED] m. [REDACTED]



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From: Masia, Laura <[REDACTED]>
Sent: Monday, June 6, 2022 8:26 AM
To: Anthony McCarthy <[REDACTED]>
Subject: RE: The Project Logie nomination

Morning Anthony,

Thanks for your patience on this. Stephen has said that it will definitely run around Logies time. If you need anything further, feel free to shoot him an email.

Thanks!

Kindest,

LAURA MASIA (SHE/HER)

Senior Writer
 TV WEEK Magazine

Are Media
 Level 5, 54 Park Street
 Sydney NSW 2000
 M + [REDACTED]
 P + [REDACTED]
are.media.com.au



Be captivated

From: Anthony McCarthy <[REDACTED]>
Sent: Friday, June 3, 2022 2:26 PM
To: Masia, Laura <[REDACTED]>
Subject: Re: The Project Logie nomination

Hi Laura,

Sorry to bother you again. Any idea on when Lisa's q and a might run?

Thanks,
Anthony

Anthony McCarthy
Senior Publicist
Como Centre, Level 4, 620 Chapel Street South Yarra Melbourne VIC 3141
t. [REDACTED] f. [REDACTED] m. [REDACTED]



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From: Masia, Laura <[REDACTED]>
Sent: Friday, June 3, 2022 12:25 PM
To: Anthony McCarthy <[REDACTED]>
Subject: Re: The Project Logie nomination

Hey Anthony,

The deadline for these questions would be Wednesday next week if possible.

Totally understand if she's unable to answer them all and I'd really appreciate it if she was able to paraphrase them.

Thanks so much!

Kindest,

LAURA MASIA (SHE/HER)

Senior Writer
TV WEEK Magazine

Are Media
Level 5, 54 Park Street
Sydney NSW 2000

M [REDACTED]

P [REDACTED]

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From: Anthony McCarthy <[REDACTED]>
Sent: Friday, June 3, 2022 11:45 AM
To: Masia, Laura <[REDACTED]>
Subject: Re: The Project Logie nomination

Thanks Laura. When is your deadline for Lisa to return these to you?

I'm not sure if Lisa will be able to answer all these questions but perhaps she could rephrase some of them to help you out?

And will her responses be published if she wins or will they feature in TV Week in the lead up to The Logies?

Anthony McCarthy
 Senior Publicist
 Como Centre, Level 4, 620 Chapel Street South Yarra Melbourne VIC 3141
 t. [REDACTED] f. [REDACTED] m. [REDACTED]



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From: Masia, Laura <[REDACTED]>
Sent: Thursday, June 2, 2022 1:32 PM
To: Anthony McCarthy <[REDACTED]>
Subject: RE: The Project Logie nomination

Hey Anthony,

Here are my questions for Lisa;

- Brittany Higgin's story was one of the biggest, most shocking reports of the year. How did you lock in the exclusive interview with her?
- Why did you feel that it was important for you, and The Project, to be the one to interview Brittany?
- In the interview, which I can only imagine was incredibly difficult for Brittany, she spoke with such strength. I got the impression that she felt very comfortable with you. What is your relationship like with her?
- How do you think Brittany's landmark case has shaped Australia?

-How did you feel when you found out this segment was up for a Logie for the Most Outstanding News Coverage or Public Affairs Report?
 - What would it mean to you to win?

Thank you!

Kindest,

LAURA MASIA (SHE/HER)

Senior Writer
 TV WEEK Magazine

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 P [REDACTED]
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From: Anthony McCarthy <[REDACTED]>
Sent: Thursday, June 2, 2022 12:21 PM
To: Masia, Laura <[REDACTED]>
Subject: Re: The Project Logie nomination

Hi Laura,

I'm so sorry I completely missed your email last week.

Lisa is happy to do this over Email Q & A but you're going to have to keep the questions quite generic. Because the case is before the courts, Lisa can't get into specifics of the case.

Hope that's ok? Send questions across when you have a moment.

Thanks,
 Anthony

Anthony McCarthy
 Senior Publicist
 Como Centre, Level 4, 620 Chapel Street South Yarra Melbourne VIC 3141
 t. [REDACTED] f. [REDACTED] m. [REDACTED]



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From: Masia, Laura <[REDACTED]>
Sent: Thursday, June 2, 2022 8:42 AM
To: Anthony McCarthy <[REDACTED]>
Subject: RE: The Project Logie nomination

Hey Anthony,

I hope you're having a good week!
 Just wanted to follow up on the below. Do you think a chat with Lisa might be possible?

Kindest,

LAURA MASIA (SHE/HER)
 Senior Writer
 TV WEEK Magazine

Are Media
 Level 5, 54 Park Street
 Sydney NSW 2000
 M [REDACTED]
 P [REDACTED]
are.media.com.au



From: Masia, Laura
Sent: Wednesday, May 25, 2022 12:23 PM
To: [REDACTED]
Subject: The Project Logie nomination

Hey Anthony,

How are you? I hope you're going well!

I just wanted to touch base about The Project's very exciting nomination for the Most Outstanding News Coverage or Public Affairs Report! We're having a chat to a bunch of nominees and I was wondering whether Lisa Wilkinson might be available for a chat or email Q&A about the interview she did with Brittany Higgins?

Kindest,

LAURA MASIA (SHE/HER)

Senior Writer
TV WEEK Magazine

Are Media
Level 5, 54 Park Street
Sydney NSW 2000
M [REDACTED]
P [REDACTED]
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From: Tasha Smithies
Sent: Wednesday, June 15, 2022 10:26 PM
To: Chris Bendall <[REDACTED]>; Kevin Whyte <[REDACTED]>; Lisa Wilkinson <[REDACTED]>; Angus Llewellyn <[REDACTED]>
Cc: Myles Farley <[REDACTED]>
Subject: RE: Update on DPP/Higgins - Privileged and Confidential

Hi Chris, Angus and Kevin,

A brief update on the meeting with the Counsel for the DPP is below. Lisa please feel free to add anything! Overall it went really well and provided clarity around a few things we were concerned about. Also below is an update on the subpoenas issued by the defence.

Happy to discuss.

Kind regards,

Tasha

Meeting with Counsel for the DPP:

Junior Counsel Skye Jerome and Senior Counsel Shane Drumgold

- * Lisa is being called by the DPP as a collaboration witness ie: Brittany's accounts to Lisa of what happened to her corroborates her evidence of the rape in 2019.
- * Given the nature of her evidence she is likely to be called slightly later in the trial, the possible dates discussed were the Thursday/Friday 7/8th July or the following Tuesday 12 July. They will confirm on Monday 4th July when they have a better idea of how the trial is progressing. @Chris Bendall we may need to look at a replacement for Lisa on those nights without disclosing the reason.
- * Lisa is listed on a witness list but at this time this list will only have been seen by the parties so has not been more widely disseminated and unless leaked the fact she will give evidence is only known to a small group of people.
- * The nature of Lisa's evidence is limited to the following:
 - * Email contact 18-21 Jan from David to Lisa;
 - * Fact of a phone conversation around 22 Jan 2021 with Brittany;

- o * Fact of a meeting on 27 Jan 2021 and provision of 'Timeline' document (audio recorded interview) and a brief outline of what Brittany told Lisa about the rape;
 - o * Fact of a meeting on 2 February 2021 (camera tape interview) and confirmation that what Brittany told Lisa was the as in the previous meeting; and
 - o * The fact that Brittany was not paid for the interview.
- * The limited scope of the evidence means that Lisa can only be cross-examined about these issues. Counsel for the DPP will object to anything else and in particular any of the comments Lisa has made about politicians in the audio recording as they are not relevant to any issue the jury needs to consider.
 - * The camera tape interview and audio recording will not be played in Court. The defence should they wish to refer to any inconsistencies in Brittany's evidence, can do so when they cross examine her without the need to play this material.
 - * They are of the view that any questioning of Lisa by the defence about Brittany's motives of telling her story to the media are high risk in front of a jury and unlikely to be asked.
 - * Lisa will give evidence in person and enter through the front doors – I will liaise with publicity as we expect media to be present.
 - * We have confirmed with the DPP that I will attend with Lisa so a Network lawyer is present with her at all times.
 - * I will send Lisa a brief summary of what will be asked and the suggested wording to be used when giving evidence 'To the best of my recollection, Brittany told me that...' or words to that effect.
 - * Lisa has been asked to provide copies of the email exchange with David 18-21 January which I will send to the DPP lawyer.

Subpoenas issued by the defence:

We have written to the lawyers for the defence (copy to the Court) indicating that the subpoenas are served out of time and in the case of N10 on an entity that doesn't exist and is obviously not the correct entity. If the subpoenas are re-issued correctly we will seek to narrow the categories before production particularly in relation to the subpoena on Lisa given its clearly a fishing expedition.

We are liaising with Sam White at Nine who is managing the subpoena for Peter - they were served via a random email address and don't propose to respond. They have engaged a lawyer in the ACT to sit in the back of the Court and see what happens with their subpoena and will kindly let us know what happens with the subpoenas issued to N10 and Lisa.

Based on our discussions with the DPP today we suspect a subpoena was issued to Sam Maiden for her notes.

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Tasha Smithies

Sent: Tuesday, 7 June 2022 6:50 PM

To: Chris Bendall <[REDACTED]>; Kevin Whyte <[REDACTED]>; Lisa Wilkinson

<[REDACTED]>; Angus Llewellyn <[REDACTED]>
Cc: Myles Farley <[REDACTED]>; 'Karen Bunting' <[REDACTED]>

Subject: Update on DPP/Higgins - Privileged and Confidential

Hi Everyone,

Apologies for the delay, I only heard back from Erin Priestly at the DPP around 5pm, the conversation went extremely well.

I carefully took her through the existence of the audio, explaining in particular that Lisa did not recall the conversation was recorded. Frankly, she seemed so pleased that we had gotten in touch and thankful that Lisa has been willing to assist (made me wonder if Sam Maiden has not assisted) she wasn't too interested in the whys or hows. She was also very appreciative that a transcript had been completed.

I also explained our concerns around confidentiality and possibly privilege and preserving our rights in the event of any civil claim and hence the need for a warrant, this won't be an issue.

She will chat to Counsel and they will sort out a warrant. I have indicated that if its possible to email it to send it to me, they do however, in the ACT have quirky rules around service, so it may need to served to a person on behalf of 7pm Company – Kevin I will get in touch if this is the case.

At this stage they didn't indicate if they wanted to speak to Angus or Lisa again and may just move ahead with the rescheduled meeting with Lisa and Counsel which is now 4pm next Wednesday via Teams from Sydney. They could delay this until after they have reviewed the tape/transcript. Erin indicated that its likely they will get a new trial start date of 27 June (they will find out in the morning) so they do have a bit more time.

I am happy to jump on a call if anyone would like. Lisa do feel free to call me on the mobile number below. I will let you know when I hear from Erin or the AFP about the warrant.

Kind regards,
Tasha

Tasha Smithies
Senior Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Myles Farley
Sent: Wednesday, 15 June 2022 1:49 PM
To: 'Lisa Wilkinson' <[REDACTED]>
Subject: RE: Logies speech - CONFIDENTIAL

Thanks Lisa, I see – maybe then it can stay if it's drawn away from Brittany's individual experience as per below in CAPS:

And the truth is this honour belongs to Brittany. It belongs to a 25-year-old woman's unwavering courage, it belongs to a woman who said "enough". It belongs to a woman who inspired more than a hundred thousand similarly pissed off, exhausted, fierce women - and men – WHO SAID "ENOUGH" AND to take to the streets right across this country to roar...in numbers too big to ignore.

Happy to chat,
Myles

Myles Farley
Senior Legal Counsel
O [REDACTED] M [REDACTED]
Como Centre, Level 4, 620 Chapel Street South Yarra, Melbourne, VIC 3141



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From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, 15 June 2022 11:03 AM
To: Myles Farley <[REDACTED]>
Subject: Re: Logies speech - CONFIDENTIAL

Thanks Myles. I beg to differ though.

LONG before Brittany it was an ongoing conversation that women have had enough! Germaine Greer for example has been saying it since the 1970s.

Enough when it comes to issues of the gender pay gap, the lack of promotion in the workplace, gender bias on all levels, domestic violence, the rising number of homeless women, lack of childcare and not being believed or listened in so many areas that directly target them. It is not a phrase that belongs to Brittany's story, or sexual assault, at all.

Happy to talk this through.

Sent from my iPad

On 15 Jun 2022, at 10:48 am, Myles Farley <[REDACTED]> wrote:

Actually, just had a read - love the Helen Reddy reference! My only concern is the line that includes "enough" (highlighted). I know you're not explicitly mentioning the assault but there's a risk it may be taken this way by viewers (and the court). I think we suggested removal of a similar line re the piece for TV Week.

Once you've completed a final draft, circulate to me and Tasha, just in case there's anything additional or I've missed something.

Cheers
Myles

From: Myles Farley <[REDACTED]>
Sent: Wednesday, 15 June 2022 10:33 AM
To: Lisa Wilkinson External <[REDACTED]>
Subject: Re: Logies speech - CONFIDENTIAL

Thanks Lisa, I'll take a look today and let you know of anything of concern.
Myles

From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, 15 June 2022 9:02 AM
To: Myles Farley <[REDACTED]>
Subject: Logies speech - CONFIDENTIAL

Dear Myles,

Against the VERY vague chance that we win on Sunday night, I thought I should put together a speech, knowing how legally sensitive the timing is, and see whether you think I have crossed any lines. It's not finished, but it's not far off. I would appreciate at this stage if you didn't share it with anyone...

“Thank you so much to the judges for this enormous honour, especially knowing the calibre of our fellow nominees all of whom we are extremely humbled to be counted alongside.

After 40 years in journalism this interview, and this story is by far the most important work I have ever done. And I knew it from that very first phone call I had in January of last year with a young woman, whose name, she told me, was Brittany Higgins. Four incredibly intense weeks later, when our story went to air, the entire country knew the name Brittany Higgins.

As Brittany warned me before we went to air, her story would be seen by many of the most powerful people in this country, not as a human problem, but as a political problem. Brittany, was a political problem. And governments tend to like political problems to go away. But Brittany never did.

And the truth is this honour belongs to Brittany. It belongs to a 25-year-old woman's unwavering courage, it belongs to a woman who said "enough". It belongs to a woman who inspired more than a hundred thousand similarly pissed off, exhausted, fierce women - and men - to take to the streets right across this country to roar...in numbers too big to ignore.

Brittany, thank you for trusting me, thank you for trusting this wonderful team - producer Angus Llewelyn, and editor Darryl Brown - thank you for trusting The Project, thank you for helping to change the national conversation...and on behalf of all the generations of women to come, thank you for never giving up."

Sent from my iPad

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From: Myles Farley <[REDACTED]>
Date: 15 June 2022 at 1:48:57 pm AEST
To: Lisa Wilkinson External <[REDACTED]>
Subject: RE: Logies speech - CONFIDENTIAL

Thanks Lisa, I see – maybe then it can stay if it’s drawn away from Brittany’s individual experience as per below in CAPS:

And the truth is this honour belongs to Brittany. It belongs to a 25-year-old woman’s unwavering courage, **it belongs to a woman who said “enough”**. It belongs to a woman who inspired more than a hundred thousand similarly pissed off, exhausted, fierce women - and men – **WHO SAID “ENOUGH”** **AND** to take to the streets right across this country to roar...in numbers too big to ignore.

Happy to chat,
Myles

Myles Farley

Senior Legal Counsel

O [REDACTED] M [REDACTED]

Como Centre, Level 4, 620 Chapel Street South Yarra, Melbourne, VIC 3141



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From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, 15 June 2022 11:03 AM
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LONG before Brittany it was an ongoing conversation that women have had enough! Germaine Greer for example has been saying it since the 1970s.

Enough when it comes to issues of the gender pay gap, the lack of promotion in the workplace, gender bias on all levels, domestic violence, the rising number of homeless women, lack of childcare and not being believed or listened in so many areas that directly target them. It is not a phrase that belongs to Brittany's story, or sexual assault, at all.

Happy to talk this through.

Sent from my iPad

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Once you've completed a final draft, circulate to me and Tasha, just in case there's anything additional or I've missed something.

Cheers
Myles

From: Myles Farley <[REDACTED]>
Sent: Wednesday, 15 June 2022 10:33 AM
To: Lisa Wilkinson External <[REDACTED]>
Subject: Re: Logies speech - CONFIDENTIAL

Thanks Lisa, I'll take a look today and let you know of anything of concern.
Myles

From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, 15 June 2022 9:02 AM
To: Myles Farley <[REDACTED]>
Subject: Logies speech - CONFIDENTIAL

Dear Myles,

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“Thank you so much to the judges for this enormous honour, especially knowing the calibre of our fellow nominees all of whom we are extremely humbled to be counted alongside.

After 40 years in journalism this interview, and this story is by far the most important work I have ever done. And I knew it from that very first phone call I had in January of last year with a young woman, whose name, she told me, was Brittany Higgins. Four incredibly intense weeks later, when our story went to air, the entire country knew the name Brittany Higgins.

As Brittany warned me before we went to air, her story would be seen by many of the most powerful people in this country, not as a human problem, but as a political problem. Brittany, was a political problem. And governments tend to like political problems to go away. But Brittany never did.

And the truth is this honour belongs to Brittany. It belongs to a 25-year-old woman's unwavering courage, it belongs to a woman who said “enough”. It belongs to a woman who inspired more than a hundred thousand similarly pissed off, exhausted, fierce women - and men - to take to the streets right across this country to roar...in numbers too big to ignore.

Brittany, thank you for trusting me, thank you for trusting this wonderful team - producer Angus Llewelyn, and editor Darryl Brown - thank you for

trusting The Project, thank you for helping to change the national conversation...and on behalf of all the generations of women to come, thank you for never giving up.“

Sent from my iPad

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10:17



New iMessage

Cancel

To: Sarah Thornton

Have speech x

To: Beverly McGarvey

19 Jun 2022 at 11:07 pm

Beautiful speech

To: Beverly McGarvey

19 Jun 2022 at 11:07 pm

Beautiful speech

From: Lisa Wilkinson <[REDACTED]>
Date: 19 June 2022 at 2:34:48 pm AEST
To: Sarah Thornton <[REDACTED]>
Subject: Speech xx

Thank you so much to the judges for this enormous honour, especially knowing the calibre of our fellow nominees all of whom we are extremely humbled to be counted alongside.

After 40 years in journalism this interview, and this story is by far the most important work I have ever done. And I knew it from that very first phone call I had early last year with a young woman, whose name, she told me, was Brittany Higgins.

Four incredibly intense and sleepless weeks of investigation later when our story went to air, the entire country knew the name Brittany Higgins.

As Brittany warned me BEFORE we went to air, her story would be seen by many of the most powerful people in this country, not as a human problem, but as a political problem.

Brittany, was a political problem.

And governments tend to like political problems to go away. But Brittany never did.

And the truth is this honour belongs to Brittany.

It belongs to a 26-year-old woman's unwavering courage, it belongs to a woman who said "enough".

It belongs to a woman who inspired more than a hundred thousand similarly pissed off, exhausted, fierce women - and MEN - to take to the streets right across this country to roar...in numbers too big to ignore.

Brittany, thank you for trusting me, thank you for trusting this wonderful team - producer Angus Llewelyn, and editor Darryl Brown - thank you for trusting The Project, our bosses, Beverly McGarvey, Chris Bendall, Sarah Thornton, Peter Meakin & Craig Campbell...

...thank you for helping to change the national conversation...

...and on behalf of all the generations of women to come, thank you Brittany, for NEVER giving up.

Sent from my iPad

New iMessage

Cancel

To: Sarah Thornton

Have speech x

19 Jun 2022 at 4:37 pm

Tasha says speech all good x

20 Jun 2022 at 4:13 pm

How are you? Xx

20 Jun 2022 at 5:57 pm

Hey there. Still pinching myself. You?xx



iMessage



From: Associate to Chief Justice McCallum <[REDACTED]>
Sent: Monday, June 20, 2022 4:50 PM
To: Tasha Smithies <[REDACTED]>
Cc: Associate to Chief Justice McCallum <[REDACTED]>
Subject: The Project - R v Lehrmann (SCC 264 of 2021)
Importance: High

Dear Ms Smithies

As you may be aware the trial of Bruce Lehrmann is due to start next Monday. The Court this afternoon commenced hearing an application for a stay of the proceedings on the basis of publications following the award to Ms Wilkinson last night. That application will be further heard tomorrow. Any statement concerning the trial of the accused or the allegations made by Ms Higgins or commentary about the fact that she came forward with them, and what should be the response to her allegations, is likely to jeopardise the commencement of the trial next Monday. Her Honour would be grateful if you would refrain from publishing such material tonight.

Kind regards
 Grace

Grace Hartley
 Associate to Chief Justice McCallum
 ACT Supreme Court
 T: [REDACTED]
 E: [REDACTED]

This email was sent from the lands of the Ngunnawal and Ngambri people. I acknowledge their continuing connection to the land, waters and culture and pay my respects to elders past and present, as well as any other First Nations recipients of this email. This always was, and always will be, Aboriginal land.

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From: Tasha Smithies <[REDACTED]>
Date: 20 June 2022 at 5:04:47 pm AEST
To: Lisa Wilkinson External <[REDACTED]>, Chris Bendall
<[REDACTED]>, Elias Chalouhi <[REDACTED]>, Myles Farley
<[REDACTED]>, Karen Bunting <[REDACTED]>
Subject: URGENT The Project - R v Lehrmann (SCC 264 of 2021)

Hi everyone,
Please see email below, we will need to look ensuring that we don't use extracts from the speech on the show this evening. I will give you a call.
Kind regards,
Tasha

Tasha Smithies
Senior Litigation Counsel
Paramount ANZ
M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

Begin forwarded message:

From: Associate to Chief Justice McCallum
<[REDACTED]>
Date: 20 June 2022 at 4:49:44 pm AEST
To: Tasha Smithies <[REDACTED]>
Cc: Associate to Chief Justice McCallum <[REDACTED]>
Subject: The Project - R v Lehrmann (SCC 264 of 2021)

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Honour would be grateful if you would refrain from publishing such material tonight.

Kind regards
Grace

Grace Hartley

Associate to Chief Justice McCallum
ACT Supreme Court

[REDACTED]
[REDACTED]

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[EXTERNAL] FW: URGENT The Project - R v Lehrmann (SCC 264 of 2021)

From: Tasha Smithies <[REDACTED]>
Sent: Monday, June 20, 2022 5:10 PM
To: Martin White <[REDACTED]>; Jarrod Koh <[REDACTED]>
Cc: Legal Clearance <[REDACTED]>
Subject: URGENT The Project - R v Lehrmann (SCC 264 of 2021)

Hi Martin and Jarrod,
 Please see below, we should avoid using anything from Lisa's speech
 I will give you a call.
 Tasha

Tasha Smithies
 Senior Litigation Counsel
 Paramount ANZ
 M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009

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From: Associate to Chief Justice McCallum <[REDACTED]>
Date: 20 June 2022 at 4:49:44 pm AEST
To: Tasha Smithies <[REDACTED]>
Cc: Associate to Chief Justice McCallum <Associate.McCallumCJ@courts.act.gov.au>
Subject: The Project - R v Lehrmann (SCC 264 of 2021)

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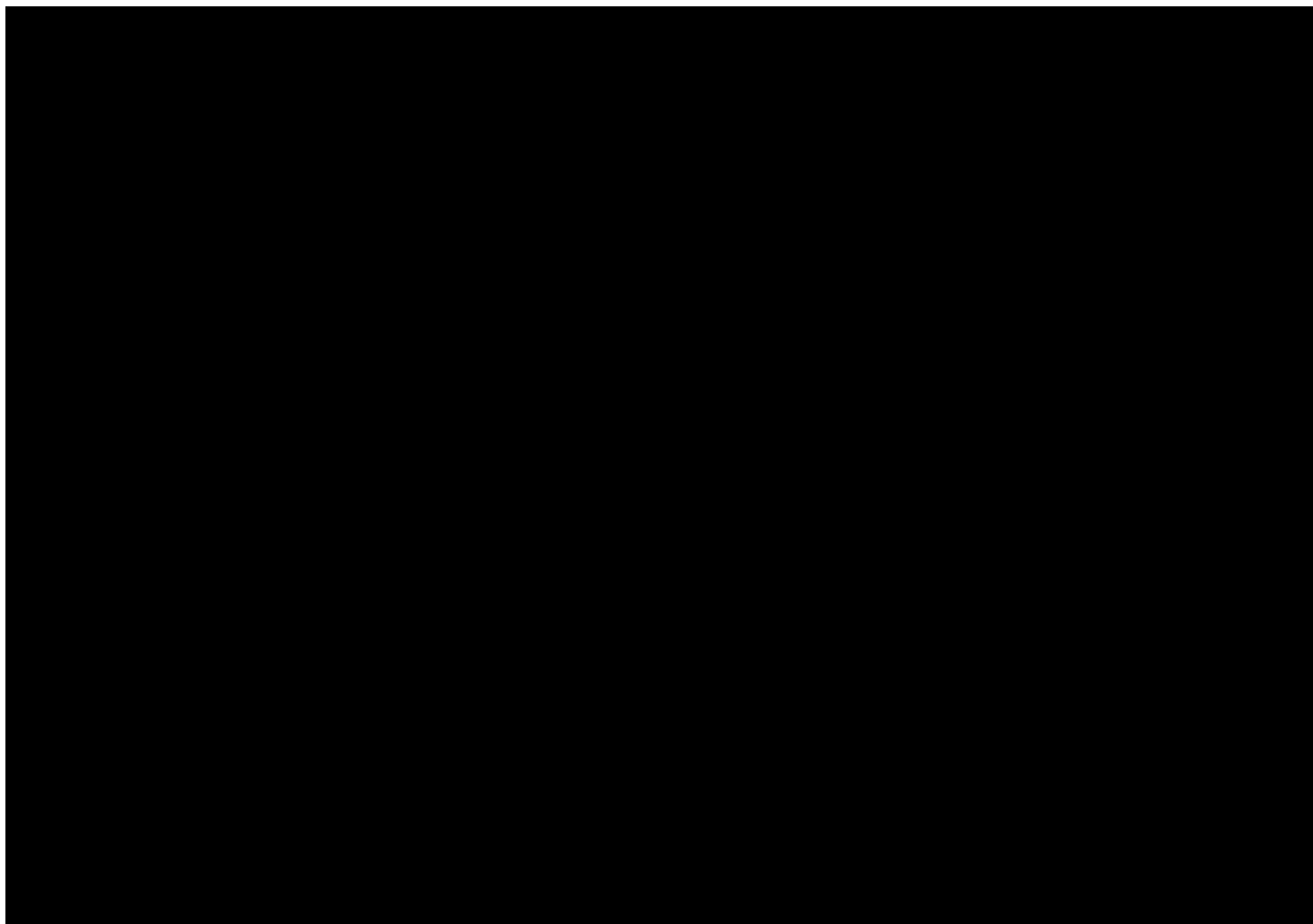
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E:

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[EXTERNAL] FW: URGENT The Project - R v Lehrmann (SCC 264 of 2021)

From: Tasha Smithies
Sent: Monday, June 20, 2022 5:05 PM
To: Lisa Wilkinson External <[REDACTED]>; Chris Bendall <[REDACTED]>; Elias Chalouhi <[REDACTED]>; Myles Farley <[REDACTED]>; Karen Bunting <[REDACTED]>
Subject: URGENT The Project - R v Lehrmann (SCC 264 of 2021)

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[EXTERNAL] FW: Urgent - The Project - R v Lehrmann (SCC 264 of 2021)

From: Tasha Smithies
Sent: Monday, June 20, 2022 5:31 PM
To: Matthew Johnson <[REDACTED]>
Subject: Urgent - The Project - R v Lehrmann (SCC 264 of 2021)

Tasha Smithies
Senior Litigation Counsel
Paramount ANZ
M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

Begin forwarded message:

From: Tasha Smithies <[REDACTED]>
Date: 20 June 2022 at 5:25:29 pm AEST
To: Tamara Simoneau <[REDACTED]>, Wade Shipard <[REDACTED]>, Rashell Habib <[REDACTED]>
Subject: Fwd: The Project - R v Lehrmann (SCC 264 of 2021)

Please see below.
Given this direct email, News and The Project will avoid using parts of Lisa unless they don't relate directly to Higgins, perhaps run any grabs you wish to use by us please.

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T: [REDACTED]
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[EXTERNAL] FW: Privileged and Confidential URGENT The Project - R v Lehrmann (SCC 264 of 2021)

From: Tasha Smithies
Sent: Monday, June 20, 2022 5:42 PM
To: Sarah Thornton <[REDACTED]>; Catherine Donovan <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>
Subject: Privileged and Confidential URGENT The Project - R v Lehrmann (SCC 264 of 2021)

Hi Sarah and Cat,

Just as an FYI. I have touched base with The Project, News, Studio 10 and socials to use just those bits of the speech that don't refer directly to Brittany Higgins, more because we are on notice of the application to the Court, not because we have concerns about the speech itself. I have also left a message for Lisa should she wish to chat.

It's also difficult to tell if this type of email went to all media or just N10 (they would have my email address given the subpoena issued by the defence lawyers).

Please give me a call on the mobile if you would like to discuss.
 Kind regards,
 Tasha

Tasha Smithies
 Senior Litigation Counsel
 Paramount ANZ
 M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW

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Subject: Fwd: The Project - R v Lehrmann (SCC 264 of 2021)

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SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY

Case Title:	R v Lehrmann (No 3)
Citation:	[2022] ACTSC 145
Hearing Dates:	20 – 21 June 2022
Decision Date:	21 June 2022
Before:	McCallum CJ
Decision:	(1) Vacate the trial date of 27 June 2022; (2) Stand the matter over for mention before McCallum CJ on 23 June 2022 at 9:30am.
Catchwords:	<p>CRIMINAL PROCEDURE – Stay of proceedings – Application for temporary stay of criminal proceedings– Significant pre-trial publicity – Whether of such a nature as to prevent a fair trial – Where application for temporary stay has been previously refused – Whether there has been a significant change in circumstances – Where pre-trial publicity concerns the character of the complainant – Whether steps able to be taken by the trial judge in the conduct of the trial to relieve against its unfair consequences - Where pre-trial publicity is of such intensity and proximity to trial, and had such capacity to obliterate distinction between untested allegation and a fact accepted by jury, that prejudice cannot be remedied</p> <p>CRIME – Accused facing trial for sexual intercourse without consent – Significant pre-trial publicity and commentary including speech by witness on live television endorsing the complainant's credibility and claimed status as a victim – Whether possible to empanel an impartial jury – Whether prejudice able to be addressed by directions by the trial judge</p>
Legislation Cited:	<i>Court Procedures Rules 2006</i> (ACT), r 4750(3) <i>Crimes Act 1900</i> (ACT), s 54(1)
Cases Cited:	<i>R v Lehrmann (No 2)</i> [2022] ACTSC 92
Parties:	The Queen (Crown) Bruce Lehrmann (Accused)
Representation:	Counsel S Drumgold SC, S Jerome (Crown) S Whybrow, K Musgrove, B Jullienne (Accused) Solicitors ACT Director of Public Prosecutions (Crown) Kamy Saeedi Law (Accused)

File Number(s):

SCC 264 of 2021

McCallum CJ:

1. The accused in these proceedings is charged with an offence of engaging in sexual intercourse without consent, contrary to s 54(1) of the *Crimes Act 1900* (ACT). The allegation is of a kind not unfamiliar to the courts, save for the fact that the place where the offence is alleged to have occurred is on the couch in the office of a Senator in Australian Parliament House.
2. The case has, accordingly, attracted a level of attention in the media and among prominent Australian personalities that, while not unprecedented (even within my own judicial experience), is certainly extreme. Extensive media reporting of allegations of criminal conduct is not a mischief in itself. On the contrary, it is appropriate to recognise that the media play an important role in drawing attention to allegations of criminal or other misconduct and any shortcomings in the treatment of such allegations.
3. What is a potential mischief is the capacity for media reporting of such issues to spread in such a way as to interfere with the fair and proper determination of any related matter before the Court. That danger is particularly acute in the case of pending criminal proceedings.
4. It is trite, but apparently requires restatement at this point in this case, that the constitutional process for determining whether a person is guilty or not guilty of a serious criminal offence is for the allegation to be tested in a trial conducted in open court according to law.
5. The requirement to conduct a trial according to law is one of rich and variable content according to the circumstances of the case. But the overriding principle, one that is fundamental to the very notion of a criminal trial, and so cannot be dispensed with, is the requirement that the trial be fair.
6. The entitlement to a fair trial is one enjoyed by the Crown and the accused alike. However, because the consequence of a finding of guilt is to enliven the authority of the State to punish, including by detaining a person in prison, it is rightly recognised that a trial that was unfair to the accused was no trial at all and must be held again.
7. Earlier this year, the accused in the present matter applied to have his trial either permanently or temporarily stayed because he said he could not possibly have a fair trial in light of the extensive media reporting and public commentary by prominent personalities about the complainant's allegations.
8. At that time, and in light of the evidence then brought forward, I was not persuaded of the impossibility of a fair trial then some two months away.

9. Yesterday, the accused brought forward a further application, made orally outside normal sitting hours, for a temporary stay of his trial, which is currently due to commence next Monday. His right to bring the application is circumscribed by r 4750(3) of the *Court Procedures Rules 2006* (ACT) which provides that, the previous application having been dismissed, a further application may be made only if:
 - (a) There has been a significant change of circumstances; and
 - (b) The application is limited to the change of circumstances.
10. That limitation does not, however, require the Court to disregard what has gone before.
11. The first application was determined in a written judgment made publicly available only in redacted form. I limited the publication of my reasons in that way because recent jurisprudence, including decisions of the High Court, commends a cautious approach to the publication of the matters alleged to have compromised the court's capacity to ensure that the trial of an accused person will be fair, lest a court's judgment itself should contribute to the prejudice.
12. In light of the events that have given rise to the present application, and the circumstances in which it is brought, I consider it appropriate to give an unexpurgated version of the basis for the accused's contention that recent publicity has temporarily prejudiced his right to a fair trial.
13. It is appropriate to place the relevant facts in their chronological context. The offence with which the accused is charged is alleged to have been committed in the early hours of 23 March 2019. The complainant made a statement to police shortly thereafter, on 1 April 2019. However, following the announcement of a federal election, the complainant informed police that, in light of her workplace demands, she did not wish to proceed further with the complaint. The Crown case at trial will be that the decision not to proceed with the complaint at that time was prompted by the complainant's consideration of her duties to her employer in the delicate period leading up to the federal election.
14. In early January 2021, almost two years having passed, the complainant decided that she wished to proceed with the complaint. To that end she considered it appropriate to resign from her employment, then with Michaelia Cash, and proffered her resignation. The Crown case will be that, with a view to forestalling the mudslinging she anticipated would flow from that decision, she also decided to go public with her allegation against the accused and, separately, with her concerns as to the manner in which her initial complaint had been handled within Parliament House.

15. To that end, the complainant participated in a preliminary interview with Ms Lisa Wilkinson, a well-known journalist, on 27 January 2021. On 2 February 2021, Ms Wilkinson recorded an interview with the complainant which, in due course, became the basis for a program hosted by her. On 4 February 2021, the complainant contacted police to communicate her resumed interest in proceeding with a criminal complaint. On 15 February 2021, the program prepared by Ms Wilkinson was broadcast on The Project.
16. Some days after that, the complainant participated in a recorded interview with police (that is, after the airing of the program on The Project). As noted by Mr Whybrow, who appears for the accused, had those events occurred in reverse order, it is possible that the commencement of criminal proceedings would have intervened, with the result that the interview could not have been published without attracting the risk of contempt proceedings against the journalists. In any event, in due course, on 5 August 2021 the accused was summonsed to appear in Court in September 2021 to face the present charge.
17. The circumstances which gave rise to the first stay application and the reasons for refusing that application are published in *R v Lehmann* (No 2) [2022] ACTSC 92. As already indicated, that judgment is presently available only in redacted form.
18. The changed circumstances giving rise to the further application are as follows. Last Sunday, 19 June 2022, the Australian television industry held what until the interference of the COVID-19 pandemic were its annual awards for excellence in Australian television, known as The Logie Awards. The name of those awards evidently comes from the name of John Logie Baird, a Scottish electrical engineer and inventor credited with demonstrating the world's first live working television (that is not a matter in evidence in the proceedings, but comes from my own research).
19. Ms Wilkinson received a silver Logie for her interview broadcast on The Project. This was not entirely unexpected by her, nor did the award come at a time when she was unaware of the pending trial of the accused. Indeed, Ms Wilkinson may be taken to be aware that she is to be called as a Crown witness in the trial.
20. That is the inference that can be drawn from the content of a file note in evidence before me which records that, on 15 June 2022, some days before the Logie awards, Ms Wilkinson participated in a conference with the Director of Public Prosecutions and those appearing with him and instructing him in the trial to discuss the evidence she would give.

21. Ms Wilkinson's anticipated evidence concerns her interviews with the complainant and may be admissible in the trial as evidence of complaint. A note of the meeting tendered by the accused, without objection on the present application, concludes as follows:

"At conclusion Lisa was asked if she had any questions:

- I am nominated for a Gold Logie for the Brittany Higgins interview
- I don't think I will get it because it is managed by a rival network
- I have, however, prepared a speech in case
- Lisa read the first line and stopped by the director who said
 - o We are not speech editors
 - o We have no power to approve or prohibit any public comment that is the role of the court
 - o Can advise, however, that defence can reinstitute a stay application in the event of publicity"

22. Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial. Unsurprisingly, the award and the content of the speech have been the subject of extensive further commentary.

23. The recent commentary includes remarks made on the popular morning radio program, "Jonesy and Amanda". The relevant segment from that program in evidence on the present application opened as follows:

"Amanda: But there were some really lovely moments last night. One of which was the award that Lisa Wilkinson and The Project picked up for the story they did on Brittany Higgins. They just – it was a phone call that came to Lisa. She answered Brittany Higgins' phone call. Brittany had – the back story here, I'm sure you remember, was raped in Parliament House."

24. The transcript attributes to "Jonesy" his assent to that recollection. He later refers to the fact that, "...the whole story was dreadful. Absolutely dreadful", adding, "[j]ust the very fact that she had to have a meeting in the very room that she was raped with her superiors and then her career was virtually finished." And so on.
25. In case it is not clear, my purpose in quoting those remarks is the fact that each of the radio presenters assumed the guilt of the accused. The evidence before me on the present application also includes other social commentary including a copy of the complainant's own post effectively repeating remarks made by Ms Wilkinson in her speech. In other words, as was put in argument before me this morning, the combination of the speech and the posts amounted to Ms Wilkinson endorsing the credibility of the complainant who, in turn, celebrated Ms Wilkinson's endorsement of the complainant's credibility.

26. Then, this morning, there was a further spate of comments on social media reacting to the fact of the application made yesterday. Two were anodyne: one under the assumed tag “Sociable Socialist” remarks that, “[p]eople in the public sphere need to refrain from making comments about this case.” I can only agree and thought I had made that tolerably clear to a broader audience on a number of occasions during these proceedings.
27. The other appearing under what I understand to be his real name, “Jeremy Gans” is sensibly confined to a bland but accurate specification of the circumstance in which the present application is brought. But today’s comments otherwise almost universally assume the guilt of the accused and speculate, without any foundation, that his motives for bringing the application are improper.
28. I do not, of course, make the mistake of assuming that individual comments on social media reflect the views or mindset of the broader public, still less, of the likely pool of ACT jurors. But they do exemplify possible responses to the recent publicity. When the same assumption of guilt as is being made widely on social media is made and widely broadcast by popular breakfast radio hosts such as Amanda Keller and Brendan Jones, it may safely be inferred that the impact of the recent publicity is large and that its full impact cannot be known.
29. What can be known is that, somewhere in this debate, the distinction between an untested allegation and the fact of guilt has been lost. The Crown accepted that the Logie awards acceptance speech was unfortunate for that reason. He also accepted that Ms Wilkinson’s status as a respected journalist is such as to lend credence to the representation of the complainant as a woman of courage whose story must be believed.
30. The prejudice of such representations so widely reported so close to the date of empanelment of the jury cannot be overstated. The trial of the allegation against the accused has occurred, not in the constitutionally established forum in which it must, as a matter of law, but in the media. The law of contempt, which has as its object the protection of the integrity of the court but which, incidentally, operates to protect freedom of speech and freedom of the press, has proved ineffective in this case. The public at large has been given to believe that guilt is established. The importance of the rule of law has been set at nil.
31. The Crown submitted that the vaccine for the vice of pre-judgment is to empower the jury by giving appropriate directions reminding them that they are uniquely placed to

determine the case and directing them to disregard the views of others, who will not have heard all of the evidence.

32. No doubt that can be done in many cases. The present case is different because the author of the impugned remarks will be a key witness in the trial. The central issue in the trial, it is now clear, will be the credibility of the complainant and whether her allegation of sexual assault can be believed. It is not uncommon in such matters for the defence to explore in cross-examination the way in which a complaint unfolded as the central basis for making submissions to the jury as to whether the complaint should be believed.
33. The irony in all of this is that the important debate as to whether there are shortcomings in the way in which the courts are able to deliver justice in sexual assault cases, to complainants and accused persons alike, has evolved into a form of discussion which, at this moment in time, is the single biggest impediment to achieving just that.
34. The delay of the present trial will not serve the interests of anyone. Contrary to popular assumption, it does not serve the interests of the accused, for whom the prospect of conviction and sentence must weigh heavily as an immobilising force in his life. He has said through his lawyer in the present application that he has no interest in delaying the trial but he wants it to be a fair trial, and I accept that that is the case.
35. Nor does delay serve the interests of the Crown or the complainant. Delay has a corrosive effect on evidence. It is expensive. No doubt significant costs funded both publicly and privately have been incurred in preparation to date in the present trial, including in the bringing of the present application.
36. Delay of the trial at this stage wastes the valuable resources of the Court, not least among which in the horrifying prospect that a judge of the Court should find herself idle for four weeks during the time set aside for this trial at the expense of other accused persons. A new jury panel would have to be summoned if the trial is delayed.
37. Unfortunately, however, the recent publicity does, in my view, change the landscape because of its immediacy, its intensity and its capacity to obliterate the important distinction between an allegation that remains untested at law and one that has been accepted by a jury giving a true verdict according to the evidence in accordance with their respective oaths or affirmations.
38. I am not satisfied that any directions to the jury panel prior to empanelment or, in due course, to the jury can adequately address that prejudice. For those reasons, regrettably and with gritted teeth, I have concluded that the trial date of 27 June towards which the parties have been carefully steering must be vacated.

39. I make the following orders:

- (1) Vacate the trial date of 27 June 2022;
- (2) Stand the matter over for mention before McCallum CJ on 23 June 2022 at 9:30am.

I certify that the preceding thirty-nine [39] numbered paragraphs are a true copy of the Reasons for Judgment of her Honour Chief Justice McCallum

Associate:

Date: 22 June 2022

ON THE SHOW

Lisa Wilkinson warned about mentioning Brittany Higgins in Logies speech that ultimately delayed rape trial

A top judge has slammed Wilkinson's words ahead of the Brittany Higgins' rape trial. Now a senior lawyer says the media personality may face legal consequences.

Hamish Goodall / Updated 22.06.2022



The trial of a man accused of sexually assaulting Brittany Higgins inside Parliament House has been [delayed following an "ill-advised" Logie Awards speech by Lisa Wilkinson](#).

It has been revealed the media personality delivered her speech on Sunday despite being warned that publicly commenting about the upcoming rape case could lead to the trial being delayed.

Watch the video above for more on this story

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Bruce Lehrmann is accused of sexually assaulting fellow Liberal Party staffer Higgins inside an office in Parliament House in 2019.

He was due to stand trial in the ACT Supreme Court next week over the alleged rape.

He has pleaded not guilty.



The trial of a man accused of sexually assaulting Brittany Higgins inside Parliament House has been delayed following a Logie Awards speech by Lisa Wilkinson. Credit: Instagram

Chief Justice Lucy McCallum told the court on Tuesday that recent media publicity had prejudged Lehrmann's right to a fair trial.

"The case has accordingly attracted a level of attention in the media ... that while not unprecedented is certainly extreme," the chief justice said on Tuesday.

"Extensive media reporting of alleged criminal conduct is not mischievous in itself.

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"What is a potential mischief is media reporting of such issues in such a way ... it impacts the criminal case."

Justice McCallum told the court she vacated the trial dates "with gritted teeth" after Lehrmann's defence team requested a temporary stay in the wake of Wilkinson's speech and surrounding publicity.

"Unfortunately, however, the recent publicity (of the speech) does, in my view, change the landscape," she said.

"Because of its immediacy, its intensity and its capacity to obliterate the important distinction between an allegation that remains untested at law.

"For those reasons, regrettably and with gritted teeth, I have concluded that the trial date of 27 June towards which the parties have been carefully steering must be vacated."



Lisa Wilkinson won a Logie for her interview with Brittany Higgins. Credit: Nine

Justice McCallum told the court that Wilkinson had spoken with the Director of Public Prosecutions Shane Drumgold on June 15 to discuss the evidence that she would give at the trial.

At that meeting, Wilkinson said she had been nominated for a Logie for her reporting of Higgins' allegation on *The Project* last year.

The TV star was warned against commenting publicly on Higgins' case, as it could lead to the trial being delayed.

Despite the warning, Wilkinson took to the stage after winning the Most Outstanding News Coverage or Public Affairs Report award.



Wilkinson delivered the speech despite being warned against doing so. Credit: Getty Images

Justice McCallum told the court on Tuesday that the speech and publicity following it left her with no other option but to delay the trial.

"Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial," Justice McCallum said.

"Unsurprisingly, the award, and the content of the speech have been the subject of further commentary."

Lisa Wilkinson's Logies speech may be investigated

President of the Australian Bar Association Matthew Collins said Wilkinson could be investigated and may face legal consequences over the speech.

This could include contempt of court charges.

"It's certainly possible that the authorities will be looking at the speech that she made to the Logies and assessing that speech against the standard which applies in this branch of the law," the barrister told *Sunrise* on Wednesday.

"That standard is, did anything that she do have a tendency to interfere with the administration of justice?"

See Collins' interview with Sunrise in the video player below



2:23

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Prince Harry in the High Court over his right to protection

5:09

G Flip on S

Lawyer explains Higgins trial delay.

Collins said Wilkinson's speech was "ill-advised" and that a media veteran should have known better.

"You would hope that whenever the media is contemplating running a story about a serious criminal trial which is about to begin, they would be attune to the potential risks," he added.

"The mainstream media understand the risk inhering with talking about cases which are about to go to trial, particularly serious high-profile cases.

"So clearly this was ill-advised.

"The concern is that potential members of the jury whose job is to apply the presumption of innocence and to focus on the evidence in the trial might be influenced by things

they've been exposed to in the media and in social media."

A further hearing will be held on Thursday to determine when a new trial date can be set.

Lehrmann's defence team said they wanted the trial to go ahead at a time that would be fair to their client.

"The delay of the present trial will not serve anyone," said Lehrmann's barrister, Steve Whybrow.

"[Lehrmann] has no interest in delaying the trial but he wants it to be a fair trial."



Justice McCallum said the significant publicity had now "obliterated" the distinction between an allegation and a finding of guilt.

"The public at large is given to believe guilt is established. The importance of the rule of law has been set at nil."

She told the court while jurors can be given directions to mitigate prejudice, this case was different with Wilkinson being a key witness.

A spokeswoman for Network 10 acknowledged the judge's decision in a statement on Tuesday.

"Both Network 10 and Lisa Wilkinson take their legal obligations very seriously, including in the preparation and delivery of her speech given at the Logies event," the spokeswoman said.

"In light of the continuing proceedings, it would be inappropriate to comment further at this time."

- *With AAP*

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Lisa Wilkinson blasted for Logies speech as Brittany Higgins rape trial delayed

By **SOPHIE ELSWORTH**

MEDIA WRITER

Follow [@sophieelsworth](#)

and **JAMES MADDEN**

MEDIA EDITOR

UPDATED 4:48PM JUNE 22, 2022, FIRST PUBLISHED AT 12:25PM JUNE 22, 2022

TV presenter Lisa Wilkinson has come under a stinging attack from a former colleague after the speech she gave at the Logies delayed the trial of a man accused of raping former Liberal staffer Brittany Higgins, amid suggestions she could face contempt of court charges as a result of her public statements at Sunday's awards night.

Ten's former weatherman Tim Bailey hit out on Twitter at The Project co-host on Tuesday night after the news broke of the rape trial being delayed.

"Hey Lisa, pull ya head in. I know this might be difficult, because it is a very big head. But please try. #LisaWilkinson #Logies2022 #carparkthief," he said in a now-deleted post.

Ten News presenter Sandra Sully also liked a tweet posted by entertainment Peter Ford that included an image of The Daily Telegraph's front page on Wednesday – the newspaper ran a photo of Wilkinson with the headline, "Hand up if you've caused court chaos".

Ford also wrote on the tweet, “Imagine waking up to this front page”.

The ACT Supreme Court on Tuesday delayed the matter indefinitely, after Chief Justice Lucy McCallum said Wilkinson had failed to take the advice given to her prior to the awards night about making comments on the matter, and instead she “openly referred to and praised the complainant in the present trial”.

Ms McCallum said the significant publicity had “obliterated” the distinction between an allegation and finding of guilt.

Brisbane’s 4BC breakfast radio host, Neil Breen, who was Wilkinson’s former boss when she was at Nine’s Today show, also lashed out at his former colleague, noting Ms McCallum’s comments about Wilkinson obliterating the difference between an allegation and finding of guilt.

“As a journalist of three and a half decades, I don’t want a judge saying that about me and that’s what a judge said about Lisa Wilkinson and her unfettered behaviour, it’s disgraceful and I’m ashamed of our profession that this has occurred,” he said on air on Wednesday.

“To make it worse, Lisa Wilkinson is expected to be a witness in the case.

“The judge yesterday (Tuesday) in granting the motion to stop the trial, said ‘notwithstanding the clear and appropriate warning on receiving the award, Ms Wilkinson gave the speech in which she openly referred to and praised the complainant in the present trial’.

“What a shameful episode for the profession that I love.”

Lawyers for the accused, Bruce Lehrmann, argued on Tuesday the case was prejudiced by Wilkinson’s remarks, which, they said, endorsed the credibility of Ms Higgins’ allegations and clearly represented a “contempt of court”.

It was revealed that [Wilkinson was warned four days before the events ceremony that she could hinder the trial from going ahead by speaking at the TV awards night](#).

Matthew Collins, president of the Australian Bar Association, told Sunrise on Wednesday that it is a “serious possibility” that authorities may look into charging

Wilkinson with contempt of court.

“It’s certainly possible that the authorities will be looking at the speech that she made to the Logies and assessing that speech against the standard that applies in this branch of the law,” the barrister told Sunrise on Wednesday.

“That standard is, did anything that she do have a tendency to interfere with the administration of justice?”

Wilkinson won the award for the most outstanding news coverage or public affairs report for her interview that aired on The Project in January 2021, during which Higgins detailed the alleged rape by a former colleague in Parliament House in Canberra on the night of March 22, 2019.

On Tuesday, Justice McCallum said Wilkinson’s speech had “completely obliterated” the line between allegation and guilt

“The implicit premise of (Lisa Wilkinson’s speech) is to celebrate the truthfulness of the story she exposed,” she said in the hearing.

Wilkinson has since taken the unusual step of blocking people from making comments on her Instagram account where she has 369,000 followers, and recently uploaded seven photos from Sunday night’s star-studded event.

Ms Higgins deactivated her social media accounts, including Twitter and Instagram, on Tuesday.

SOPHIE ELSWORTH, MEDIA WRITER

Sophie is media writer for The Australian. She graduated from a double degree in Arts/Law but decided against a career as a lawyer and instead pursued her desire to become a journalist. She has worked across the co... [Read more](#)



JAMES MADDEN, MEDIA EDITOR

James Madden has worked for The Australian for over 20 years. As a reporter, he covered courts, crime and politics in Sydney and Melbourne. James was previously Sydney chief of staff, deputy national chief of staff... [Read more](#)





Australia News

There is a 'serious possibility' Lisa

There is a "serious possibility" TV star Lisa Wilkinson could be charged with contempt after her Logies award speech was criticised by the judge overseeing the Brittany Higgins rape trial.

President of the Australian Bar Association Dr Matthew Collins said Wilkinson may face legal consequences over her acceptance speech, which prompted the trial of Higgins' accused rapist Bruce Lehrmann to be delayed.

Mr Lehrmann strongly denies the allegations and has pleaded not guilty.

"It's certainly possible that the authorities will be looking at the speech that she made to the Logies and assessing that speech against the standard that applies in this branch of the law," Dr Collins told Sunrise on Wednesday.

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Lisa Wilkinson won the Most Outstanding News Coverage or Public Affairs Report.
Picture: Getty Images

"The standard is, did anything that she did have a tendency to interfere with the administration of justice?"

Dr Collins said Wilkinson - a high profile journalist - should have understood the risk by talking about cases which are about to go to trial.

"So clearly this was ill-advised," he said.

"The concern is that potential members of the jury whose job is to apply the presumption of innocence and to focus on the evidence in the trial might be influenced by things they've been exposed to in the media and in social media."



Lisa Wilkinson was warned before the Logies that her acceptance speech could delay the Brittany Higgins court trial further. Picture: Instagram / Lisa Wilkinson



Wilkinson won the Most Outstanding News Coverage or Public Affairs when she interviewed Ms Higgins over the alleged rape. Instagram / Lisa Wilkinson

ACT Chief Justice Lucy McCallum vacated Lehrmann's trial date of June 27 and said the distinction between an allegation and the finding of guilt was "completely obliterated" by Wilkinson's speech.

"The implicit premise of (Lisa Wilkinson's speech) is to celebrate the truthfulness of the story she exposed," she said in a hearing on Tuesday.

Wilkinson, who won the Most Outstanding News Coverage or Public Affairs when she interviewed Ms Higgins over the alleged rape, had previously been warned against commenting publicly on the case.

Television personality Lisa Wilkinson has been forced to issue a "grovelling apology" to former Liberal MP Andrew Laming, says Sky News host Chris Smith. "Remember there were false accusations flying around last year about an inappropriate..."

"I knew it from the very first phone call I had early last year with a young woman whose name she told me was Brittany Higgins," she said during her winning speech.

"Four incredibly intense sleepless weeks later, when our story went to air, the entire country knew the name Brittany Higgins.

"As Brittany warned me before we went to air, her story would be seen by many of the most powerful people in this country not as a human problem but as a political problem."

A further hearing will be held on Thursday to determine when a new trial date can be set.

SkyNews.com.au has contacted Dr Collins for further comment.

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Fallout over Lisa Wilkinson's Logies speech sparks delay in Brittany Higgins rape trial

The Project host Lisa Wilkinson was given warning days before the Logies about the risk of speaking publicly about the Brittany Higgins trial.

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The Project host Lisa Wilkinson was given warning over delivering a speech at the Logies about Brittany Higgins days before she accepted an award for her coverage of the young woman's sexual assault allegations.

ACT Chief Justice Lucy McCallum vacated the trial dates of Bruce Lehrmann, who is accused of raping Brittany Higgins in March 2019, after his defence team requested a temporary stay in the wake of the speech and surrounding publicity.

Lehrmann has pleaded not guilty.

Justice McCallum said she made the order to delay the trial from starting as planned on Monday, June 27, with "gritted teeth" but was left with no other options.

"Unfortunately, however, the recent publicity (of the speech) does, in my view, change the landscape," she said.

"Because of its immediacy, its intensity and its capacity to obliterate the important distinction between an allegation that remains untested at law.

"For those reasons, regrettably and with gritted teeth, I have concluded that the trial date of 27 June towards which the parties have been carefully steering must be vacated."

Justice McCallum warned earlier on Tuesday the line between an allegation and the finding of guilt was “completely obliterated” in the speech given by Wilkinson on Sunday night.

“The implicit premise of (Lisa Wilkinson’s speech) is to celebrate the truthfulness of the story she exposed,” she said in the hearing.

Mr Lehrmann has pleaded not guilty and has given a police interview stating he did not have sex with Ms Higgins.

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Justice McCallum warned the distinction between an allegation and guilt had been ‘obliterated’ by Lisa Wilkinson’s speech. Picture: Matrix Pictures

While handing down her judgement on Tuesday afternoon, Justice McCallum said the award was not unexpected and that Ms Wilkinson had sought advice from the Director of Public Prosecutions Shane Drumgold on June 15 to discuss the evidence that she would give at the trial.

A note of the meeting by the DPP said that at the conclusion of the meeting, Ms Wilkinson was asked if she had any questions.

She then raised that she was nominated for a Logie and didn't think she would win because it was organised by a rival network.

She then started to read the speech she planned to give but the DPP intervened to stop her and he had no power to approve or provide advice on the speech.

"We are not speech editors," Mr Drumgold told Ms Wikinson.

"Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial," Justice McCallum said.

"Unsurprisingly, the award, and the content of the speech have been the subject of further commentary."

Justice McCallum is also considering hearing arguments on prohibiting Ms Wilkinson and the complainant Ms Higgins on making any public commentary on the trial.

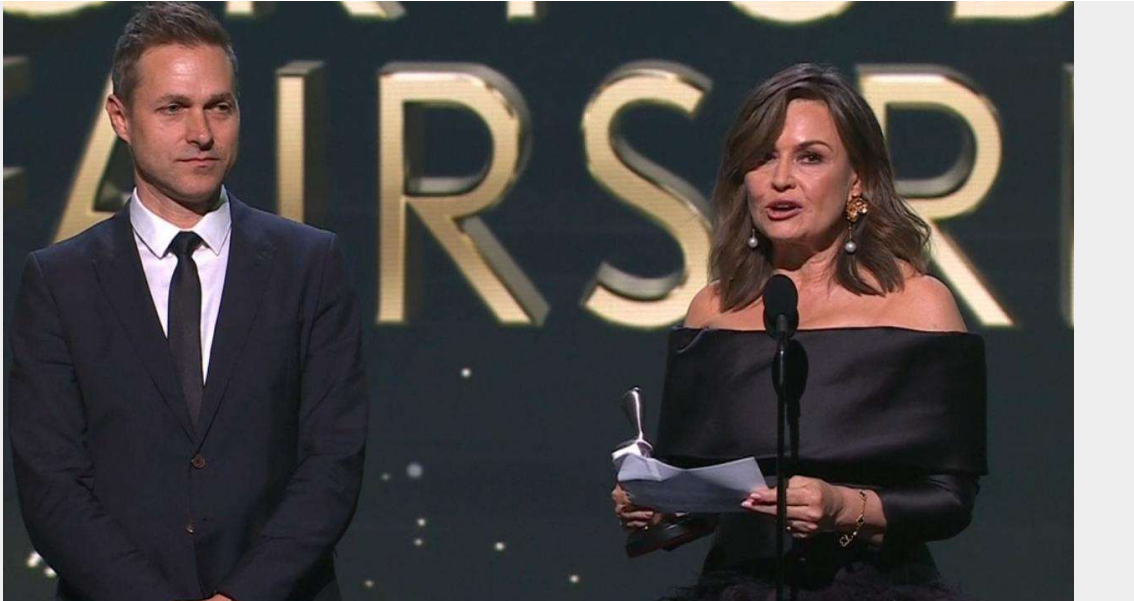
Lawyers acting for Mr Lehrmann brought the legal application this week in the wake of the Logies speech.

"Your honour, this speech did not need to be made," barrister Steve Whybrow on Tuesday morning.

Slamming elements of the media over the reporting of the speech during the same hearing, Justice McCallum warned the distinction between an allegation and guilt had been "obliterated".

"What concerns me most about this recent round is that the distinction between an allegation and a finding of guilt has been completely obliterated in the discussion on Sunday and Monday," she said.

“The law of contempt, which has, as its object for protection of the integrity of the court, but which, incidentally, operates to protect freedom of speech and freedom of the press has proved ineffective in this case,” she said.



The Brittany Higgins interview on The Project won the award for News Coverage or Public Affairs Report. Ms Wilkinson’s speech accepting the award has led to the case being temporarily halted.

She added the fact that Ms Wilkinson was a witness at the trial was also an issue.

“The present case is different because the author of the impugned remarks will be a key witness in the trial,” she said.

“A central issue in the trial, it is now clear, will be the credibility of the complainant and whether her allegation of sexual assault can be believed.”

Justice McCallum said the case had attracted a level of attention in the media and among prominent Australian personalities that, “while not unprecedented, even within my own judicial experience, is certainly extreme.”

“Extensive media reporting of allegations of criminal conduct is not a mischief of itself,” she said.

“On the contrary, it is appropriate to recognise that the media plays an important role in drawing attention to allegations of criminal or other misconduct and any shortcomings in the treatment of such allegations.”

However, she said a potential mischief was the capacity of media reporting to interfere with the fair and proper determination of any related matter before the court.

“That danger is particularly acute in the case of pending criminal proceedings,” Justice McCallum said.

“It is trite but apparently requires restatement at this point in this case, that the constitutional process for determining whether a person is guilty or not guilty of a serious criminal offence is for the allegation to be tested in a trial conducted in open court according to law.

“The overriding principle, one that is fundamental to the very notion of a criminal trial and so cannot be dispensed with, is the requirement that the trial be fair.”

Justice McCallum warned earlier on Tuesday Ms Higgins’ allegation had also been conflated publicly with the work of former Australian of the Year Grace Tame, despite the fact that in the latter example a man had been convicted.

“Grace Tame was talking about her experience after the man had been convicted and served a sentence of imprisonment,” she said.

“(Tame’s) important contribution to the legal landscape was to say ‘the jury knows what he did, the public knows what he did, but I can’t talk about it because of the law that prohibits me outing myself.

“Miss Higgins is treated as being in the same category. And she’s not,” Justice McCallum said.

“At the moment, she is not in that category. That’s what really troubles me about the last round.”



Justice McCallum also warned against the conflation of Brittany Higgins and former Australian of the Year Grace Tame. Picture: NCA Newswire/Gary Ramage

On Tuesday, the ACT Director of Public Prosecutions Shane Drumgold said Wilkinson's Logies speech was a "regurgitation" of emotion, making the point that the television host had said similar things previously.

"It's difficult, it's all undesirable, it's all unsavoury, but the most unsavoury is that (a comment made on radio show Jonesy and Amanda during coverage of Ms Wilkinson's speech) is a direct statement of guilt that they have extrapolated in the context from the opinion by Miss Wilkinson," Mr Drumgold said today.

A previous stay application was dismissed by the Supreme Court.

Justice McCallum said during the hearing that, in summary, Ms Wilkinson's speech amounted to saying: "Not only do I believe her, but she's brave and extraordinary and she's the most important thing that's ever happened to me and I'm proud of bringing forward her allegation."

"We know that the accused has given a recorded interview in which he denies any sexual activity took place," Justice McCallum said.



References to Ms Higgins made in Ms Wilkinson's speech were not necessary, Justice McCallum said. Picture: Sam Mooy/Getty Images

She said it could be anticipated that the defence would explore the complainant's credibility as the central issue in the case.

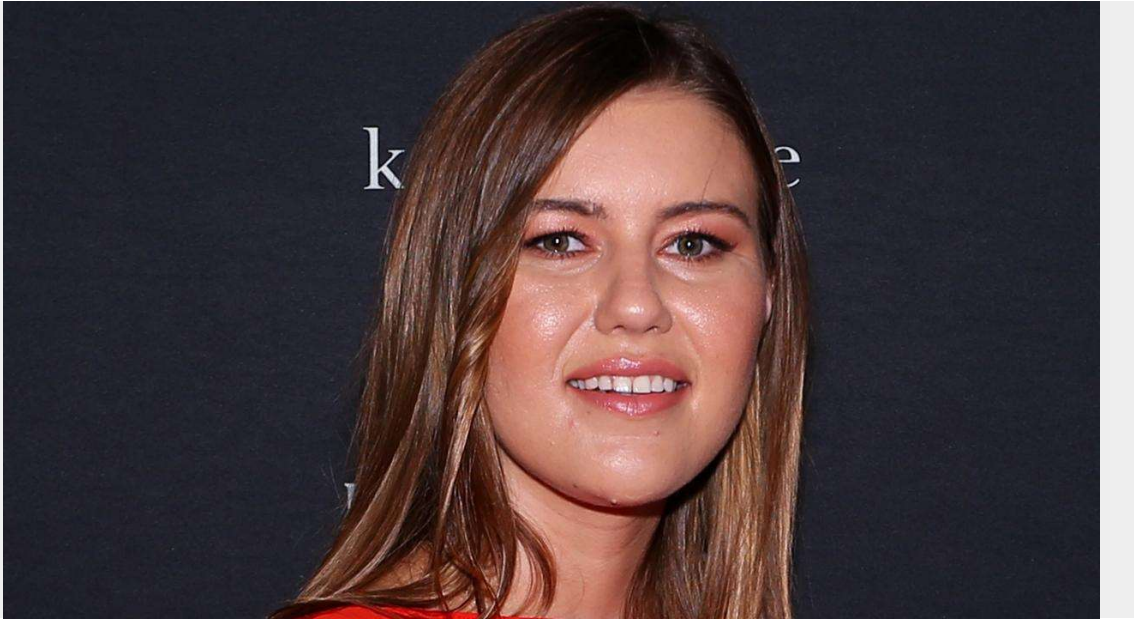
"And it can further be anticipated, because it happens a lot in the experience of the courts, that the line and cross examination will be about some other motive," she said.

"Fame, or publicity, or money, or you backed yourself into a corner that you couldn't get out of, or whatever it is, there'll be an exploration of alternative motives."

During Tuesday morning's hearing, Ms McCallum said she had "made a mistake" in trusting the law of contempt and the media to do the right thing.

"Isn't that a safer course, to defer the trial?" Justice McCallum asked.

Mr Whybrow claimed to the court more than 800,000 searches had been made in relation to Ms Wilkinson's speech on Monday alone.



Brittany Higgins' rape trial has been delayed further as a result of an application for a temporary stay in the wake of Lisa Wilkinson's speech at the Logies. Picture: Lisa Maree Williams/Getty Images

He also noted reactions on Twitter and Instagram, as well as a radio program and other news outlets, as evidence of intense attention in the lead-up to the start of the trial.

He said his client did not want to delay proceedings.

"He (Lehrmann) wants to get it on, but he wants a fair trial," Mr Whybrow said.

Earlier this year, Justice McCallum delivered a "blunt" warning the trial could be postponed or not proceed at all.

"A man has been accused of a very serious offence, it is an offence that can only be tried with a jury," she said in the ACT Supreme Court.

"The laws about contempt are well known in this country.

"Statements made before a criminal trial that might interfere with the administration of justice and, in particular, the ability of an accused man to have a fair trial risk falling in the classification of contempt."

She said she "strongly" urged people to be careful.

“If I could put it in blunter terms, the more people keep talking about this case the greater the risk the prosecution will be stayed,” she said.

Originally published as [Fallout over Lisa Wilkinson’s Logies speech sparks delay in Brittany Higgins rape trial](#)

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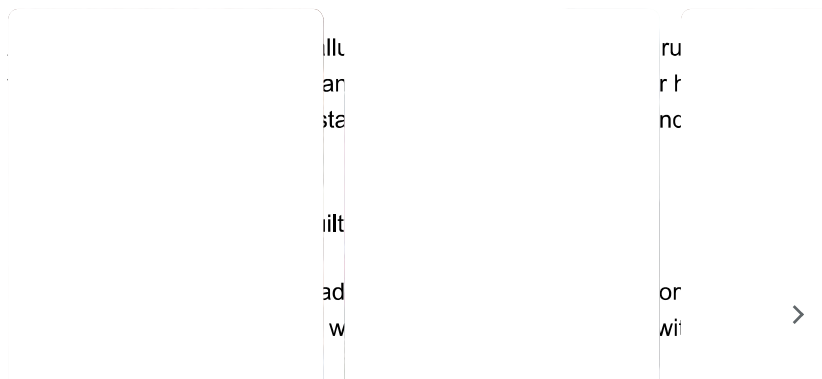
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Fallout over Lisa Wilkinson's Logies speech

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"For those reasons, regrettably and with gritted teeth, I have concluded that the trial date of 27 June towards which the parties have been carefully steering must be vacated."

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Justice McCallum warned earlier on Tuesday the line between an allegation and the finding of guilt was "completely obliterated" in the speech given by Lisa Wilkinson on Tuesday night.



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FLASHBACK



Justice McCallum warned the distinction between an allegation and guilt had been 'obliterated' by Lisa Wilkinson's speech. Picture: Matrix Pictures

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"Unsurprisingly, the award, and the content of the speech have been the subject of further commentary."

Justice McCallum is also considering hearing arguments on prohibiting Ms Wilkinson and the complainant Ms Higgins on making any public commentary on the trial.

Lawyers acting for Mr Lehmann brought the legal application this week in the wake of the Logies speech.

"Your honour, this speech did not need to be made," barrister Steve Whybrow on Tuesday morning.

Slamming elements of the media over the reporting of the speech during the same hearing, Justice McCallum warned the distinction between an allegation and guilt had been "obliterated".

"What concerns me most about this recent round is that the distinction between an allegation and a finding of guilt has been completely obliterated in the discussion on Sunday and Monday," she said.

"The law of contempt, which has, as its object for protection of the integrity of the court, but which, incidentally, operates to protect freedom of speech and freedom of the press has proved ineffective in this case," she said.

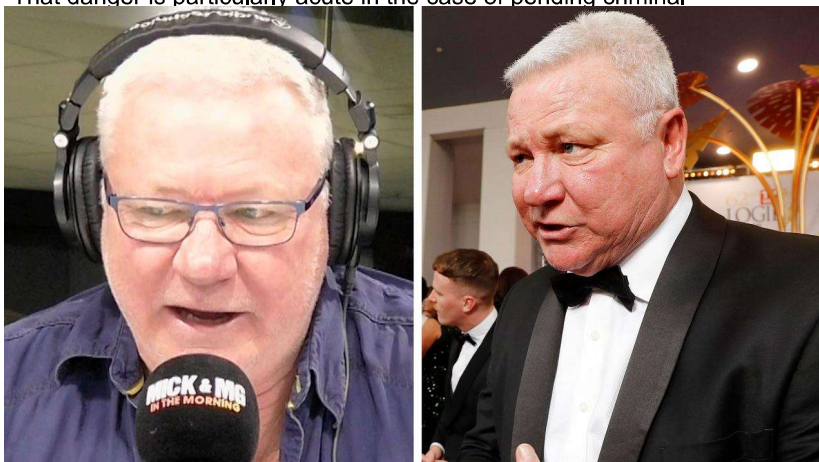


"A central issue in the trial: it is now clear, will be the credibility of the complainant and whether her allegation of sexual assault can be believed."



interfere with the fair and proper determination of any related matter before the court.
'Disgusting': Abbie slams Sonia Kruger

"That danger is particularly acute in the case of pending criminal



Justice McCallum said the fact that Logie winner Grace Tame gave the speech after an example a man had been convicted.

“Grace Tame was talking about her experience after the man had been convicted and served a sentence of imprisonment,” she said.

“(Tame’s) important contribution to the legal landscape was to say ‘the jury knows what he did, the public knows what he did, but I can’t talk about it because of the law that prohibits me outing myself.’

“Miss Higgins is treated as being in the same category. And she’s not,” Justice McCallum said.

“At the moment, she is not in that category. That’s what really troubles me about the last round.”



Justice McCallum also warned against the conflation of Brittany Higgins and former Australian of the Year Grace Tame. Picture: NCA Newswire/Gary Ramage

On Tuesday, the ACT Director of Public Prosecutions Shane Drumgold said Wilkinson’s Logies speech was a “regurgitation” of emotion, making the point that the television host had said similar things previously.

“It’s difficult, it’s all undesirable, it’s all unsavoury, but the most unsavoury is that (a comment made on radio show Jonesy and Amanda during coverage of Ms Wilkinson’s speech) is a direct statement of guilt that they have extrapolated in the context from the opinion by Miss Wilkinson,” Mr Drumgold said today.

A previous stay application was dismissed by the Supreme Court.

Justice McCallum said during the hearing that, in summary, Ms Wilkinson’s speech amounted to saying: “Not only do I believe her, but she’s brave and extraordinary and she’s the most important thing that’s ever happened to me and I’m proud of bringing forward her allegation.”

“We know that the accused has given a recorded interview in which he denies any sexual activity took place,” Justice McCallum said.



References to Ms Higgins made in Ms Wilkinson's speech were not necessary, Justice McCallum said. Picture: Sam Mooy/Getty Images

She said it could be anticipated that the defence would explore the complainant's credibility as the central issue in the case.

"And it can further be anticipated, because it happens a lot in the experience of the courts, that the line and cross examination will be about some other motive," she said.

"Fame, or publicity, or money, or you backed yourself into a corner that you couldn't get out of, or whatever it is, there'll be an exploration of alternative motives."

During Tuesday morning's hearing, Ms McCallum said she had "made a mistake" in trusting the law of contempt and the media to do the right thing.

"Isn't that a safer course, to defer the trial?" Justice McCallum asked.

Mr Whybrow claimed to the court more than 800,000 searches had been made in relation to Ms Wilkinson's speech on Monday alone.



Brittany Higgins' rape trial has been delayed further as a result of an application for a temporary stay in the wake of Lisa Wilkinson's speech at the Logies. Picture: Lisa Maree Williams/Getty Images

He also noted reactions on Twitter and Instagram, as well as a radio program and other news outlets, as evidence of intense attention in the lead-up to the start of the trial.

He said his client did not want to delay proceedings.

"He (Lehrmann) wants to get it on, but he wants a fair trial," Mr Whybrow said.

Earlier this year, Justice McCallum delivered a "blunt" warning the trial could be postponed or not proceed at all.

"A man has been accused of a very serious offence, it is an offence that can only be tried with a jury," she said in the ACT Supreme Court.

"The laws about contempt are well known in this country.

"Statements made before a criminal trial that might interfere with the administration of justice and, in particular, the ability of an accused man to have a fair trial risk falling in the classification of contempt."

She said she "strongly" urged people to be careful.

"If I could put it in blunter terms, the more people keep talking about this case the greater the risk the prosecution will be stayed," she said.

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Rape trial could be delayed over Lisa speech



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Wednesday, December 6, 2023 | Today's Paper | Mind Games

Lisa Wilkinson warned over Brittany Higgins speech at Logies

By **SARAH ISON**
POLITICAL REPORTER
Follow [@sarsison](#)

and **EMILY KOWAL**
REPORTER
Follow [@kowalemily](#)

9:35AM JUNE 22, 2022

Lisa Wilkinson was warned four days before the Logies she could set back the trial of the man accused of raping former Liberal staffer Brittany Higgins by speaking at the TV awards night and generating extra publicity over the case, the ACT Supreme Court has heard.

The court delayed the matter indefinitely on Tuesday, with Supreme Court Chief Justice Lucy McCallum saying Wilkinson had not heeded the advice and “openly referred to and praised the complainant in the present trial” in her acceptance speech.

Justice McCallum warned the significant publicity had now “obliterated” the distinction between an allegation and a finding of guilt. The ACT Chief Justice also said that she made the judgment to delay the trial “regrettably and with gritted teeth”, noting the “corrosive effect” a delay would have on the course of justice.

“Unsurprisingly, the award and the content of the speech have been the subject of further commentary,” she said. “The recent publicity does in my view change the landscape because of its immediacy, its intensity and its capacity to obliterate the

important distinctions between an allegation that remains untested at law, and one that has been accepted by a jury giving a true verdict according to the evidence.

“The public at large is given to believe guilt is established. The importance of the rule of law has been set at nil.”

Earlier in the day, Justice McCallum said she had made a mistake in not prohibiting publication around the case. “I trusted the press ... you were right and I was wrong,” she told the court.

“What concerns me most about this recent round is that the distinction between an allegation and a finding of guilt has been completely obliterated in the discussion on Sunday and Monday.

“The implicit premise of (Wilkinson’s speech) is to celebrate the truthfulness of the story she exposed.”

Wilkinson was recognised on Sunday for her interview on The Project with Ms Higgins in February last year in which the former staffer detailed her alleged rape by a colleague in the office of then defence industry minister Linda Reynolds on the night of March 22, 2019. The claims ignited a national debate over women’s justice and working culture at Parliament House.

But lawyers for the accused, Bruce Lehrmann, argued on Tuesday the case was prejudiced by Wilkinson’s remarks, which, they said, endorsed the credibility of Ms Higgins’ allegations and clearly represented a “contempt of court”.

After making her acceptance speech, Wilkinson spoke again in the Logies media room where she displayed an awareness of the sensitivities around the trial and reflected on the importance of choosing her words carefully.

“I have got to say I have to be very careful about what I am saying and every journalist in the room will know the reason why,” she said. “What I know is Brittany’s courage encouraged more than one hundred thousand good women and men to take to the streets and say that they had had enough. And that is a pretty powerful woman.”

Mr Lehrmann has pleaded not guilty to the charge of sexual intercourse without consent and his legal team last year said the ex-Liberal staffer “absolutely and

unequivocally denies that any form of sexual activity took place”.

Mr Lehrmann’s barrister, Steve Whybrow, said Wilkinson’s acceptance speech generated more than 800,000 online searches on Monday as well as a strong reaction on Twitter and Instagram. He argued the speech did not need to have been given.

The ACT Supreme Court heard on Tuesday that Wilkinson was warned last Wednesday by ACT Director of Public Prosecutions Shane Drumgold that the defence could issue a stay application “in the event of publicity” around Ms Higgins’ allegations.

According to a note of the discussion provided by Mr Drumgold and read aloud to the court by Justice McCallum, Wilkinson said she did not think she would win because the event was being managed by a rival network, but “prepared a speech in case”.

“Lisa read the first line and (was) stopped by the director, who said we are not speech editors,” the note said. “We have no power to approve or prohibit any public comment. That is the role of the court. (We) can advise, however, that defence can reinstitute a stay application in the event of publicity.”

Justice McCallum told the court that “notwithstanding that clear and appropriate warning upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant ...”.

Justice McCallum, who previously specialised in defamation law and became a Defamation List judge in 2014, said she could not give a new trial date, but hoped the case could still be heard “this year”. The trial was to begin on June 27. Another hearing will be held on Thursday, when a new date is expected to be set.

Network 10 issued a statement on Tuesday, saying it stood by and fully supported Wilkinson and had acknowledged the ruling.

“Both Network 10 and Lisa Wilkinson take their legal obligations very seriously, including in the preparation and delivery of her speech given at the Logies event,” a spokeswoman said. “In light of the continuing proceedings, it would be inappropriate to comment further at this time.”

Tuesday's stay application was the second made by the defence this year.

Justice McCallum asked if Mr Drumgold wanted to seek injunctions to prevent Ms Higgins, Wilkinson and radio hosts Amanda Keller and Brendan Jones on Sydney's WFSM making further comments. Keller and Jones had covered Wilkinson's speech on their popular Jonesy and Amanda program on Monday morning, with Justice McCallum reading out a transcript of their on-air discussion.

ABC reporter Louise Milligan, who attended the TV awards night on Sunday, took a photo with Wilkinson and posted it to social media, passing on her congratulations to both the TV presenter and Ms Higgins.

"Congratulations to this lady @Lisa_Wilkinson. And to @BrittHiggins_," she said.

In response, Wilkinson praised the "Inside the Canberra Bubble" Four Corners report by Milligan that aired in October 2020 as a "crucial stepping stone in helping Brittany find her voice." The Four Corners report questioned the conduct of senior Liberal politicians including former attorney-general Christian Porter and former education minister Alan Tudge.

Additional reporting: Newswire

SARAH ISON, POLITICAL REPORTER

Sarah Ison is a political reporter in The Australian's Canberra press gallery bureau, where she covers a range of rounds from higher education to social affairs. Sarah was a federal political reporter with The West... [Read more](#)



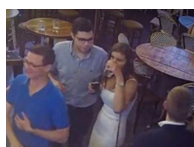
EMILY KOWAL, REPORTER

Emily Kowal is a reporter for The Saturday and Sunday Telegraph. She was previously Social Media Editor at The Australian. Emily was the 2020 Walkley Award finalist for Student Journalist of the Year... [Read more](#)



TRENDING

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Trial delayed after Wilkinson's Logies speech about Higgins



[Katina Curtis](#)

Updated June 21, 2022 – 4.23pm, first published at 1.32pm

Media personality Lisa Wilkinson gave a Logies acceptance speech referencing Brittany Higgins despite being warned by prosecutors that further publicity about the former political staffer's rape case could lead to the trial being delayed.

ACT Supreme Court Chief Justice Lucy McCallum on Tuesday cancelled the scheduled June 27 trial start date, saying she was not satisfied any directions to a jury to disregard reporting of Wilkinson's speech or any preconceptions they might have about the case would ensure a fair trial.



Lisa Wilkinson won a Logie award for her interview with former staffer Brittany Higgins. GETTY IMAGES

“Regrettably and with gritted teeth, I have concluded that the trial date of 27 June, towards which the parties have been carefully steering, should be vacated,” she said.

Bruce Lehrmann, also a former Liberal staffer, has pleaded not guilty to a charge of sexual intercourse without consent, relating to an alleged incident in Parliament House in 2019. A further hearing will be held on Thursday to determine when a new trial date can be set. Crown prosecutor Shane Drumgold indicated to the judge he would probably also ask the court to grant a non-publication order over the proceedings.

The court heard Drumgold had met with Wilkinson on June 15 to discuss evidence she would give at the trial. At the end of that meeting, Wilkinson flagged she had been nominated for a Logie for her reporting of Higgins’ allegation and that she had prepared a speech.



Former Liberal staffer Brittany Higgins. ALEX ELLINGHAUSEN

Drumgold warned her that further publicity around the case could lead to the trial being delayed.

“Notwithstanding that clear and appropriate warning, upon receiving the award Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial,” McCallum said.

“The delay of the present trial will not serve anyone. [Lehrmann] has no interest in delaying the trial but he wants it to be a fair trial.”

Earlier on Tuesday, McCallum warned in court that “the distinction between an allegation and a finding of guilt has been obliterated” in much of the public commentary surrounding the case.

“You asked me to prohibit publication [at a hearing earlier in the year] and I refused because ... I trusted the press,” the judge told Drumgold. “You were right and I was wrong.”

Lehrmann’s barrister, Steve Whybrow, had asked for a temporary stay in the case to allow the publicity around Wilkinson’s speech to dissipate.

Drumgold argued the “undesirability of the media” could be dealt with through the jury selection process and the judge’s instructions to jurors.

“It could be put [that] you should put out of your mind everything you think you know about this case,” Drumgold told the court. “The reporting in this matter, factually, is almost without

exception wrong ... almost without exception, contrary to the evidence that will be put to this courtroom.”

Drumgold said Wilkinson’s opinions and her making them public had not changed but the Logies speech had received significant follow-up publicity and came a week before the trial was due to start.



Former Liberal staffer Bruce Lehrmann was due to face trial in late June.

McCallum said the difference this time was Wilkinson had given her opinion “with the endorsement of a glittering award for good journalism”.

Drumgold said the Logie award “was not given for the truth of the story, it was for journalistic skill”, to which McCallum replied: “Mightn’t good journalism be mindful of criminal proceedings and remembering to insert the magic word ‘alleged’?”

A spokeswoman for Network 10 acknowledged the judge’s decision.

“Both Network 10 and Lisa Wilkinson take their legal obligations very seriously, including in the preparation and delivery of her speech given at the Logies event,” the spokeswoman said. “In light of the continuing proceedings, it would be inappropriate to comment further at this time.”

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Katina Curtis is a political reporter for The Sydney Morning Herald and The Age, based at Parliament House in Canberra. Connect via [Twitter](#) or [email](#).

From: Tasha Smithies <[REDACTED]>
Date: 21 June 2022 at 8:58:58 am AEST
To: Chris Bendall <[REDACTED]>
Cc: Lisa Wilkinson External <[REDACTED]>, Karen Bunting
<[REDACTED]>, Legal Clearance <[REDACTED]>,
[REDACTED]
Subject: Re: URGENT The Project - R v Lehrmann (SCC 264 of 2021)

Thanks Chris,

I had one thing on Tenplay altered which had a story on the win but with an old Instagram post inserted which wasn't helpful - the post was removed from the story.

Alice Hogg from the N10 newsroom will attend so we know what is said. Publicity and network are across it.

Kind regards,
Tasha

Tasha Smithies
Senior Litigation Counsel
Paramount ANZ
M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

On 20 Jun 2022, at 5:20 pm, Chris Bendall <[REDACTED]> wrote:

We have amended tonight's coverage and I'll brief the hosts not to mention Higgins at all

Chris Bendall
Executive Producer



7PM Company Pty Ltd
Level 4 Como Building,
620 Chapel Street (Cnr Toorak Rd)
South Yarra, Victoria, 3141
M: [REDACTED]
E: [REDACTED]

From: Tasha Smithies <[REDACTED]>
Sent: Monday, June 20, 2022 5:05 PM
To: Lisa Wilkinson External <[REDACTED]>; Chris Bendall
<[REDACTED]>; Elias Chalouhi <[REDACTED]>;
Myles Farley <[REDACTED]>; Karen Bunting
<[REDACTED]>
Subject: URGENT The Project - R v Lehrmann (SCC 264 of 2021)

Hi everyone,
Please see email below, we will need to look ensuring that we don't use extracts
from the speech on the show this evening. I will give you a call.
Kind regards,
Tasha

Tasha Smithies
Senior Litigation Counsel
Paramount ANZ
M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

Begin forwarded message:

From: Associate to Chief Justice McCallum
<Associate.McCallumCJ@courts.act.gov.au>
Date: 20 June 2022 at 4:49:44 pm AEST
To: Tasha Smithies <[REDACTED]>
Cc: Associate to Chief Justice McCallum
<Associate.McCallumCJ@courts.act.gov.au>
Subject: The Project - R v Lehrmann (SCC 264 of 2021)

Dear Ms Smithies

As you may be aware the trial of Bruce Lehrmann is due to start
next Monday. The Court this afternoon commenced hearing an
application for a stay of the proceedings on the basis of publications
following the award to Ms Wilkinson last night. That application will
be further heard tomorrow. Any statement concerning the trial of
the accused or the allegations made by Ms Higgins or commentary
about the fact that she came forward with them, and what should
be the response to her allegations, is likely to jeopardise the
commencement of the trial next Monday. Her Honour would be
grateful if you would refrain from publishing such material tonight.

Kind regards
Grace

Grace Hartley

Associate to Chief Justice McCallum

ACT Supreme Court

T:

E:

This email was sent from the lands of the Ngunnawal and Ngambri people. I acknowledge their continuing connection to the land, waters and culture and pay my respects to elders past and present, as well as any other First Nations recipients of this email. This always was, and always will be, Aboriginal land.

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From: Saunders, Marlia <[REDACTED]>
Sent: Tuesday, June 21, 2022 2:43 PM
To: Tasha Smithies <[REDACTED]>
Cc: Myles Farley <[REDACTED]>
Subject: Lehrmann matter

Hi Tasha

I'm not sure if Myles is back so thought I'd email you both.

I note Chief Justice McCallum has asked the ACT prosecutor whether he wants to seek injunctions against Lisa Wilkinson and The Project to prevent further commentary over the Lehrmann/Higgins case.

Please let me know if you would like me to contact him to ask that they consult with us about any application before it is formally made.

Give me a call if you'd like to discuss.

Cheers
 Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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From: Tasha Smithies <[REDACTED]>
Date: 21 June 2022 at 4:09:06 pm AEST
To: Sarah Thornton <[REDACTED]>, Lisa Wilkinson External
<[REDACTED]>, Nick Fordham <[REDACTED]>, Chris Bendall
<[REDACTED]>
Subject: RE: call link re statement - pls join as soon as you can

Proposed statement to discuss:

Network 10 acknowledges the ruling by Chief Justice McCallum. Both Network 10 and Lisa Wilkinson take their legal obligations very seriously both in preparation of the speech and continued reporting. It would be inappropriate to comment further at this time.

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Sarah Thornton <[REDACTED]>
Sent: Tuesday, 21 June 2022 4:08 PM
To: Lisa Wilkinson External <[REDACTED]>; Nick Fordham
<[REDACTED]>; Tasha Smithies <[REDACTED]>; Chris
Bendall <[REDACTED]>
Subject: call link re statement - pls join as soon as you can

https://teams.microsoft.com/l/meetup-join/19%3ameeting_MDRkN2YxZjgtYjlhNC00MzQ1LWlwMjltZWlwNzc4MzlyZGYy%40thread.v2/0?context=%7b%22Tid%22%3a%2212c03fcc-7a24-4b0b-9bac-d6db616f0774%22%2c%22Oid%22%3a%2223c9728d-8025-4ca9-9ca0-12985c24fbd9%22%7d

From: Tasha Smithies <[REDACTED]>
Date: 21 June 2022 at 4:29:26 pm AEST
To: Sarah Thornton <[REDACTED]>, Lisa Wilkinson External
<[REDACTED]>, Nick Fordham <[REDACTED]>, Chris Bendall
<[REDACTED]>, [REDACTED]
Subject: RE: call link re statement - pls join as soon as you can

Final version:

Network 10 acknowledges the ruling by Chief Justice McCallum. Network Ten stands by Lisa Wilkinson. Both Network 10 and Lisa Wilkinson take their legal obligations very seriously, including in the preparation and delivery of her speech for the Logies event. In light of the continuing proceedings it would be inappropriate to comment further at this time.

Tasha Smithies
Senior Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Sarah Thornton <[REDACTED]>
Sent: Tuesday, 21 June 2022 4:11 PM
To: Lisa Wilkinson External <[REDACTED]>; Nick Fordham
<[REDACTED]>; Tasha Smithies <[REDACTED]>; Chris
Bendall <[REDACTED]>; [REDACTED]
Subject: Re: call link re statement - pls join as soon as you can

Sent from my iPhone

On 21 Jun 2022, at 16:07, Sarah Thornton <[REDACTED]>
wrote:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_MDRkN2YxZjgtYjlhNC00MzQ1LWlwMjltZWlwNzc4MzlyZGYy%40thread.v2/0?context=%7b%22Tid%22%3a%2212c03fcc-7a24-4b0b-9bac-d6db616f0774%22%2c%22Oid%22%3a%2223c9728d-8025-4ca9-9ca0-12985c24fbd9%22%7d

Sarah Thornton

Head of Popular Factual

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009

<image001.png>

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From: Tasha Smithies <[REDACTED]>
Date: 21 June 2022 at 4:43:18 pm AEST
To: Sarah Thornton <[REDACTED]>, Lisa Wilkinson External
<[REDACTED]>, Nick Fordham <[REDACTED]>, Chris Bendall
<[REDACTED]>, [REDACTED]
Subject: RE: call link re statement - pls join as soon as you can

Slightly tweaked by Bev:

Network 10 acknowledges the ruling by Chief Justice McCallum and supports Lisa Wilkinson. Both Network 10 and Lisa Wilkinson take their legal obligations very seriously, including in the preparation and delivery of her speech given at the Logies event. In light of the continuing proceedings, it would be inappropriate to comment further at this time.

Tasha Smithies
Senior Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Sarah Thornton <[REDACTED]>
Sent: Tuesday, 21 June 2022 4:11 PM
To: Lisa Wilkinson External <[REDACTED]>; Nick Fordham
<[REDACTED]>; Tasha Smithies <[REDACTED]>; Chris
Bendall <[REDACTED]>; [REDACTED]
Subject: Re: call link re statement - pls join as soon as you can

Sent from my iPhone

On 21 Jun 2022, at 16:07, Sarah Thornton <[REDACTED]>
wrote:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_MDRkN2YxZjgtYjlhNC00MzQ1LWlwMjltZWlwNzc4MzlyZGYy%40thread.v2/0?context=%7b%22Tid%22%3a%2212c03fcc-7a24-4b0b-9bac-d6db616f0774%22%2c%22Oid%22%3a%2223c9728d-8025-4ca9-9ca0-12985c24fbd9%22%7d

Sarah Thornton

Head of Popular Factual

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009

<image001.png>

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- The camera tape interview and audio recording will not be played in Court. The defence should they wish to refer to any inconsistencies in Brittany's evidence, can do so when they cross examine her without the need to play this material.
- They are of the view that any questioning of Lisa by the defence about Brittany's motives of telling her story to the media are high risk in front of a jury and unlikely to be asked.
- Lisa will give evidence in person and enter through the front doors – I will liaise with publicity as we expect media to be present.
- We have confirmed with the DPP that I will attend with Lisa so a Network lawyer is present with her at all times.
- I will send Lisa a brief summary of what will be asked and the suggested wording to be used when giving evidence 'To the best of my recollection, Brittany told me that...' or words to that effect.
- Lisa has been asked to provide copies of the email exchange with David 18-21 January which I will send to the DPP lawyer.

Subpoenas issued by the defence:

We have written to the lawyers for the defence (copy to the Court) indicating that the subpoenas are served out of time and in the case of N10 on an entity that doesn't exist and is obviously not the correct entity. If the subpoenas are re-issued correctly we will seek to narrow the categories before production particularly in relation to the subpoena on Lisa given its clearly a fishing expedition.

We are liaising with Sam White at Nine who is managing the subpoena for Peter - they were served via a random email address and don't propose to respond. They have engaged a lawyer in the ACT to sit in the back of the Court and see what happens with their subpoena and will kindly let us know what happens with the subpoenas issued to N10 and Lisa.

Based on our discussions with the DPP today we suspect a subpoena was issued to Sam Maiden for her notes.

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Tasha Smithies

Sent: Tuesday, 7 June 2022 6:50 PM

To: Chris Bendall <[REDACTED]>; Kevin Whyte <[REDACTED]>; Lisa Wilkinson <[REDACTED]>; Angus Llewellyn <[REDACTED]>

Cc: Myles Farley <[REDACTED]>; 'Karen Bunting' <[REDACTED]>

Subject: Update on DPP/Higgins - Privileged and Confidential

Hi Everyone,

Apologies for the delay, I only heard back from Erin Priestly at the DPP around 5pm, the conversation went extremely well.

I carefully took her through the existence of the audio, explaining in particular that Lisa did not recall the conversation was recorded. Frankly, she seemed so pleased that we had gotten in touch and thankful that Lisa has been willing to assist (made me wonder if Sam Maiden has not assisted) she wasn't too interested in the whys or hows. She was also very appreciative that a transcript had been completed.

I also explained our concerns around confidentiality and possibly privilege and preserving our rights in the event of any civil claim and hence the need for a warrant, this won't be an issue.

She will chat to Counsel and they will sort out a warrant. I have indicated that if its possible to email it to send it to me, they do however, in the ACT have quirky rules around service, so it may need to be served to a person on behalf of 7pm Company – Kevin I will get in touch if this is the case.

At this stage they didn't indicate if they wanted to speak to Angus or Lisa again and may just move ahead with the rescheduled meeting with Lisa and Counsel which is now 4pm next Wednesday via Teams from Sydney. They could delay this until after they have reviewed the tape/transcript. Erin indicated that its likely they will get a new trial start date of 27 June (they will find out in the morning) so they do have a bit more time.

I am happy to jump on a call if anyone would like. Lisa do feel free to call me on the mobile number below. I will let you know when I hear from Erin or the AFP about the warrant.

\~
Kind regards,
Tasha

\~
Tasha Smithies
Senior Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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[REDACTED]

From: Nick Fordham <[REDACTED]>
Sent: Tuesday, June 21, 2022 5:12 PM
To: Tasha Smithies <[REDACTED]>
Cc: Sarah Thornton <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>; Chris Bendall <[REDACTED]>; [REDACTED]
Subject: Re: call link re statement - pls join as soon as you can

Thank you.

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 21 Jun 2022, at 5:08 pm, Tasha Smithies <[REDACTED]> wrote:

Hi Nick,

Bev preferred 'fully support' rather than 'stand by' more because it was felt 'stand by' made it imply Lisa had done something wrong – so 'fully support' confirms support of Lisa without that implication.

Kind regards,
Tasha

From a Network 10 spokesperson: "Network 10 acknowledges the ruling by Chief Justice McCallum and fully supports Lisa Wilkinson. Both Network 10 and Lisa Wilkinson take their legal obligations very seriously, including in the preparation and

delivery of her speech given at the Logies event. In light of the continuing proceedings, it would be inappropriate to comment further at this time.”

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Nick Fordham <[REDACTED]>

Sent: Tuesday, 21 June 2022 4:46 PM

To: Tasha Smithies <[REDACTED]>

Cc: Sarah Thornton <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>; Chris Bendall <[REDACTED]>; [REDACTED]

Subject: Re: call link re statement - pls join as soon as you can

Would prefer stands by Lisa Wilkinson. Not supports.

NICK FORDHAM

CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY

www.thefordhamcompany.com.au

On 21 Jun 2022, at 4:43 pm, Tasha Smithies <[REDACTED]> wrote:

Slightly tweaked by Bev:

Network 10 acknowledges the ruling by Chief Justice McCallum and supports Lisa Wilkinson. Both Network 10 and Lisa Wilkinson take their legal obligations very seriously, including in the preparation and delivery of her speech given at the Logies event. In light of the continuing proceedings, it would be inappropriate to comment further at this time.

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Sarah Thornton <[REDACTED]>

Sent: Tuesday, 21 June 2022 4:11 PM

To: Lisa Wilkinson External <[REDACTED]>; Nick Fordham <[REDACTED]>; Tasha Smithies <[REDACTED]>; Chris Bendall <[REDACTED]>; [REDACTED]

Subject: Re: call link re statement - pls join as soon as you can

Sent from my iPhone

On 21 Jun 2022, at 16:07, Sarah Thornton <[REDACTED]> wrote:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_MDRkN2YxZjgtYjIhNC00MzQ1LWlwMjltZWlwNzc4MzlyZGYy%40thread.v2/0?context=%7b%22Tid%22%3a%2212c03fcc-7a24-4b0b-9bac-d6db616f0774%22%2c%22Oid%22%3a%2223c9728d-8025-4ca9-9ca0-12985c24fbd9%22%7d

Sarah Thornton

Head of Popular Factual

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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R v Lehrmann (SCC264/21)

From: "Saunders, Marlia" <[REDACTED]>
To: "Drumgold, Shane" <[REDACTED]>
Cc: "Priestly, Erin" <[REDACTED]>; "Roff, Emma" <[REDACTED]>; "Jerome, Skye" <[REDACTED]>
Bcc: "Saunders, Marlia" <[REDACTED]>
Date: Tue, 21 Jun 2022 17:32:05 +1000

Dear Mr Drumgold

~
We refer to the decision of Chief Justice McCallum today in relation to the Lehrmann proceedings.

~
We act for Network Ten Pty Limited and Lisa Wilkinson.

~
We note her Honour's query today as to whether you intend to seek an injunction in relation to our clients and others, restraining them from making public comments about the case.

~
We would appreciate it if we could please schedule a time to discuss this issue before a decision is reached to make any such application. Please let us know if there is a suitable time for a call tomorrow.

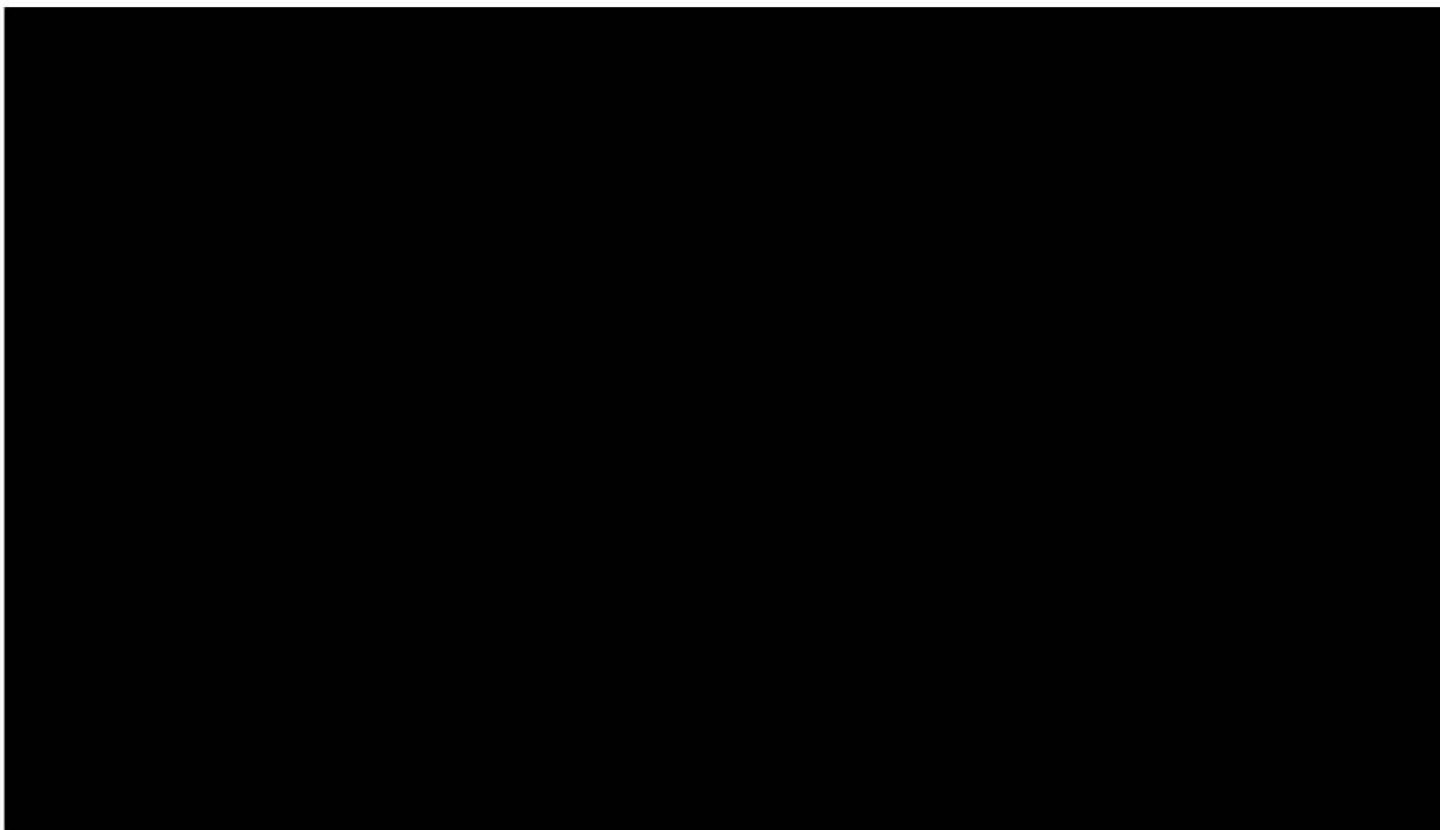
~
Kind regards

~
Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

~



From: Martin White [REDACTED]
Sent: Tuesday, June 21, 2022 6:13 PM
To: Tasha Smithies [REDACTED] Catherine Donovan [REDACTED]
Subject: FW: R v Lehrmann (No 3) [2022] ACTSC 145 - Published Judgment

Judgement now released.

Relevant bit:

18. Ms Wilkinson received a silver Logie for her interview broadcast on The Project. This was not entirely unexpected by her, nor did the award come at a time when she was unaware of the pending trial of the accused. Indeed, Ms Wilkinson may be taken to be aware that she is to be called as a Crown witness in the trial.

19. That is the inference that can be drawn from the content of a file note in evidence before me which records that, on 15 June 2022, some days before the Logie awards, Ms Wilkinson participated in a conference with the Director of Public Prosecutions and those appearing with him and instructing him in the trial to discuss the evidence she would give.

6

20. Ms Wilkinson's anticipated evidence concerns her interviews with the complainant and may be admissible in the trial as evidence of complaint. A note of the meeting tendered by the accused, without objection on the present application, concludes as follows:

"At conclusion Lisa was asked if she had any questions:

- I am nominated for a Gold Logie for the Brittany Higgins interview
- I don't think I will get it because it is managed by a rival network
- I have, however, prepared a speech in case
- Lisa read the first line and stopped by the director who said
 - o We are not speech editors
 - o We have no power to approve or prohibit any public comment that is the role of the court
 - o Can advise, however, that defence can reinstitute a stay application in the event of publicity"

21. Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial.

Martin White

Head of Broadcast News, 10 News First

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Alice Hogg <[REDACTED]>
Sent: Tuesday, 21 June 2022 6:11 PM
To: Martin White <[REDACTED]>
Subject: FW: R v Lehrmann (No 3) [2022] ACTSC 145 - Published Judgment

Much better than my notes and typos...the full judgment has just come through.

Alice Hogg

Journalist, 10 News First

O [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Associate to Chief Justice McCallum <Associate.McCallumCJ@courts.act.gov.au>
Sent: Tuesday, June 21, 2022 6:10 PM
To: Associate to Chief Justice McCallum <Associate.McCallumCJ@courts.act.gov.au>
Subject: R v Lehrmann (No 3) [2022] ACTSC 145 - Published Judgment

Good evening,

Please find attached a copy of her Honour's judgment handed down today.

Kind regards,
Max

Max Moffat

Senior Associate to Chief Justice McCallum

ACT Supreme Court

T:

E:

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SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY

Case Title:	R v Lehrmann (No 3)
Citation:	[2022] ACTSC 145
Hearing Dates:	20 – 21 June 2022
Decision Date:	21 June 2022
Before:	McCallum CJ
Decision:	<p>(1) Vacate the trial date of 27 June 2022;</p> <p>(2) Stand the matter over for mention before McCallum CJ on 23 June 2022 at 9:30am.</p>
Catchwords:	<p>CRIMINAL PROCEDURE – Stay of proceedings – Application for temporary stay of criminal proceedings– Significant pre-trial publicity – Whether of such a nature as to prevent a fair trial – Where application for temporary stay has been previously refused – Whether there has been a significant change in circumstances – Where pre-trial publicity concerns the character of the complainant – Whether steps able to be taken by the trial judge in the conduct of the trial to relieve against its unfair consequences - Where pre-trial publicity is of such intensity and proximity to trial, and had such capacity to obliterate distinction between untested allegation and a fact accepted by jury, that prejudice cannot be remedied</p> <p>CRIME – Accused facing trial for sexual intercourse without consent – Significant pre-trial publicity and commentary including speech by witness on live television endorsing the complainant’s credibility and claimed status as a victim – Whether possible to empanel an impartial jury – Whether prejudice able to be addressed by directions by the trial judge</p>
Legislation Cited:	<p><i>Court Procedures Rules 2006</i> (ACT), r 4750(3)</p> <p><i>Crimes Act 1900</i> (ACT), s 54(1)</p>
Cases Cited:	<i>R v Lehrmann (No 2)</i> [2022] ACTSC 92
Parties:	<p>The Queen (Crown)</p> <p>Bruce Lehrmann (Accused)</p>
Representation:	<p>Counsel</p> <p>S Drumgold SC, S Jerome (Crown)</p> <p>S Whybrow, K Musgrove, B Jullienne (Accused)</p> <p>Solicitors</p> <p>ACT Director of Public Prosecutions (Crown)</p> <p>Kamy Saeedi Law (Accused)</p>

File Number(s): SCC 264 of 2021

McCallum CJ:

1. The accused in these proceedings is charged with an offence of engaging in sexual intercourse without consent, contrary to s 54(1) of the *Crimes Act 1900* (ACT). The allegation is of a kind not unfamiliar to the courts, save for the fact that the place where the offence is alleged to have occurred is on the couch in the office of a Senator in Australian Parliament House.
2. The case has, accordingly, attracted a level of attention in the media and among prominent Australian personalities that, while not unprecedented (even within my own judicial experience) is certainly extreme. Extensive media reporting of allegations of criminal conduct is not a mischief in itself. On the contrary, it is appropriate to recognise that the media play an important role in drawing attention to allegations of criminal or other misconduct and any shortcomings in the treatment of such allegations.
3. What is a potential mischief is the capacity for media reporting of such issues to spread in such a way as to interfere with the fair and proper determination of any related matter before the Court. That danger is particularly acute in the case of pending criminal proceedings.
4. It is trite, but apparently requires restatement at this point in this case, that the constitutional process for determining whether a person is guilty or not guilty of a serious criminal offence is for the allegation to be tested in a trial conducted in open court according to law.
5. The requirement to conduct a trial according to law is one of rich and variable content according to the circumstances of the case. But the overriding principle, one that is fundamental to the very notion of a criminal trial, and so cannot be dispensed with, is the requirement that the trial be fair.
6. The entitlement to a fair trial is one enjoyed by the Crown and the accused alike. However, because the consequence of a finding of guilt is to enliven the authority of the State to punish, including by detaining a person in prison, it is rightly recognised that a trial that was unfair to the accused was no trial at all and must be held again.
7. Earlier this year, the accused in the present matter applied to have his trial either permanently or temporarily stayed because he said he could not possibly have a fair trial in light of the extensive media reporting and public commentary by prominent personalities about the complainant's allegations.
8. At that time, and in light of the evidence then brought forward, I was not persuaded of the impossibility of a fair trial then some two months away.

9. Yesterday, the accused brought forward a further application, made orally outside normal sitting hours, for a temporary stay of his trial, which is currently due to commence next Monday. His right to bring the application is circumscribed by r 4750(3) of the *Court Procedures Rules 2006* (ACT) which provides that, the previous application having been dismissed, a further application may be made only if:
 - (a) There has been a significant change of circumstances; and
 - (b) The application is limited to the change of circumstances.
10. That limitation does not, however, require the Court to disregard what has gone before.
11. The first application was determined in a written judgment made publicly available only in redacted form. I limited the publication of my reasons in that way because recent jurisprudence, including decisions of the High Court, commends a cautious approach to the publication of the matters alleged to have compromised the court's capacity to ensure that the trial of an accused person will be fair, lest a court's judgment, itself, should contribute to the prejudice.
12. In light of the events that have given rise to the present application, and the circumstances in which it is brought, I consider it appropriate to give an unexpurgated version of the basis for the accused's contention that recent publicity has temporarily prejudiced his right to a fair trial.
13. It is appropriate to place the relevant facts in their chronological context. The events with which the accused is charged are alleged to have been committed in the early hours of 23 March 2019. The complainant made a statement to police shortly thereafter on 1 April 2019. However, following the announcement of a federal election, the complainant informed police that, in light of her workplace demands, she did not wish to proceed further with the complaint. The Crown case at trial will be that the decision not to proceed with the complaint at that time was prompted by the complainant's consideration of her duties to her employer in the delicate period leading up to the federal election.
14. In early January 2021, almost two years having passed, the complainant decided that she wished to proceed with the complaint. To that end she considered it appropriate to resign from her employment, then Michaelia Cash, and proffered her resignation. The Crown case will be that, with a view to forestalling the mudslinging she anticipated would flow from that decision, she also decided to go public with her allegation against the accused and separately, with her concerns as to the manner in which her initial complaint had been handled within Parliament House.

15. To that end, the complainant participated in a preliminary interview with Ms Lisa Wilkinson, a well-known journalist, on 27 January 2021. On 2 February 2021, Ms Wilkinson recorded an interview with the complainant which, in due course, became the basis for a program hosted by her. On 4 February 2021, the complainant contacted police to communicate her resumed interest in proceeding with a criminal complaint. On 15 February 2021, the program prepared by Ms Wilkinson was broadcast on The Project.
16. Some days after that the complainant participated in a recorded interview with police (that is, after the airing of the program on The Project). As noted by Mr Whybrow, who appears for the accused, had those events occurred in reverse order, it is possible that the commencement of criminal proceedings would have intervened, with the result that the interview could not have been published without attracting the risk of contempt proceedings against the journalists. In any event, in due course, on 5 August 2021 the accused was summonsed to appear, in Court, in September 2021 to face the present charge. The circumstances which gave rise to the first stay application intervened and the reasons for refusing that application are published in *R v Lehmann* (No 2) [2022] ACTSC 92. As already indicated, that judgment is presently available only in redacted form.
17. The changed circumstances giving rise to the further application are as follows. Last Sunday, 19 June 2022, the Australian television industry held what until the interference of the COVID-19 pandemic were its annual awards for excellence in Australian television, known as The Logie Awards. The name of those awards evidently comes from the name of John Logie Baird, a Scottish electrical engineer and inventor credited with demonstrating the world's first live working television (that is not a matter in evidence in the proceedings, but comes from my own research).
18. Ms Wilkinson received a silver Logie for her interview broadcast on The Project. This was not entirely unexpected by her, nor did the award come at a time when she was unaware of the pending trial of the accused. Indeed, Ms Wilkinson may be taken to be aware that she is to be called as a Crown witness in the trial.
19. That is the inference that can be drawn from the content of a file note in evidence before me which records that, on 15 June 2022, some days before the Logie awards, Ms Wilkinson participated in a conference with the Director of Public Prosecutions and those appearing with him and instructing him in the trial to discuss the evidence she would give.

20. Ms Wilkinson's anticipated evidence concerns her interviews with the complainant and may be admissible in the trial as evidence of complaint. A note of the meeting tendered by the accused, without objection on the present application, concludes as follows:

"At conclusion Lisa was asked if she had any questions:

- I am nominated for a Gold Logie for the Brittany Higgins interview
- I don't think I will get it because it is managed by a rival network
- I have, however, prepared a speech in case
- Lisa read the first line and stopped by the director who said
 - o We are not speech editors
 - o We have no power to approve or prohibit any public comment that is the role of the court
 - o Can advise, however, that defence can reinstitute a stay application in the event of publicity"

21. Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial. Unsurprisingly, the award and the content of the speech have been the subject of further extensive commentary.

22. The recent commentary includes remarks made on the popular morning radio program, "Jonesy and Amanda". The relevant segment from that program in evidence on the present application opens as follows:

"Amanda: But there were some really lovely moments last night. One of which was the award that Lisa Wilkinson and The Project picked up for the story they did on Brittany Higgins. They just – it was a phone call that came to Lisa. She answered Brittany Higgins' phone call. Brittany had – the back story here, I'm sure you remember, was raped in Parliament House."

23. The transcript attributes to "Jonesy" his assent to that recollection. He later refers to the fact that, "...the whole story was dreadful. Absolutely dreadful", adding, "[j]ust the very fact that she had to have a meeting in the very room that she was raped with her superiors and then her career was virtually finished." And so on.
24. In case it is not clear, my purpose in quoting those remarks is the fact that each of the radio presenters assumed the guilt of the accused. The evidence before me on the present application also includes other social commentary including a copy of the complainant's own post effectively repeating remarks made by Ms Wilkinson in her speech. In other words, as was put in argument before me this morning, the combination of the speech and the posts amounted to Ms Wilkinson endorsing the credibility of the complainant who, in turn, celebrated Ms Wilkinson's endorsement of the complainant's credibility.

25. Then, this morning, there was a further spate of comments on social media reacting to the fact of the application made yesterday. Two were anodyne: one under the assumed tag "Sociable Socialist" remarks that, "[p]eople in the public sphere need to refrain from making comments about this case." I can only agree and thought I had made that tolerably clear to a broader audience on a number of occasions during these proceedings.
26. The other appearing under what I understand to be his real name, "Jeremy Gans" is sensibly confined to a bland but accurate specification of the circumstance in which the present application is brought. But today's comments otherwise almost universally assume the guilt of the accused and speculate, without any foundation, that his motives for bringing the application are improper.
27. I do not, of course, make the mistake of assuming that individual comments on social media reflect the views or mindset of the broader public, still less, of the likely pool of ACT jurors. But they do exemplify possible responses to the recent publicity. When the same assumption of guilt as is being made widely on social media is made and widely broadcast by popular breakfast radio hosts such as Amanda Keller and Brendan Jones, it may be safely inferred that the impact of the recent publicity is large and that its full impact cannot be known.
28. What can be known is that, somewhere in this debate, the distinction between an untested allegation and the fact of guilt has been lost. The Crown accepted that the Logie awards acceptance speech was unfortunate for that reason. He also accepted that Ms Wilkinson's status as a respected journalist is such as to lend credence to the representation of the complainant as a woman of courage whose story must be believed.
29. The prejudice of such representations so widely reported so close to the date of empanelment of the jury cannot be overstated. The trial of the allegation against the accused has occurred, not in the constitutionally established forum in which it must, as a matter of law, but in the media. The law of contempt, which has as its object the protection of the integrity of the court but which, incidentally, operates to protect freedom of speech and freedom of the press, has proved ineffective in this case. The public at large has been given to believe that guilt is established. The importance of the rule of law has been set at nil.
30. The Crown submitted that the vaccine for the vice of pre-judgment is to empower the jury by giving appropriate directions reminding them that they are uniquely placed to

determine the case and directing them to disregard the views of others who will not have heard all of the evidence.

31. No doubt that can be done in many cases. The present case is different because the author of the impugned remarks will be a key witness in the trial. The central issue in the trial, it is now clear, will be the credibility of the complainant and whether her allegation of sexual assault can be believed. It is not uncommon in such matters, for the defence to explore in cross-examination the way in which a complaint unfolded as the central basis for making submissions to the jury as to whether the complaint should be believed.
32. The irony in all of this is that the important debate as to whether there are shortcomings in the way in which the courts are able to deliver justice in sexual assault cases, to complainants and accused persons alike, has evolved into a form of discussion which, at this moment in time, is the single biggest impediment to achieving just that.
33. The delay of the present trial will not serve the interests of anyone. Contrary to popular assumption, it does not serve the interests of the accused, for whom the prospect of conviction and sentence must weigh heavily as an immobilising force in his life. He has said through his lawyer in the present application that he has no interest in delaying the trial but he wants it to be a fair trial, and I accept that that is the case.
34. Nor does delay serve the interests of the Crown or the complainant. Delay has a corrosive effect on evidence. It is expensive. No doubt significant costs funded both publicly and privately have been incurred in preparation to date in the present trial, including in the bringing of the present application.
35. Delay of the trial at this stage wastes the valuable resources of the Court, not least among which in the horrifying prospect that a judge of the Court should find herself idle for four weeks during the time set aside for this trial at the expense of other accused persons. A new jury panel would have to be summoned if the trial is delayed.
36. Unfortunately, however, the recent publicity does, in my view, change the landscape because of its immediacy, its intensity and its capacity to obliterate the important distinction between an allegation that remains untested at law and one that has been accepted by a jury giving a true verdict according to the evidence in accordance with their respective oaths or affirmations.
37. I am not satisfied that any directions to the jury panel prior to empanelment or, in due course, to the jury can adequately address that prejudice. For those reasons, regrettably and with gritted teeth, I have concluded that the trial date of 27 June towards which the parties have been carefully steering must be vacated.

38. I make the following orders:

- (1) Vacate the trial date of 27 June 2022;
- (2) Stand the matter over for mention before McCallum CJ on 23 June 2022 at 9:30am.

I certify that the preceding thirty-eight [38] numbered paragraphs are a true copy of the Reasons for Judgment of her Honour Chief Justice McCallum

Associate:

Date: 21 June 2022

From: Tasha Smithies <[REDACTED]>
Date: 21 June 2022 at 7:13:37 pm AEST
To: Lisa Wilkinson External <[REDACTED]>
Cc: Chris Bendall <[REDACTED]>, Sarah Thornton
<[REDACTED]>
Subject: FW: R v Lehmann (No 3) [2022] ACTSC 145 - Published Judgment

Hi Lisa,

As we just discussed this is the judgment – for ease relevant part below. Two things:

1. It does look like the DPP supplied the defence with notes of the meeting – they may have done so under some sort of legal request – not sure at this stage.
2. As I mentioned the problem is that the Judge construes the discussion as a warning and that comment in the judgement is what is being reported.

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Relevant bit:

18. Ms Wilkinson received a silver Logie for her interview broadcast on The Project. This was not entirely unexpected by her, nor did the award come at a time when she was unaware of the pending trial of the accused. Indeed, Ms Wilkinson may be taken to be aware that she is to be called as a Crown witness in the trial.

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21. Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial.

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



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Martin White

Head of Broadcast News, 10 News First

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009

<image001.png>

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From: Alice Hogg <[REDACTED]>

Sent: Tuesday, 21 June 2022 6:11 PM

To: Martin White <[REDACTED]>

Subject: FW: R v Lehrmann (No 3) [2022] ACTSC 145 - Published Judgment

Much better than my notes and typos...the full judgment has just come through.

Alice Hogg

Journalist, 10 News First

O [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009

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Sent: Tuesday, June 21, 2022 6:10 PM

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Subject: R v Lehrmann (No 3) [2022] ACTSC 145 - Published Judgment

Good evening,

Please find attached a copy of her Honour's judgment handed down today.

Kind regards,

Max

Max Moffat

Senior Associate to Chief Justice McCallum

ACT Supreme Court

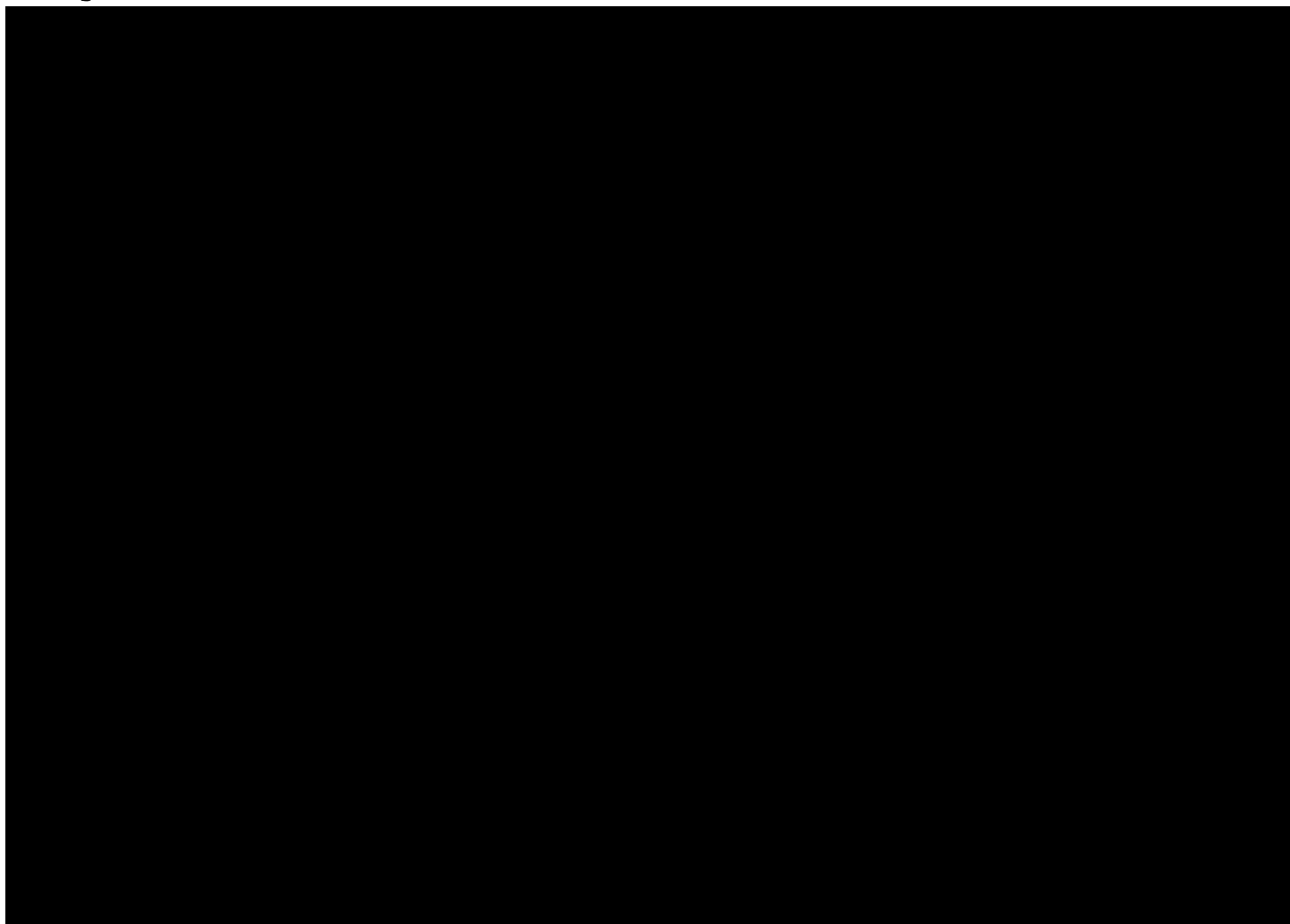
T: [REDACTED]

E: [REDACTED]

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[EXTERNAL] FW: R v Lehrmann (No 3) [2022] ACTSC 145 - Published Judgment



From: Tasha Smithies
Sent: Tuesday, June 21, 2022 7:13 PM
To: Lisa Wilkinson External <[REDACTED]>
Cc: Chris Bendall <[REDACTED]>; Sarah Thornton <[REDACTED]>
Subject: FW: R v Lehrmann (No 3) [2022] ACTSC 145 - Published Judgment

Hi Lisa,

As we just discussed this is the judgment – for ease relevant part below. Two things:

1. 1. It does look like the DPP supplied the defence with notes of the meeting – they may have done so under some sort of legal request – not sure at this stage.
2. 2. As I mentioned the problem is that the Judge construes the discussion as a warning and that comment in the judgement is what is being reported.

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Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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1 Saunders Street Pyrmont, Sydney, NSW 2009



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Max Moffat

Senior Associate to Chief Justice McCallum


ACT Supreme Court

T:

E:

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From: Tasha Smithies
Sent: Tuesday, June 21, 2022 7:22 PM
To: Marlia Saunders <[REDACTED]>
Subject: RE: R v Lehrmann (No 3) [2022] ACTSC 145 - Published Judgment

Hi Marlia,

One other thing that has come up is how the defence obtained notes of the conversation Lisa had with the DPP? Whilst we understand that the Judge has decided the conversation constituted a warning Lisa is understandably concerned about any further dealings she may have with the DPP including giving any assurances. Just something to think on, I don't know if we can ask for clarification about this from them or indicate Lisa's concerns - a delicate balancing act. She would love it if they would clarify they didn't warn her, but I doubt that's going to happen.

Kind regards,
Tasha

Relevant bit:

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Senior Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pymont, Sydney, NSW 2009



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From: Tasha Smithies

Sent: Tuesday, 21 June 2022 6:29 PM

To: Saunders, Marlia <[REDACTED]>

Subject: FW: R v Lehrmann (No 3) [2022] ACTSC 145 - Published Judgment

Hi Marlia,

You may already have this but just in case. Looks like the articles are fair reports of the Judge's comments.

Kind regards,

Tasha

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pymont, Sydney, NSW 2009



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R v Lehrmann - Update on discussion with ACT DPP [TGLAW-Legal.FID3626446]

From: "Saunders, Marlia" <[REDACTED]>
To: "Smithies Tasha ([REDACTED])" <[REDACTED]>
Cc: Legal Clearance <[REDACTED]>
Bcc: "Saunders, Marlia" <[REDACTED]>; Bruce Lehrmann _General_ _5075953 _ E_Mail <[REDACTED]>
Date: Tue, 21 Jun 2022 21:32:35 +1000
Attachments: Network 10 - Draft Letter to ACT DPP - 22.06.22 (79078439v1).DOCX (41.62 kB)

Dear Tasha

As discussed, I spoke with the ACT Director of Public Prosecutions, Shane Drumgold SC, this evening in relation to the decision by Chief Justice McCallum today to vacate next week's trial in R v Lehrmann and defer it to a later date. Her Honour asked Mr Drumgold in Court whether he would be making an application for injunctions to restrain public commentary about the case, including against Ten and Lisa.

Mr Drummond advised that:

- **No contempt charges:** he is not considering any contempt of court charges against Ten or Lisa;
- **No injunction application:** he does not want to make a formal application for an injunction, and considers it to be unnecessary; and
- **Assurance to the Court:** he does need to give some assurance to the Court that there will be no further conduct which may have a tendency to interfere with Mr Lehrmann obtaining a fair trial in order to justify him not seeking an injunction. He suggested that a written undertaking be provided.

I suggested that, instead of a formal written undertaking, a letter of assurance could be provided to the effect that Ten and Lisa have no intention to engage in any further public commentary about the matter until the conclusion of the trial, apart from engaging in general news reporting. Mr Drummond was very happy with this suggestion. He said if he could receive the letter before the matter is back in Court at 9.30am on Thursday so that he can inform her Honour about it as the reason why he won't be seeking an injunction, it would be a great outcome.

Please can you advise whether:

1. Ten and Lisa are willing to provide a letter of assurance as proposed. It would be good if I could let Mr Drummond know by around **midday tomorrow**.
2. Ten and Lisa will be in a position to finalise the letter to be provided to Mr Drummond by **close of business tomorrow**.

I **attach** a first draft of the letter for your consideration. I've proposed that this come from Beverley, but it could also be co-signed by a representative of Ten and Lisa. I recommend that the letter be kept short and simple. I've flagged for further consideration whether to include an apology to the Court – on balance, while it would be looked upon favourably by the Court, I think it would be likely to result in adverse publicity so it would be better to leave it out.

Please let me know if you would like to discuss.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

[Advice](#) | [Transactions](#) | [Disputes](#)

R v Lehrmann - Update on discussion with ACT DPP [TGLAW-Legal.FID3626446]

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Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T +61 2 8248 5836 | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

[Advice](#) | [Transactions](#) | [Disputes](#)

[PARAMOUNT/TEN LETTERHEAD]

22 June 2022

Office of the Director of Public Prosecutions
Reserve Bank Building
20-22 London Circuit
CANBERRA CITY ACT 2601

Attention: Mr Shane Drummond SC

Dear Mr Drummond

**R v Bruce Lehrmann, Supreme Court of the Australian Capital Territory
Proceedings No. SCC 264 of 2021**

I refer to yesterday's decision by Chief Justice McCallum to vacate the trial in the above proceedings in connection with publicity arising from Lisa Wilkinson's acceptance speech at The 2022 Logie Awards.

On behalf of both Network Ten and Ms Wilkinson, I would like to assure both the Office of the Director of Public Prosecutions and the Court that there is no intention by either party to engage in any further public commentary about these proceedings until the conclusion of the trial, apart from engaging in general news reporting which may include reporting of the proceedings as they are conducted in open court.

I wish to reiterate that both Network 10 and Ms Wilkinson take their legal obligations very seriously.

I would appreciate if you could please convey this assurance to the Court.

[Consider whether to add an apology for the inconvenience to the Court – while this would be looked on favourably by the Court, it could be taken by others as an admission, so may be best to leave it out.]

Yours sincerely

Beverley McGarvey
Chief Content Officer and Executive Vice President
Paramount Australia and New Zealand



22 June 2022

The Hon. Chief Justice McCallum
Chief Justice of the Australian Capital Territory

By email to: Associate.McCallumCJ@courts.act.gov.au

Copies to:

Office of the Director of Public Prosecutions
Reserve Bank Building
20-22 London Circuit
CANBERRA CITY ACT 2601

Kamy Saeedi Law
1/1 University Avenue
CANBERRA CITY ACT 2601

Attention: Mr Shane Drumgold SC

Attention: Kamy Saeedi

Dear Chief Justice

**R v Bruce Lehrmann, Supreme Court of the Australian Capital Territory
Proceedings No. SCC 264 of 2021**

I refer to your Honour's decision to vacate the trial in the above proceedings: [2022] ACTSC 145.

I am writing on behalf of Network Ten Pty Limited and Ms Wilkinson.

We take our legal obligations very seriously, including those in respect of sub judice contempt. In particular, Ms Wilkinson takes her obligations as a prospective witness with the utmost seriousness.

We did not intend at any time to interfere with the trial of Mr Lehrmann. Neither Ms Wilkinson nor the Network Ten Senior Legal Counsel present at the conference with the DPP on 15 June 2022 understood that they had been cautioned that Ms Wilkinson giving an acceptance speech at the Logie Awards could result in an application being made to the Court to vacate the trial date. Had they understood that a specific warning had been given, Ms Wilkinson would not have given the speech.

We profoundly regret that the trial has had to be vacated. We did not foresee the volume and damaging nature of the media and social media commentary that followed from Ms Wilkinson's acceptance speech. We apologise for this, and will take steps to ensure that such matters are taken into account in the future.

I have also directed that all future commentary on our platforms and by our journalists concerning Mr Lehrmann, Ms Higgins and this proceeding is to be strictly limited to general news reporting, such as reporting of the proceedings as they are conducted in open court, until the conclusion of the trial.

If your Honour wishes, we will arrange for Senior Counsel to appear before the Court to convey each of the above matters personally.

Yours sincerely

Beverley McGarvey
Chief Content Officer and Executive Vice President



This is a placeholder for:

**00042-041 2022 06 22 Sunrise Interview of Dr Collins
(AJJ-2).MP4**



The Daily Telegraph

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Treasurer is Kean on a splurge

JAMES O'DOHERTY

ACK-to-school subsidies of \$150 for every child, a \$3000 "thank you" payment for healthcare workers, toll relief worth up to \$750 per year and billions of dollars worth of major reforms are among a pre-election budget cash splash for NSW residents.

Treasurer Matt Kean has vowed he will get the state back to surplus by 2024-25 – but will blow out net debt to almost \$115bn.

Mr Kean has come under fire for his spending bonanza, which comes less than 10 months before voters head to the polls.

Labor leader Chris Minns accused the Treasurer of "spraying money in every direction" ahead of next year's election.

FULL BUDGET COVERAGE P6-9

Cops play cold case crim card

EXCLUSIVE
MARK MORRI

PLAYING cards featuring the faces and names of some of the state's highest profile cold-case murders will be rolled out in prisons across NSW in the hope inmates will be able to provide long sought-after answers.

A total of 52 unsolved murders, including that of Lynette White at Coogee in 1973, Kings Cross newspaper publisher Juanita Nielsen in 1975 and the 1996 killing of Paula Brown will feature on the cards.

The shooting of cash-in-transit guard Gary Allibon in Sydney's CBD in 2010 will also feature on the decks to be distributed throughout the prison system.

CONTINUED PAGE 4

Rape trial date vacated after TV host's Logie speech

Hand up if you've caused court chaos

Lisa Wilkinson accepts her Logie for an interview with Brittany Higgins (right). Main picture: MATRIX.

CLARE ARMSTRONG

THE trial of the man accused of raping Brittany Higgins was sensationally delayed yesterday after a judge ruled TV host Lisa Wilkinson "completely obliterated" the line between allegation and guilt in her Logie acceptance speech, after winning the award for an interview with Ms Higgins. ACT Chief Justice Lucy McCallum vacated the trial date set for Monday.

REPORT PAGE 5



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STAR CAUSES TRIAL CHAOS



LISA'S LOGIES' SPEECH SHOCKER REPORT P3

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STATE BUDGET 2022 SPECIAL EDITION

JUST CALL ME ROBIN HOOD

Treasurer defends broken taxes promise by saying it will only hurt the rich

DOMANII CAMERON
STATE POLITICAL REPORTER

QUEENSLAND Treasurer Cameron Dick has broken an election promise to impose no new or increased taxes by slugging big business with three to fund his third state budget.

But the Treasurer has brushed off the broken promise, insisting Queenslanders understood what he really meant when he emphatically pledged in the lead-up to the state election

that "we have no intention of increasing taxes ... there will be no new taxes under the Labor government if we're re-elected ... full stop". And yet mining companies, online bookmakers and businesses with wages bills exceeding \$10m will all be hit up for more cash - to fund new hospitals, the racing industry, and mental health services.

Mr Dick yesterday said "the people of our state knew what I was saying" when he promised no in-

creased or new taxes: "We were very upfront." Premier Annastacia Palaszczuk then hastened to add: "I was very clear ... there would be no additional impost on families ... and I always keep my promises." The budget has as its centrepiece a "record" \$23.6bn for health, but was slammed by key stakeholders for not delivering enough more generally amid rising cost-of-living pressures and a housing crisis.



Credit for the 'biggest ever' support plan

DOMANII CAMERON
MADURA MCCORMACK

A COURIER-MAIL campaign has been credited by Treasurer Cameron Dick as the reason he has set aside an additional \$425m every year to fund mental health services across Queensland.

Unveiling the "biggest ever investment in mental health services" in the state's history, the Treasurer paid tribute to The Courier-Mail's "advocacy journalism".

"I don't agree with everything The Courier-Mail says ... but they were very clear in their advocacy ... and that's why we delivered a dedicated stream of funding for mental health," he said.

Mr Dick said the \$1.6bn over five years would focus on adolescent day programs, additional community care units, and services to support patients after they are discharged. REPORT P7

Cameron Dick's no-frills budget does little to improve the lives of Queenslanders.
HAYDEN JOHNSON ANALYSIS P5

This government is still a vision-free zone. Building hospitals and schools is not vision.
EDITORIAL P62

INSIDE TODAY

Death on honeymoon
AN OFF-DUTY firefighter and dentist fought to save a 29-year-old woman killed in a buggy rollover while honeymooning on Hamilton Island. REPORT P2

Diets under pressure
NEW data shows that shocking numbers of Queenslanders can't afford to include vegetables in their diets because of rising cost-of-living pressure. REPORT P11

Class gender agenda
A GENDER bias is leading to boys being marked down in maths because teachers feel sorry for less confident girls, new research has revealed. REPORT P17

New Queen of King's
KATHLEEN Newcombe (right) has been appointed the first female president of University of Queensland's King's College in 110 years. CITY BEAT P65





WEDNESDAY, JUNE 23, 2022 \$2.50 [HERALDSUN.COM.AU](http://heraldsun.com.au)

Herald Sun




PIES' SORRY SAGA



DE GOEY PENALTY HAS LET DOWN ALL WOMEN

ROBBO'S VIEW, PAGES B6-B7

+ STAR SLAMMED FOR APOLOGY 'INSULT'

FULL REPORT • TIKTOK DOUBLE TROUBLE, PAGE 5

EXCLUSIVE Richard Pusey's light sentence for filming police after crash tragedy sparks tough new penalties against vile acts

LYNETTE'S LAW

TRAIL BLAZER

A 1974 law will be introduced to punish men charged with or guilty of sexual assault after public outrage over Richard Pusey being sentenced to only three months jail for filming the police officer killed in the Traralgon crash tragedy. It was also to be introduced to police sent on Wednesday will get a new bill.

There is "nothing to suggest that it is grossly offensive to community standards of behaviour" on the issue.

The law had been proposed to punish police officers who are involved in sexual assault. Lynette Turner, 48, was charged for the murder of Pusey.

PHOTO: PETER DUNN



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[EXTERNAL] FW: LW Logies Speech PR Update

When: Wed Jun 22 07:30:00 2022 +10:00

Until: Wed Jun 22 07:45:00 2022 +10:00

Organisers Beverley McGarvey [REDACTED]

Required Attendees: [REDACTED]

Stuart Thomas [REDACTED]

Catherine Donovan [REDACTED]

Sarah Thornton [REDACTED]

Tasha Smithies [REDACTED]

~
~
-----Original Appointment-----
From: Beverley McGarvey <[REDACTED]>
Sent: Wednesday, June 22, 2022 6:56 AM
To: Beverley McGarvey; Stuart Thomas; Catherine Donovan; Sarah Thornton; Tasha Smithies
Subject: LW Logies Speech PR Update
When: Wednesday, 22 June 2022 7:30 AM-7:45 AM (UTC+10:00) Canberra, Melbourne, Sydney.
Where:

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

+61 2 8320 9269,,182139644# ~ Australia, Sydney

Phone Conference ID: 182 139 644#

[Find a local number](#) | [Reset PIN](#)

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Sent from Xink as Plain Text

-----Original Message-----

From: Tasha Smithies

Sent: Wednesday, June 22, 2022 6:59 AM

To: Beverley McGarvey <[REDACTED]>; Sarah Thornton <[REDACTED]>; Catherine Donovan <[REDACTED]>; Stuart Thomas <[REDACTED]>

Subject: RE:

[https://urldefense.com/v3/_https://apple.news/AvazaO7FwTAGdkXmDfHaCdA_!!Hj9Y_P0nvg!UvnQRGI6KIBrdNfJDfIXeY-tx7JrwcLXVjxVo_hL9fIRUBQ5NveO32l15m6cBZmGgj9CnT6v9FWDQ8TWNQhlfKfYCFWJq87dso\\$](https://urldefense.com/v3/_https://apple.news/AvazaO7FwTAGdkXmDfHaCdA_!!Hj9Y_P0nvg!UvnQRGI6KIBrdNfJDfIXeY-tx7JrwcLXVjxVo_hL9fIRUBQ5NveO32l15m6cBZmGgj9CnT6v9FWDQ8TWNQhlfKfYCFWJq87dso$)

Hi Bev,

In the discussion with the DPP, Lisa raised her Logies speech and they indicated they couldn't advise her. She wasn't warned, however, the Judge determined or construed that the discussion as outlined by the DPP was a warning. Given this in the judgement (attached but relevant part set out below), it is able to be reported as a Court report.

We have had external lawyers reach out to the ACT Prosecutor and they have confirmed they have no intention of commencing contempt or injunction proceedings but will be happy with some assurances around not discussing the matter further which they can indicate to the Court on Thursday (when the matter will get a new trial date). We will give consideration to whether it's possible to have this corrected, but it is difficult given it's the Judge's view and the DPP would be reluctant to do so given it's the Judge hearing the trial.

Happy to discuss.
Tasha

18. Ms Wilkinson received a silver Logie for her interview broadcast on The Project. This was not entirely unexpected by her, nor did the award come at a time when she was unaware of the pending trial of the accused. Indeed, Ms Wilkinson may be taken to be aware that she is to be called as a Crown witness in the trial.

19. That is the inference that can be drawn from the content of a file note in evidence before me which records that, on 15 June 2022, some days before the Logie awards, Ms Wilkinson participated in a conference with the Director of Public Prosecutions and those appearing with him and instructing him in the trial to discuss the evidence she would give.

20. Ms Wilkinson's anticipated evidence concerns her interviews with the complainant and may be admissible in the trial as evidence of complaint. A note of the meeting tendered by the accused, without objection on the present application, concludes as follows:

"At conclusion Lisa was asked if she had any questions:

- I am nominated for a Gold Logie for the Brittany Higgins interview
- I don't think I will get it because it is managed by a rival network
- I have, however, prepared a speech in case
- Lisa read the first line and stopped by the director who said o We are not speech editors o We have no power to approve or prohibit any public comment that is the role of the court o Can advise, however, that defence can reinstitute a stay application in the event of publicity"

21. Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial. Unsurprisingly, the award and the content of the speech have been the subject of further extensive commentary.

22. The recent commentary includes remarks made on the popular morning radio program, "Jonesy and Amanda". The relevant segment from that program in evidence on the present application opens as follows:
"Amanda: But there were some really lovely moments last night. One of which was the award that Lisa Wilkinson and The Project picked up for the story they did on Brittany Higgins. They just - it was a phone call that came to Lisa. She answered Brittany Higgins' phone call. Brittany had - the back story here, I'm sure you remember, was raped in Parliament House."

23. The transcript attributes to "Jonesy" his assent to that recollection. He later refers to the fact that, "...the whole story was dreadful. Absolutely dreadful", adding, "[j]ust the very fact that she had to have a meeting in the very room that she was raped with her superiors and then her career was virtually finished." And so on.

-----Original Message-----

From: Beverley McGarvey <[REDACTED]>

Sent: Wednesday, 22 June 2022 5:52 AM

To: Tasha Smithies <[REDACTED]>; Sarah Thornton <[REDACTED]>; Catherine Donovan <[REDACTED]>; Stuart Thomas <[REDACTED]>

Subject:

[https://urldefense.com/v3/_https://apple.news/AvazaO7FwTAGdkXmDfHaCdA_!!Hj9Y_P0nvg!UvnQRGI6KIBrdNfJDfIXeY-tx7JrwcLXVjxVo_hL9fIRUBQ5NveO32l15m6cBZmGgj9CnT6v9FWDQ8TWNQhlfKfYCFWJq87dso\\$](https://urldefense.com/v3/_https://apple.news/AvazaO7FwTAGdkXmDfHaCdA_!!Hj9Y_P0nvg!UvnQRGI6KIBrdNfJDfIXeY-tx7JrwcLXVjxVo_hL9fIRUBQ5NveO32l15m6cBZmGgj9CnT6v9FWDQ8TWNQhlfKfYCFWJq87dso$)

Australian article has details about how Lisa was warned over speech.

Tash\Sarah did we know this? Yesterday we were given the impression this was not true?

Thanks

Bev

Sent from my iPhone

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From: Sarah Thornton <[REDACTED]>
Date: 22 June 2022 at 10:51:32 am AEST
To: Lisa Wilkinson External <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>
Subject: FW: Privileged and Confidential - Notes of meeting with the DPP

Hi Lisa – see below.

This has gone to the barrister and Tasha is speaking to them about next steps. Tasha is going down to Canberra tonight so she can attend

I'll call you now to discuss.

Sx

Sarah Thornton
Head of Popular Factual
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Tasha Smithies <[REDACTED]>
Sent: Wednesday, 22 June 2022 10:45 AM
To: Sarah Thornton <[REDACTED]>
Subject: FW: Privileged and Confidential - Notes of meeting with the DPP

Tasha Smithies
Senior Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

<image001.png>

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From: Tasha Smithies
Sent: Wednesday, 22 June 2022 9:58 AM
To: Marlia Saunders <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>
Subject: Privileged and Confidential - Notes of meeting with the DPP

Hi Marlia,

My recollection of the relevant part of the conversation is set out below. I also note that they did not say that notes were being taken or that they would be provided to anyone including the defence. They did not indicate that the meeting was being recorded. We understood it to be a confidential and privileged meeting to prepare Lisa for giving evidence at the trial. I recall that words to this effect were stated at the beginning of the meeting.

Kind regards,
Tasha

Meeting Via Teams

Those present:

DPP lawyer Mitchel Greig – *Prosecutor Associate Office of the DPP (I believe he was the note taker)*
Skye Jerome – *Junior Counsel (she appeared to jot down notes from time to time)*
Shane Drumgold SC – *Senior Counsel (not taking notes and conducted the meeting)*
Lisa Wilkinson
Tasha Smithies

1. After taking Lisa through the evidence which took the majority of time of the meeting, Lisa was given the opportunity and asked various questions which included matters like whether she would be cross-examined about why Brittany came to her/the media, would she be asked about comments she had made on the audio recording about various people, these were each in turn answered.
2. One of these questions was that she was nominated for a Logie, she didn't think she would win, but she had prepared a speech.
3. I recall she started to read from the speech. It was from the paragraph relating to the use of the word 'enough' ie: 'And the truth is this honour belongs to Brittany. It belongs to a 26-year-old woman's unwavering courage, it belongs to a woman who said 'enough''.

4. I recall Drumgold, stopped her and said it's not our place to advise you on that, we can't be seen to approve a speech or give you advice.
5. I don't recall any mention of the role of the Court or a stay application.
6. There was no suggestion that giving a speech was a bad idea or that Lisa should not give a speech just that they could not advise her or get involved.
7. There was no warning that Lisa should not give a speech.
8. After this exchange, I said to Lisa (though it may not have been clearly heard via Teams by the DPP lawyer/Counsel) 'This isn't a matter they can deal with, we can chat about this later'.
9. I did not consider the conversation with the Counsel constituted a warning of any kind, my view was that it was up to N10 and Lisa (with advice from the Network both legal and editorial) as to what she should or should not say in any speech.
10. Had we been given a warning that Lisa should not speak at the Logies (assuming she won) I would have reported this internally, discussed it with Lisa and a different approach would have been taken.
11. After the meeting, I talked about the speech with Lisa and we changed a part of it. We discussed the fact she was a witness and that she should not refer to the trial at all, she should not touch on her evidence. It should be expressed from Lisa's (not Britany's) perspective. Lisa read me the speech, we changed the reference to specific date in January 2021 in the first paragraph to make it more general and we also discussed the use of the word 'enough' which I felt was fine in the context in which it appeared in the speech.
12. By way of background- we had considered previously and removed the word 'enough' in answers to questions provided by TV Week as in that context I had been concerned about its use. We also didn't answer all questions from TV week as we felt some related to the trial.

It may be helpful to add, that I thought very little of what was said on this topic that I didn't refer to it in my update report internally to relevant N10 people. It was not the purpose or the substantive discussion of the meeting. I understood that the DPP could not advise Lisa or N10 on the content of a Logies speech and that this was a matter for N10.

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009

<image001.png>

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FW: Privileged and Confidential - Notes of meeting with the DPP

From: Tasha Smithies <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>
Date: Wed, 22 Jun 2022 10:57:13 +1000
Attachments: Unnamed Attachment (68 bytes)

Resending Marlia

\~
 \~
 Hi Marlia,
 \~

My recollection of the relevant part of the conversation is set out below. I also note that they did not say that notes were being taken or that they would be provided to anyone including the defence. They did not indicate that the meeting was being recorded. We understood it to be a confidential and privileged meeting to prepare Lisa for giving evidence at the trial. I recall that words to this effect were stated at the beginning of the meeting.

Kind regards,
 Tasha

\~
Meeting Via Teams

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Shane Drumgold SC – *Senior Counsel (not taking notes and conducted the meeting)*

Lisa Wilkinson

Tasha Smithies

- \~
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 - One of these questions was that she was nominated for a Logie, she didn't think she would win, but she had prepared a speech.
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 - I recall Drumgold, stopped her and said it's not our place to advise you on that, we can't be seen to approve a speech or give you advice.
 - I don't recall any mention of the role of the Court or a stay application.
 - There was no suggestion that giving a speech was a bad idea or that Lisa should not give a speech just that they could not advise her or get involved.
 - There was no warning that Lisa should not give a speech.
 - After this exchange, I said to Lisa (though it may not have been clearly heard via Teams by the DPP lawyer/Counsel) 'This isn't a matter they can deal with, we can chat about this later'.
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\~
 \~

Tasha Smithies
 Senior Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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FW: URGENT - Coverage of the Trial of Bruce Lerhmann and Brittany Higgins

From: Tasha Smithies <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>
Date: Thu, 23 Jun 2022 15:08:59 +1000
Attachments: Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes)

Hi Marlia,
 Updated direction for your records.
 Kind regards,
 Tasha

\~
Tasha Smithies
 Senior Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Tasha Smithies <[REDACTED]>
Sent: Thursday, 23 June 2022 3:08 PM
To: Martin White <[REDACTED]>; Jarrod Koh <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Chris Bendall <[REDACTED]>; Karen Bunting <[REDACTED]>; Vanessa Arden Wood <[REDACTED]>; Matthew Johnson <[REDACTED]>; Kieran Simpson <[REDACTED]>; Kate McCarthy <[REDACTED]>
Cc: Legal Clearance <[REDACTED]>
Subject: URGENT - Coverage of the Trial of Bruce Lerhmann and Brittany Higgins

\~
 Hi Everyone,

\~
 Further to my email below, in order to comply with N10's obligations to the Court, just a reminder that breach of the directions set out in my email could result in prejudice to the upcoming trial and adverse consequences for N10 including possible injunction or contempt charges.

\~
 For those who didn't confirm that they passed this on to their teams (appreciating I hadn't asked for confirmation) could you please confirm by email to me that you have done so.

\~
 For the social teams, in the circumstances we feel it would be prudent to disable comments on posts relating to this matter.

\~
 If you have any queries, please call legal clearance on [REDACTED] or me on the numbers below.

\~
 Kind regards,
 Tasha

\~
Tasha Smithies
 Senior Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Tasha Smithies

Sent: Wednesday, 22 June 2022 5:21 PM

To: Martin White <[REDACTED]>; Jarrod Koh <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Chris Bendall <[REDACTED]>; Karen Bunting <[REDACTED]>; Vanessa Arden Wood <[REDACTED]>; Matthew Johnson <[REDACTED]>; Kieran Simpson <[REDACTED]>; Wade Shipard <[REDACTED]>

Cc: Legal Clearance <[REDACTED]>

Subject: URGENT - Coverage of the Trial of Bruce Lerhmann and Brittany Higgins

Hi Everyone,

Could you please pass on to your teams the following important reminders:

- All reporting on the trial of Bruce Lehrmann, Brittany Higgins and related applications is to be strictly limited to general news reporting, such as the reporting of the proceedings as they are conducted in open Court until the conclusion of the trial.
- Please refrain from commenting on, liking or sharing on social media platforms posts about the trial, related applications, Bruce Lehrmann and Brittany Higgins, in particular opinion pieces.
- All stories on all platforms should be run past legal at legalclearance @networkten.com.au.

If you have any queries, please call legal clearance on 02 9650 1632 or me on the numbers below.

Kind regards,
Tasha

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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Channel Ten jumps to the defence of Lisa Wilkinson insisting she takes her 'legal obligations VERY seriously' after she derailed Brittany Higgins' rape trial with Logies speech

- Channel 10 'fully supports' journalist Lisa Wilkinson after she derailed rape case
- Wilkinson, 62, mentioned Brittany Higgins in her Logie acceptance speech
- Supreme Court judge said the speech prejudged the accused's right to fair trial
- Veteran journalist and The Project host could be charged with contempt of court
- Bruce Lehrmann's trial likely to be pushed back to some time near October

By [CHARLOTTE KARP](#) and [BEN TALINTYRE FOR DAILY MAIL AUSTRALIA](#)

PUBLISHED: 15:20 AEDT, 22 June 2022 | UPDATED: 16:58 AEDT, 22 June 2022

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Channel 10 has pledged support for high-profile presenter [Lisa Wilkinson](#) after she derailed [Brittany Higgins'](#) rape trial with her rogue [Logies](#) speech.

The veteran journalist won an award at the star-studded ceremony on Monday for her work bringing to light Ms Higgins' claims that she was allegedly raped by former Liberal staffer, Bruce Lehrmann, inside Parliament House in 2019.

Mr Lehrmann has always protested his innocence.

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However, ACT Chief Justice Lucy McCallum told the **Supreme Court** on Tuesday that recent media publicity had prejudged Mr Lehrmann's right to a fair trial - moving the lengthy hearing from next week, to October.

While Wilkinson could be charged with contempt of court for her actions, the network jumped to her defence.



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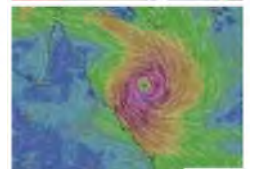
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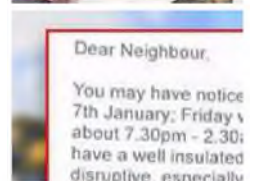
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'Men seem to be trying to take over everything'



Elle Macpherson, 59, reveals the four things that help her stay youthful and the one

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▶ [treat she indulges in on her birthday](#)



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Lisa Wilkinson's Logie acceptance speech where she referenced Brittany Higgins could see her facing legal charges after Bruce Lehrmann rape trial is delayed

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© Lisa Wilkinson/Instagram

TV presenter Lisa Wilkinson (left) is pictured with former political staffer Brittany Higgins (right)

A network spokesman said: 'Network 10 acknowledges the ruling by Chief Justice McCallum and fully supports Lisa Wilkinson.'

'Both Network 10 and Lisa Wilkinson take their legal obligations very seriously, including in the preparation and delivery of her speech given at the Logies event.'

'In light of the continuing proceedings, it would be inappropriate to comment further at this time.'

TRENDING



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Dr Matthew Collins, President of the Australian Bar Association, told Sunrise on Wednesday that it is a 'serious possibility' that authorities may look into charging Wilkinson with contempt of court.

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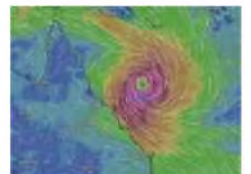
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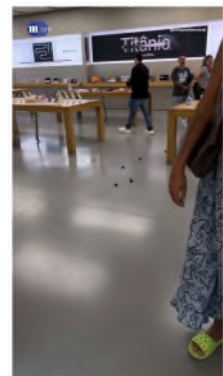
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► **Sunrise host Nat Barr calls out Anthony Albanese over Australia Day: 'Most Australians are getting sick of this'**



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Lehrmann's trial likely to be later this year after Chief Justice Lucy McCallum agreed to delay court case after Lehrmann's lawyers argued Ms Wilkinson's actions threatened a fair trial

He said Wilkinson could find herself in hot water as her comments had the 'tendency to interfere with the administration of justice'.

'It's certainly possible that the authorities will be looking at the speech that she made to the Logies and assessing that speech against the standard which applies in this branch of the law and that standard is did anything she do have a tendency to interfere with the administration of justice,' he said.

'The whole point is that any person in our community facing a charge like this is entitled to the presumption of innocence.

'That means that going into the court there should be no preconceptions one way or another, so the jury can focus really keenly on the evidence as it unfolds in the witness box and it puts out their mind anything that they might have seen in the media...'

Sky News Outsiders host Rohan Dean also weighed in, posing the question of whether Channel 10 will stand down Wilkinson over her comments as media were previously warned by the judge not to comment on the Brittany Higgins case.

'Seeing as the judge told the media not to comment on the Brittany Higgins case will Lisa Wilkinson now be charged with contempt of court and will she be suspended from Channel 10?

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President of Australian Bar Association, Dr Matthew Collins said Wilkinson may be in legal trouble as her comments had the 'tendency to interfere with the administration of justice'

'Or is it one rule for lefty celebrities and another for the rest of us?' Mr Dean asked.

The ACT Director of Public Prosecutions declined to comment on whether The Project host will be prosecuted after questions from Daily Mail Australia.

'The Director does not comment on matters currently before the court, including comment on issues ancillary to current proceedings,' a spokesperson said.

Dr Collins said Wilkinson's comments and the media attention the case has garnered has made it exponentially harder for members of the jury to apply the presumption of innocence and focus solely on the evidence given in the trial.

'The problem arises when the material is in the nature of sensational coverage, very very close to the start of a trial because it can be difficult to distinguish between what happens in the courtroom and what happens outside it,' he said.

'One way in which judges can control this kind of material from potentially coming to the attention of jurors is by imposing a media blackout.'

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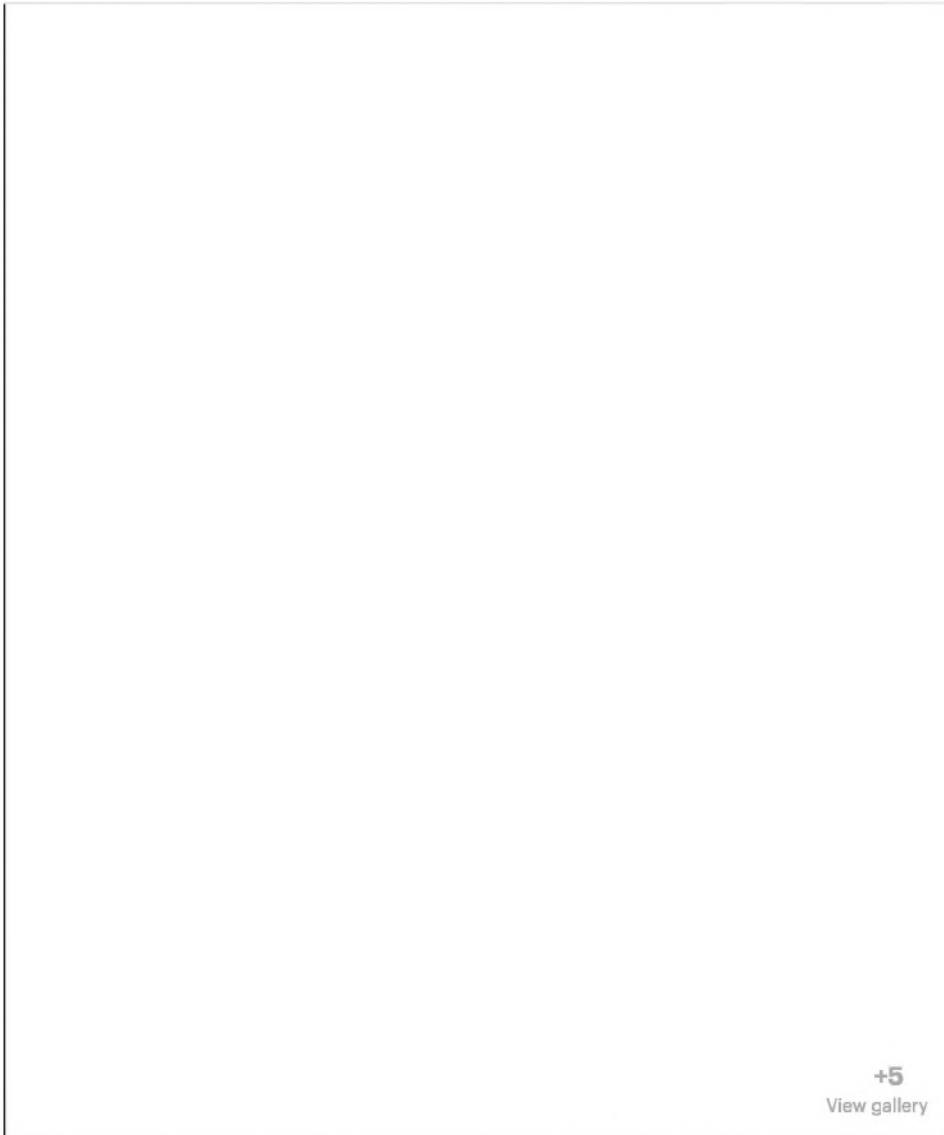
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Sarah Ferguson, 64, is diagnosed with skin

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In Wilkinson's Logie acceptance speech she made reference to Brittany Higgins and her story to just shy of one million viewers

Dr Collins said one option moving forward is for the court to impose a prohibition order preventing media from talking about the issues in the case.

'The mainstream media, you guys, understand the risk inherent in talking about cases which are about to go to trial before courts, particularly serious high profile cases. Clearly this was ill-advised,' he said.

In Wilkinson's Logie acceptance speech she made reference to Brittany Higgins and her story to just shy of one million viewers.

As a result of the speech, Bruce Lehrmann's case was granted a temporary stay in the ACT Supreme Court on Tuesday after his lawyer said a jury trial would be 'untenable' following The Project host's speech.

No date has been set for the trial which was originally due to start at the ACT Supreme Court in Canberra on Monday June 27.

However, ACT Chief Justice Lucy McCallum said while she regrettably had to delay proceedings, an October listing will likely provide enough time for publicity

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► Busy mum Bec Judd shows off her trim pins as she does some grocery shopping with her four kids in Brighton



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10 responds to Lisa Wilkinson Logies speech that delayed the Higgins trial

by Media week

Posted on June 22, 2022

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Network 10 has released a statement following the delay of the trial of the man accused of raping former Liberal staffer **Brittany Higgins**. The trial was pushed back by ACT Supreme Court Chief Justice **Lucy McCallum** after **Lisa Wilkinson** gave a speech at the **Logies** about her interview with Higgins.

The decision was made after lawyers for **Bruce Lehmman**, who is accused of sexually assaulting Higgins in Parliament House in 2019, argued that the publicity that was generated by Wilkinson's speech meant that he would not be able to proceed with a fair trial.

From a Network 10 spokesperson: "Network 10 acknowledges the ruling by Chief Justice McCallum and fully supports Lisa Wilkinson. Both Network 10 and Lisa Wilkinson take their legal obligations very seriously, including in the preparation and delivery of her speech given at the Logies event. In light of the continuing proceedings, it would be inappropriate to comment further at this time."

UPDATED STATEMENT, 24/6/22:

From a Network 10 spokesperson: "Recent reporting on Lisa Wilkinson by some media organisations has been inaccurate and unfair. There are significant facts that cannot be disclosed until after the trial has concluded.

"This reporting is now causing significant harm, and we ask these organisations to cease this harassment to allow Lisa the best opportunity to give her evidence in court and to enable the trial to go ahead in a fair and timely manner.

"We are closely monitoring all coverage of this issue and Lisa and Network 10 reserve their rights in respect of any future defamation claims.

"Network 10 continues to fully support Lisa in her ongoing and full commitment to doing the right thing as a witness in the trial."

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From: Tasha Smithies
Sent: Wednesday, June 22, 2022 3:23 PM
To: Lisa Wilkinson External <[REDACTED]>
Subject: FW: Final letter attached for signing

Tasha Smithies
 Senior Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Saunders, Marlia <[REDACTED]>
Sent: Wednesday, 22 June 2022 3:19 PM
To: Tasha Smithies <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>
Subject: Final letter attached for signing

Hi Tasha and Stuart

Please find **attached** a final version of the letter.

Can you please arrange for it to be put on your letterhead and signed, and send it back to me to send to the Court and DPP?

Thanks
 Marlia

Marlia Saunders | Partner
THOMSON GEER
 T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

| tglaw.com.au

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From: Tasha Smithies <[REDACTED]>
Sent: Wednesday, 22 June 2022 2:38 PM
To: Saunders, Marlia <[REDACTED]>
Subject: FW:

Tasha Smithies
 Senior Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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[PARAMOUNT/TEN LETTERHEAD]

22 June 2022

The Hon. Chief Justice McCallum
Chief Justice of the Australian Capital Territory

By email to: Associate.McCallumCJ@courts.act.gov.au

Copies to:

Office of the Director of Public Prosecutions
Reserve Bank Building
20-22 London Circuit
CANBERRA CITY ACT 2601

Kamy Saeedi Law
1/1 University Avenue
CANBERRA CITY ACT 2601

Attention: Mr Shane Drumgold SC

Attention: Kamy Saeedi

Dear Chief Justice

**R v Bruce Lehrmann, Supreme Court of the Australian Capital Territory
Proceedings No. SCC 264 of 2021**

I refer to your Honour's decision to vacate the trial in the above proceedings: [2022] ACTSC 145.

I am writing on behalf of Network Ten Pty Limited and Ms Wilkinson.

We take our legal obligations very seriously, including those in respect of sub judice contempt. In particular, Ms Wilkinson takes her obligations as a prospective witness with the utmost seriousness.

We did not intend at any time to interfere with the trial of Mr Lehrmann. Neither Ms Wilkinson nor the Network Ten Senior Legal Counsel present at the conference with the DPP on 15 June 2022 understood that they had been cautioned that Ms Wilkinson giving an acceptance speech at the Logie Awards could result in an application being made to the Court to vacate the trial date. Had they understood that a specific warning had been given, Ms Wilkinson would not have given the speech.

We profoundly regret that the trial has had to be vacated. We did not foresee the volume and damaging nature of the media and social media commentary that followed from Ms Wilkinson's acceptance speech. We apologise for this, and will take steps to ensure that such matters are taken into account in the future.

I have also directed that all future commentary on our platforms and by our journalists concerning Mr Lehrmann, Ms Higgins and this proceeding is to be strictly limited to general news reporting, such as reporting of the proceedings as they are conducted in open court, until the conclusion of the trial.

If your Honour wishes, we will arrange for Senior Counsel to appear before the Court to convey each of the above matters personally.

Yours sincerely

Beverley McGarvey
Chief Content Officer and Executive Vice President
Paramount Australia and New Zealand

From: Tasha Smithies <[REDACTED]>
Date: 22 June 2022 at 4:23:17 pm AEST
To: Lisa Wilkinson External <[REDACTED]>
Cc: Sarah Thornton <[REDACTED]>
Subject: FW: Letter to court - final signed

Hi Lisa,
Signed letter for your records. We will have a better idea of the plan for tomorrow morning in the next few hours and we will call you with an update.
Kind regards,
Tasha

Tasha Smithies
Senior Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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R v Lehrmann (ACT Supreme Court Proceeding SC264/21)

From: "Saunders, Marlia" <[REDACTED]>
To: Associate to Chief Justice McCallum <associate.mccallumcj@courts.act.gov.au>
Cc: "Drumgold, Shane" <[REDACTED]>; "Priestly, Erin" <[REDACTED]>; "Jerome, Skye" <[REDACTED]>; "Roff, Emma" <[REDACTED]>; [REDACTED]; Matthew Collins <[REDACTED]>
Bcc: "Saunders, Marlia" <[REDACTED]>
Date: Wed, 22 Jun 2022 16:30:28 +1000
Attachments: 20220622160415781.pdf (39.05 kB)

Dear Associate

~
R v Lehrmann (ACT Supreme Court Proceeding SC264/21)

~
 We act for Network Ten Pty Limited and Lisa Wilkinson in relation to the above proceedings.

~
 We **attach** a letter to the Court from our clients. We would appreciate it if you could please bring the letter to her Honour's attention.

~
 We understand that Mr Drumgold will tender the letter in Court tomorrow morning.

~
 Kind regards

~
Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tg@law.com.au

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~



22 June 2022

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FW: R v Lehrmann (ACT Supreme Court Proceeding SC264/21)

From: "Saunders, Marlia" <[REDACTED]>
To: Stuart Thomas <[REDACTED]>; "Smithies Tasha ([REDACTED])" <[REDACTED]>
Date: Wed, 22 Jun 2022 16:32:21 +1000
Attachments: 20220622160415781.pdf (39.05 kB)

FYI as sent.

~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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~

From: Saunders, Marlia
Sent: Wednesday, 22 June 2022 4:30 PM
To: 'Associate to Chief Justice McCallum' <Associate.McCallumCJ@courts.act.gov.au>
Cc: Drumgold, Shane <[REDACTED]>; Priestly, Erin <[REDACTED]>; Jerome, Skye <[REDACTED]>; Roff, Emma <[REDACTED]>; [REDACTED]; Matthew Collins <[REDACTED]>
Subject: R v Lehrmann (ACT Supreme Court Proceeding SC264/21)

~

Dear Associate

~

R v Lehrmann (ACT Supreme Court Proceeding SC264/21)

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Kind regards

~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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Yours sincerely

Beverley McGarvey
Chief Content Officer and Executive Vice President



R v Lehrmann - Conversation with DPP this afternoon

From: "Saunders, Marlia" <[REDACTED]>
To: "Smithies Tasha ([REDACTED])" <[REDACTED]>; Stuart Thomas
<[REDACTED]>
Date: Wed, 22 Jun 2022 16:36:15 +1000

Hi Tasha and Stuart

\~
As just discussed with Tasha, I spoke to the DPP Shane Drumgold this afternoon to let him know we would be sending the letter directly to the Court and copying the parties.

\~
He confirmed that he will tender the letter formally in Court tomorrow morning.

\~
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\~
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\~
Separately, he noted that he is also seeking voluntary undertakings from other media, including ARN.

\~
I'll let you know if we hear anything back from the Court this evening.

\~
Cheers
Marlia

\~
Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

\~

R v Lehrmann - Conversation with DPP this afternoon

From: "Saunders, Marlia" <[REDACTED]>
To: "Smithies Tasha ([REDACTED])" <[REDACTED]>; Stuart Thomas
 <[REDACTED]>
Date: Wed, 22 Jun 2022 16:36:15 +1000

Hi Tasha and Stuart

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Marlia

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Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tg@law.com.au

Advice | **Transactions** | **Disputes**

\~

Fwd: R v Lehrmann (ACT Supreme Court Proceeding SC264/21)

From: "Saunders, Marlia" <[REDACTED]>
To: Smithies Tasha <[REDACTED]>; Stuart Thomas <[REDACTED]>
Date: Wed, 22 Jun 2022 17:10:48 +1000

Hi Tasha and Stuart

Please see below Webex details for tomorrow's proceedings.

Cheers
 Marlia

--tgsignature--

Begin forwarded message:

From: Associate to Chief Justice McCallum <Associate.McCallumCJ@courts.act.gov.au>
Date: 22 June 2022 at 5:09:46 pm AEST
To: "Saunders, Marlia" <[REDACTED]>
Cc: Associate to Chief Justice McCallum <Associate.McCallumCJ@courts.act.gov.au>
Subject: RE: R v Lehrmann (ACT Supreme Court Proceeding SC264/21)

Dear Ms Saunders,

\~

Please find the relevant Webex details below.

\~

When it's time, join your Webex meeting here.

\~

\~

[Join meeting](#)

\~

More ways to join:

\~

Join from the meeting link

<https://actgov.webex.com/actgov/j.php?MTID=m778c83b412001368725ec7b49afe1bb1>

\~

Join by meeting number

Meeting number (access code): 2650 784 5521

Meeting password: bY3F3weJvS8

\~

Tap to join from a mobile device (attendees only)\~

[+61-2-9338-2221](tel:+61-2-9338-2221),26507845521###\~Australia Toll\~

[+61-2-9053-7190](tel:+61-2-9053-7190),26507845521###\~Australia Toll 2\~

Join by phone

+61-2-9338-2221 Australia Toll

+61-2-9053-7190 Australia Toll 2

[Global call-in numbers](#) | [Toll-free calling restrictions](#)**Join from a video system or application**Dial [26507845521](tel:26507845521) or 26507845521@actgov.webex.comYou can also dial [210.4.202.4](tel:21042024) and enter your meeting number.

~

~

Join using Microsoft Lync or Microsoft Skype for BusinessDial [26507845521](tel:26507845521) or 26507845521.actgov@lync.webex.com

~

~

If you are a host, [click here](#) to view host information.

~

Need help? Go to <https://help.webex.com>

~

Kind regards,

Max

~

Max Moffat

Senior Associate to Chief Justice McCallum

ACT Supreme Court

T:

E:

~

From: Saunders, Marlia <[REDACTED]>**Sent:** Wednesday, 22 June 2022 5:08 PM**To:** Associate to Chief Justice McCallum <Associate.McCallumCJ@courts.act.gov.au>**Subject:** Re: R v Lehrmann (ACT Supreme Court Proceeding SC264/21)

~

~

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~

Dear Associate

~

Thank you very much.

~

Would it be possible for us to dial in via audio visual link tomorrow to observe the proceedings?

\~

Kind regards

\~

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

Sent from my mobile device

On 22 Jun 2022, at 4:35 pm, Associate to Chief Justice McCallum <Associate.McCallumCJ@courts.act.gov.au> wrote:

Dear Ms Saunders,

\~

I confirm receipt of your email and will pass it on to her Honour.

\~

Kind regards,

Max

\~

Max Moffat

Senior Associate to Chief Justice McCallum

ACT Supreme Court

T: [REDACTED]

E: [REDACTED]

\~

From: Saunders, Marlia <[REDACTED]>

Sent: Wednesday, 22 June 2022 4:30 PM

To: Associate to Chief Justice McCallum <Associate.McCallumCJ@courts.act.gov.au>

Cc: Drumgold, Shane <[REDACTED]>; Priestly, Erin <[REDACTED]>; Jerome, Skye <[REDACTED]>; Roff, Emma <[REDACTED]>; [REDACTED]; Matthew Collins <[REDACTED]>

Subject: R v Lehmann (ACT Supreme Court Proceeding SC264/21)

\~

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~

Dear Associate

~

R v Lehmann (ACT Supreme Court Proceeding SC264/21)

~

We act for Network Ten Pty Limited and Lisa Wilkinson in relation to the above proceedings.

~

We **attach** a letter to the Court from our clients. We would appreciate it if you could please bring the letter to her Honour's attention.

~

We understand that Mr Drumgold will tender the letter in Court tomorrow morning.

~

Kind regards

~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tglaw.com.au

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~

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From: Sarah Thornton <[REDACTED]>
Date: 22 June 2022 at 6:26:31 pm AEST
To: Lisa W <[REDACTED]>, Nick Fordham <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>
Subject: PRIVILEGED AND CONFIDENTIAL: R v Lehrmann - Conversation with DPP this afternoon

Hi Lisa and Nick

below are notes taken by our senior counsel. Not included in the email - our external lawyer did also go through and explain to the DPP their duty of care to you, Lisa - effect of the headlines etc.. to encourage them to say something in Court.

Let's reconvene after the ruling. I'll put a call in again.

Sarah

Sent from my iPhone

Begin forwarded message:

From: Tasha Smithies <[REDACTED]>
Date: 22 June 2022 at 16:53:43 GMT+10
To: Sarah Thornton <[REDACTED]>, Catherine Donovan
<[REDACTED]>
Subject: FW: R v Lehrmann - Conversation with DPP this afternoon

FYI below

Tasha Smithies
Senior Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Saunders, Marlia <[REDACTED]>
Sent: Wednesday, 22 June 2022 4:36 PM
To: Tasha Smithies <[REDACTED]>; Stuart Thomas <[REDACTED]>
Subject: R v Lehrmann - Conversation with DPP this afternoon

Hi Tasha and Stuart

As just discussed with Tasha, I spoke to the DPP Shane Drumgold this afternoon to let him know we would be sending the letter directly to the Court and copying the parties.

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Separately, he noted that he is also seeking voluntary undertakings from other media, including ARN.

I'll let you know if we hear anything back from the Court this evening.

Cheers
Marlia

Marlia Saunders | Partner
THOMSON GEER
T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | [tqlaw.com.au](mailto:[REDACTED]@tqlaw.com.au)

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immediately.

RE: Brittany Higgins: Lisa Wilkinson calls in top lawyer Matthew Collins | news.com.au — Australia's leading news site

From: Tasha Smithies <[REDACTED]>
To: Catherine Donovan <[REDACTED]>; Stuart Thomas <[REDACTED]>; Sarah Thornton <[REDACTED]>
Date: Thu, 23 Jun 2022 07:20:14 +1000

Thanks Cat,

Lisa did call me last night with Peter and their lawyer friend 'Jim' and did raise this, I spent some time going through again why Matt Collins was the best person to engage and having had a long call with him yesterday afternoon, they were comfortable. I also took them through what this mornings Court directions would involve and how it was likely to unfold bearing in mind we couldn't control the Judge or how it is framed by the DPP, though we have done what we can by speaking to the DPP. She would like to chat after Court today.

Sarah, subject to your thoughts, it may be easier for any call with Lisa after Court to also loop In Nick and if they would like, Jim so the one message is communicated, only concern is that it does look like Nick is doing some backgrounding with journalists but that's not really surprising.

Kind regards,
Tasha

Sent from Xink as Plain Text

-----Original Message-----

From: Catherine Donovan <[REDACTED]>
Sent: Thursday, 23 June 2022 3:44 AM
To: Tasha Smithies <[REDACTED]>; Stuart Thomas <[REDACTED]>; Sarah Thornton <[REDACTED]>
Subject: Brittany Higgins: Lisa Wilkinson calls in top lawyer Matthew Collins | news.com.au — Australia's leading news site

<https://www.news.com.au/entertainment/tv/lisa-wilkinson-calls-in-top-lawyer-matthew-collins-after-he-slammed-her-logies-speech/news-story/46f4bfb7f64f91184049502c0c69ac04>

Sent from my iPhone

RE: R v Lehrmann (ACT Supreme Court Proceeding SC264/21)

From: "Drumgold, Shane" <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: "Priestly, Erin" <[REDACTED]>; "Jerome, Skye" <[REDACTED]>; "Greig, Mitchell" <[REDACTED]>; Matthew Collins <[REDACTED]>
Date: Thu, 23 Jun 2022 11:35:53 +1000

OFFICIAL: Sensitive

~
 Dear Ms McGarvey and Ms Saunders

Thank you for your letter dated 22 June 2022, in which you confirm that you have directed all future commentary on your platforms and by your journalist concerning Mr Lehrmann, Ms Higgins and this proceeding be strictly limited to general news report, such as reporting of the proceedings as they are conducted in open court.

~
 Can I seek some further clarification to enable me to determine whether, in our view, there is a real risk of serious interference with the administration of justice (see R v Eastman (No 42) [2018] ACTSC 176):

- ~
1. Do you agree to direct all commentators on your platforms not to make or publish commentary surrounding the allegations or circumstances in the case of R v Lehrmann SCC 264 of 2021, including commentary on witnesses, the complainant and the accused but excluding general news reports such as the proceedings as they are conducted in open court, prior to 7 November 2022?
 2. Do you acknowledge that interfering with the due administration of the law, or a deliberate breach of the sub judice principle may constitute the offence of contempt of court?

**Shane Drumgold SC**

Director

Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

T: [REDACTED] (Direct line)

T: [REDACTED] (Executive Officer Katie Cantwell)

M: [REDACTED]

E: [REDACTED]

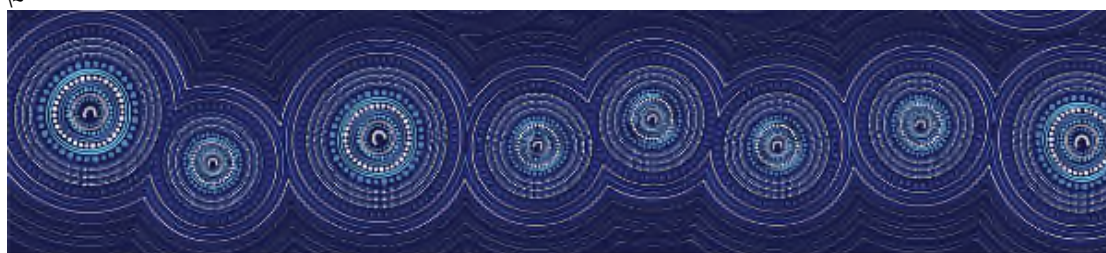
E: [REDACTED] (EO)

W: www.dpp.act.gov.au

~

For a full range of victims rights, please go to www.dpp.act.gov.au and follow the Witnesses and Victims link.

~
 Please consider the environment before printing this e-mail
 ~



We acknowledge the Traditional Custodians of the ACT, the Ngunnawal people
 We acknowledge and respect their continuing culture and the contribution they make
 to the life of this city and this region

Artwork by Ngarrindjeri artist Jordan Lovegrove

From: Saunders, Marlia <[REDACTED]>
Sent: Wednesday, 22 June 2022 4:30 PM
To: Associate to Chief Justice McCallum <Associate.McCallumCJ@courts.act.gov.au>
Cc: Drumgold, Shane <[REDACTED]>; Priestly, Erin <[REDACTED]>; Jerome, Skye
 <[REDACTED]>; Roff, Emma <[REDACTED]>; [REDACTED]; Matthew Collins
 <[REDACTED]>
Subject: R v Lehmann (ACT Supreme Court Proceeding SC264/21)

~

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~

Dear Associate

~

R v Lehmann (ACT Supreme Court Proceeding SC264/21)

~

We act for Network Ten Pty Limited and Lisa Wilkinson in relation to the above proceedings.

~

We **attach** a letter to the Court from our clients. We would appreciate it if you could please bring the letter to her Honour's attention.

~

We understand that Mr Drumgold will tender the letter in Court tomorrow morning.

~

Kind regards

~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

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~

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 purpose, nor disclose its contents to any other person.

RE: DRAFT

From: "Saunders, Marlia" <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Date: Thu, 23 Jun 2022 11:48:21 +1000
Attachments: Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes)

Hi Tasha

I've made some suggestions in highlighting below.

I think this is fine given the focus is on Lisa and the misreporting of her conduct by other media outlets, rather than on the veracity of her journalism in relation to Brittany.

Please let me know if you'd like to discuss.

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

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From: Tasha Smithies <[REDACTED]>
Sent: Thursday, 23 June 2022 11:25 AM
To: Saunders, Marlia <[REDACTED]>
Subject: Fwd: DRAFT

Hi Marlia,
 This is a very rough draft of a press release we are looking at, some changes being made (you can see various iterations in the email trail) but wanted your thoughts ASAP as obviously we don't want to end up back before the judge!

Tasha

Tasha Smithies

Senior Litigation Counsel
 Paramount ANZ

M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2000

Begin forwarded message:

From: Sarah Thornton <[REDACTED]>
Date: 23 June 2022 at 11:20:19 am AEST
To: Catherine Donovan <[REDACTED]>, Tasha Smithies <[REDACTED]>, Stuart Thomas <[REDACTED]>
Subject: RE: DRAFT

Additions to discuss post call with Lisa W et al
 Have sent a teams link

The continued reporting on Lisa Wilkinson by some media organisations has been **distorted misrepresented**, exaggerated and littered with factual inaccuracies.

These news articles and stories are causing mental harm to Lisa and it is requested (or we implore) that these organisations cease the bullying to allow Lisa the best opportunity to give her evidence in court.

Network 10 fully **supports Lisa's journalism and her** commitment to doing the right thing as a witness in the trial. It is imperative that we protect proceedings. The priority for Lisa and the network is to ensure Lisa is prepared for her role as witness and her commitment to the testimony she will be providing. **Lisa's greatest desire is that this trial go ahead in a fair and timely manner.**

There have been gross factual **and legal** inaccuracies in the reporting of Lisa's speech. We would warn people against conjecturing about what was and wasn't done in the lead up to Lisa delivering her speech. There are facts that can be disclosed after the trial has concluded **once they disclosed will shed a new light on this situation and Lisa's role in it. Post trial there will be a full and factual defence.** We are fully monitoring all coverage of this issue and Lisa and Network 10 reserve their rights in respect of any future defamation claims.

Sarah Thornton

Head of Popular Factual

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Catherine Donovan <[REDACTED]>

Sent: Thursday, 23 June 2022 10:54 AM

To: Sarah Thornton <[REDACTED]>; Tasha Smithies <[REDACTED]>; Stuart Thomas <[REDACTED]>

Subject: RE: DRAFT

Rejigged below... once we all are happy (fine to obviously keep changing it until we are comfortable I will send to Doug for an external opinion):

Statement from Network 10:

The continued reporting on Lisa Wilkinson by some media organisations has been misrepresented, exaggerated and littered with factual inaccuracies.

These news articles and stories are causing mental harm and it is requested (or we implore) that these organisations cease the bullying to allow Lisa the best opportunity to give her evidence in court.

Network 10 fully supports Lisa in her commitment to doing the right thing as a witness in the trial. It is imperative that we protect proceedings. The priority for Lisa and the network is to ensure Lisa is prepared for her role as witness and her commitment to the testimony she will be providing.

Catherine Donovan

VP Publicity & Communications



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Sarah Thornton <[REDACTED]>
Sent: Thursday, 23 June 2022 10:48 AM
To: Catherine Donovan <[REDACTED]>; Tasha Smithies <[REDACTED]>; Stuart Thomas <[REDACTED]>
Subject: RE: DRAFT

\~
 Yes great – love the misrepresented etc
 \~
 I liked these two bits from Stuart – as I like the two phrases in bold. Thoughts?
 \~

We support Lisa in her commitment to **doing the right thing** as a witness in the trial / **Cease the bullying** to allow her to give the best chance to give her evidence in court.

\~
 What do you think Cat?
 \~
 \~

Sarah Thornton
 Head of Popular Factual
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Catherine Donovan <[REDACTED]>
Sent: Thursday, 23 June 2022 10:38 AM
To: Tasha Smithies <[REDACTED]>; Stuart Thomas <[REDACTED]>; Sarah Thornton <[REDACTED]>
Subject: DRAFT
Importance: High

\~
 Statement from Network 10:
 The continued reporting on Lisa Wilkinson by some media organisations has been misrepresented, exaggerated and littered with factual inaccuracies.
 These news articles and stories are causing mental harm and it is requested (or we implore) that these organisations cease XXXXXXXX (publishing destructive and false stories)
 Network 10 fully supports Lisa. It is imperative that we protect proceedings. The priority for Lisa and the network is to ensure Lisa is prepared for her role as witness and her commitment to the testimony she will be providing.
 \~
 \~

Catherine Donovan
 VP Publicity & Communications
 [REDACTED]



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THE AUSTRALIAN BUSINESS REVIEW

Wednesday, December 6, 2023 | Today's Paper | Mind Games

Brittany Higgins trial: Logies star Lisa Wilkinson's breakfast TV critic hired as her lawyer by lunchtime

EXCLUSIVE

By **SOPHIE ELSWORTH**

MEDIA WRITER

Follow [@sophieelsworth](#)

and **JAMES MADDEN**

MEDIA EDITOR

12:34PM JUNE 23, 2022

Lisa Wilkinson hired a barrister just hours after he appeared on national television and slammed her Logies speech as “ill-advised”.

On Wednesday morning, Matthew Collins, president of the Australian Bar Association, was interviewed on the Seven Network's Sunrise program and said it was a “serious possibility” that authorities might look into charging The Project co-host Wilkinson with contempt of court after her Logies speech on Sunday night, which subsequently resulted in the delay of the trial of the man accused of raping former Liberal staffer Brittany Higgins.

Within four hours of his appearance on the breakfast TV show, Dr Collins was approached to represent the Ten Network and Wilkinson.

During the TV interview, the Melbourne-based barrister openly canvassed the possibility that Wilkinson's tribute speech to Ms Higgins at the Logies – which drew the ire of ACT Chief Justice Lucy McCallum and prompted her to delay the trial of the accused, Bruce Lehrmann – could land her in legal strife.

“The mainstream media, you guys, understand the risk inherent in talking about cases that are about to go to trial before courts – particularly serious, high-profile cases – so clearly this (Wilkinson’s Logies speech) was ill advised,” he told Sunrise.

“It’s certainly possible that the authorities will be looking at the speech that she made to the Logies and assessing that against the standard which applies in this branch of the law.

“Did anything that she do ... interfere with the administration of justice?”

A Ten spokeswoman said the network “fully supports Lisa Wilkinson” and confirmed the engagement of Dr Collins to represent both the presenter and the network.

“Both Network 10 and Lisa Wilkinson take their legal obligations very seriously, including in the preparation and delivery of her speech given at the Logies event,” she said. “In light of the continuing proceedings, it would be inappropriate to comment further at this time.”

The spokeswoman did not respond when The Australian asked whether Wilkinson sought advice from the network’s lawyers prior to delivering her speech at the Logies.

Wilkinson was also contacted for comment by The Australian but did not respond.

While Ten’s management is standing by Wilkinson, there are rumblings among other high-profile on-air journalists that The Project co-host enjoys favourable treatment at the network. A close colleague said Wilkinson was a “protected species at Ten”; others are understood to be furious that, given the serious consequences of her speech, there have not been any in-house repercussions for the veteran journalist.

Wilkinson also weathered an attack from a former colleague, presenter Tim Bailey. After the news broke of the rape trial being delayed, Bailey posted on Twitter: “Hey Lisa, pull ya head in. I know this might be difficult, because it is a very big head. But please try. #LisaWilkinson #Logies2022 #carparkthief”. The post has since been deleted.

The ACT Supreme Court on Tuesday delayed the criminal trial indefinitely, after Chief Justice McCallum said Wilkinson had failed to take advice given to her prior to the awards night about the dangers of making comments on the rape case. "She openly referred to and praised the complainant in the present trial," she said.

It was revealed that Wilkinson was warned four days before the awards ceremony that she could hinder the trial from going ahead by speaking about it at the awards night.

Wilkinson won the award for the most outstanding news coverage or public affairs report for her interview aired on The Project in January 2021, during which Ms Higgins detailed the alleged rape by a former colleague in Parliament House in Canberra on the night of March 22, 2019.

On Tuesday, Justice McCallum said Wilkinson's speech had "completely obliterated" the line between allegation and guilt

"The implicit premise of (Wilkinson's speech) is to celebrate the truthfulness of the story she exposed," she said.

In August last year, Wilkinson tweeted urging people to be careful commenting on the alleged rape claims. "Naming the man on social media & passing judgment could have dire consequences for the outcome of any trial," she wrote.

Wilkinson this week took the unusual step of blocking people from making comments on her Instagram account, where she has 369,000 followers, and recently uploaded seven photos from Sunday night's star-studded event.

Ms Higgins deactivated her social media accounts, including Twitter and Instagram, on Tuesday and would not comment when contacted.

On Tuesday night, The Project made a brief reference to the court's decision to delay the trial, but failed to mention the reason for the postponement was Wilkinson's problematic speech.

Sydney breakfast hosts Amanda Keller and Brendan Jones, who broadcast on WSFM 107.1, were criticised in court for comments made about the upcoming trial.

An Australian Radio Network spokeswoman told The Australian the pair had “inadvertently made some comments around the case” but defended their impact on the criminal trial.

“In light of continuing proceedings it would be inappropriate to comment further at this time,” the spokeswoman said.

The case returns to court on Thursday.

SOPHIE ELSWORTH, MEDIA WRITER

Sophie is media writer for The Australian. She graduated from a double degree in Arts/Law but decided against a career as a lawyer and instead pursued her desire to become a journalist. She has worked across the co... [Read more](#)



JAMES MADDEN, MEDIA EDITOR

James Madden has worked for The Australian for over 20 years. As a reporter, he covered courts, crime and politics in Sydney and Melbourne. James was previously Sydney chief of staff, deputy national chief of staff... [Read more](#)



THE AUSTRALIAN BUSINESS REVIEW

Wednesday, December 6, 2023 | Today's Paper | Mind Games

Brittany Higgins trial: Logies star Lisa Wilkinson's breakfast TV critic hired as her lawyer by lunchtime

EXCLUSIVE

By SOPHIE ELSWORTH

MEDIA WRITER

Follow [@sophieelsworth](#)

and JAMES MADDEN

MEDIA EDITOR

12:34PM JUNE 23, 2022

Lisa Wilkinson hired a barrister just hours after he appeared on national television and slammed her Logies speech as “ill-advised”.

On Wednesday morning, Matthew Collins, president of the Australian Bar Association, was interviewed on the Seven Network's Sunrise program and said it was a “serious possibility” that authorities might look into charging The Project co-host Wilkinson with contempt of court after her Logies speech on Sunday night, which subsequently resulted in the delay of the trial of the man accused of raping former Liberal staffer Brittany Higgins.

Within four hours of his appearance on the breakfast TV show, Dr Collins was approached to represent the Ten Network and Wilkinson.

During the TV interview, the Melbourne-based barrister openly canvassed the possibility that Wilkinson's tribute speech to Ms Higgins at the Logies – which drew the ire of ACT Chief Justice Lucy McCallum and prompted her to delay the trial of the accused, Bruce Lehrmann – could land her in legal strife.

“The mainstream media, you guys, understand the risk inherent in talking about cases that are about to go to trial before courts – particularly serious, high-profile cases – so clearly this (Wilkinson’s Logies speech) was ill advised,” he told Sunrise.

“It’s certainly possible that the authorities will be looking at the speech that she made to the Logies and assessing that against the standard which applies in this branch of the law.

“Did anything that she do ... interfere with the administration of justice?”

A Ten spokeswoman said the network “fully supports Lisa Wilkinson” and confirmed the engagement of Dr Collins to represent both the presenter and the network.

“Both Network 10 and Lisa Wilkinson take their legal obligations very seriously, including in the preparation and delivery of her speech given at the Logies event,” she said. “In light of the continuing proceedings, it would be inappropriate to comment further at this time.”

The spokeswoman did not respond when The Australian asked whether Wilkinson sought advice from the network’s lawyers prior to delivering her speech at the Logies.

Wilkinson was also contacted for comment by The Australian but did not respond.

While Ten’s management is standing by Wilkinson, there are rumblings among other high-profile on-air journalists that The Project co-host enjoys favourable treatment at the network. A close colleague said Wilkinson was a “protected species at Ten”; others are understood to be furious that, given the serious consequences of her speech, there have not been any in-house repercussions for the veteran journalist.

Wilkinson also weathered an attack from a former colleague, presenter Tim Bailey. After the news broke of the rape trial being delayed, Bailey posted on Twitter: “Hey Lisa, pull ya head in. I know this might be difficult, because it is a very big head. But please try. #LisaWilkinson #Logies2022 #carparkthief”. The post has since been deleted.

The ACT Supreme Court on Tuesday delayed the criminal trial indefinitely, after Chief Justice McCallum said Wilkinson had failed to take advice given to her prior to the awards night about the dangers of making comments on the rape case. "She openly referred to and praised the complainant in the present trial," she said.

It was revealed that Wilkinson was warned four days before the awards ceremony that she could hinder the trial from going ahead by speaking about it at the awards night.

Wilkinson won the award for the most outstanding news coverage or public affairs report for her interview aired on The Project in January 2021, during which Ms Higgins detailed the alleged rape by a former colleague in Parliament House in Canberra on the night of March 22, 2019.

On Tuesday, Justice McCallum said Wilkinson's speech had "completely obliterated" the line between allegation and guilt

"The implicit premise of (Wilkinson's speech) is to celebrate the truthfulness of the story she exposed," she said.

In August last year, Wilkinson tweeted urging people to be careful commenting on the alleged rape claims. "Naming the man on social media & passing judgment could have dire consequences for the outcome of any trial," she wrote.

Wilkinson this week took the unusual step of blocking people from making comments on her Instagram account, where she has 369,000 followers, and recently uploaded seven photos from Sunday night's star-studded event.

Ms Higgins deactivated her social media accounts, including Twitter and Instagram, on Tuesday and would not comment when contacted.

On Tuesday night, The Project made a brief reference to the court's decision to delay the trial, but failed to mention the reason for the postponement was Wilkinson's problematic speech.

Sydney breakfast hosts Amanda Keller and Brendan Jones, who broadcast on WSFM 107.1, were criticised in court for comments made about the upcoming trial.

An Australian Radio Network spokeswoman told The Australian the pair had “inadvertently made some comments around the case” but defended their impact on the criminal trial.

“In light of continuing proceedings it would be inappropriate to comment further at this time,” the spokeswoman said.

The case returns to court on Thursday.

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Lisa Wilkinson calls in top lawyer Matthew Collins after he called her Logies speech ‘ill-advised’

A TV legend who spent decades at Ten has fired off a scathing tweet directed at Lisa Wilkinson after her Logies speech led to a rape trial being delayed.

4 min read

June 23, 2022 - 10:44AM

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1. Video not found

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Legendary TV star Tim Bailey has taken another swipe at his former colleague Lisa Wilkinson after her Logies speech sparked a delay in the Brittany Higgins trial.

In an extraordinary deleted tweet, longtime 10 weatherman Bailey addressed Wilkinson directly: “Hey Lisa, pull ya head in,” he wrote.

“I know this might be difficult, because it is a very big head. But please try.”

He doubled down late on Wednesday night with another brutal sledge, tweeting: “Ricky Gervais once said of awards: “Just accept ya F-ing little trophy and F off!” Good advice, yeah?”

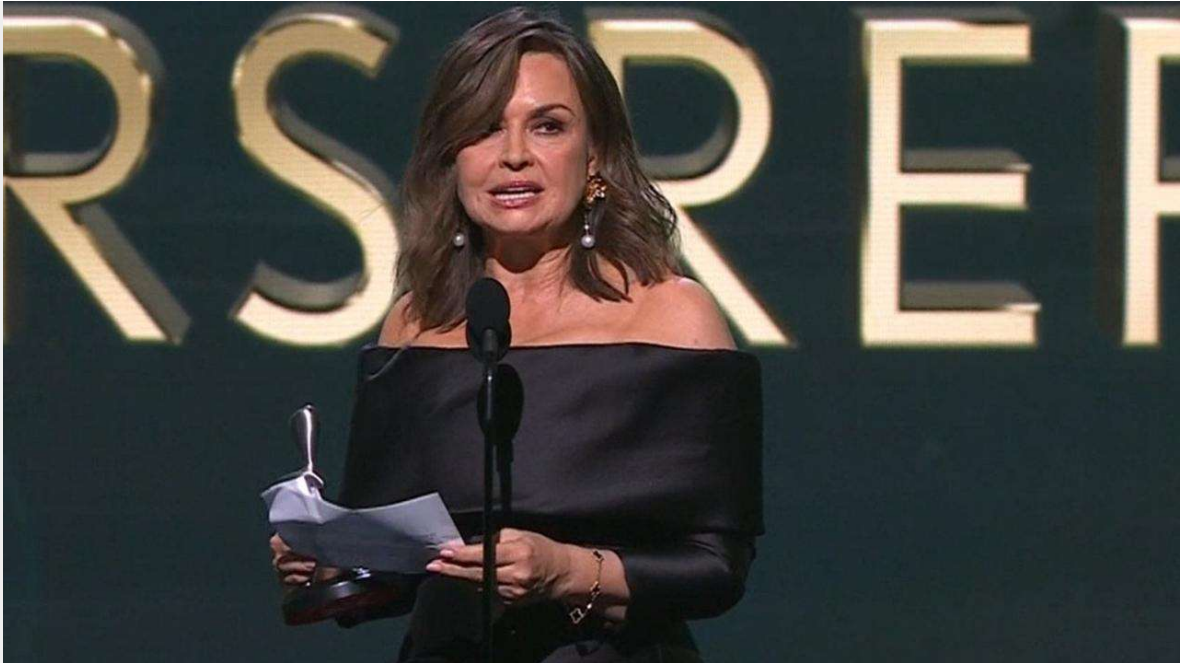
Legendary Ten news anchor Sandra Sully also liked a critical tweet from showbusiness reporter Peter Ford blasting Wilkinson’s speech.

“Such serious consequences from Lisa Wilkinson ... if only she’d stuck to silly stories like the paparazzi who stalked her in Chapel St,” he posted.

Seven’s Sunrise co-host Natalie Barr also expressed shock on-air on Wednesday morning that the contents of Wilkinson’s Logies speech may not have been vetted by legal representatives.

“You know, we have our own lawyers, we often consult them before we put a story to air,” she said.

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Lisa Wilkinson. Picture: Channel 9

It comes amid reports Wilkinson has called upon the services of a top lawyer, just hours after he said her Logies speech about the Brittany Higgins case was “ill-advised”.

Matthew Collins, president of the Australian Bar Association, told Seven’s *Sunrise* on Wednesday morning that The Project host may be in serious trouble following scathing comments by ACT Chief Justice Lucy McCallum.

“It’s certainly possible that the authorities will be looking at the speech she made to the Logies and assessing (whether) that speech went against the standard which applies in this branch of the law,” Dr Collins said.

“That standard is, did anything that she did have a tendency to interfere with the administration of justice?”

Within four hours of his comments on *Sunrise*, Dr Collins was contacted by the Ten Network and Wilkinson, [The Australian](#) reported.

Ten confirmed that Dr Collins had been called upon to represent the network and Wilkinson, adding that Ten “fully supports Lisa Wilkinson”.

“Both Network 10 and Lisa Wilkinson take their legal obligations very seriously, including in the preparation and delivery of her speech given at the Logies event,” a spokeswoman said.

“In light of the continuing proceedings, it would be inappropriate to comment further at this time.”

Dr Collins added in his comments on breakfast TV that members of mainstream media “understand the risk inherent in talking about cases which are about to go to trial before courts, particularly serious, high-profile cases”.

“So clearly this was ill-advised,” he said.

“The whole point is that everybody in our community facing a serious charge like this is entitled to the presumption of innocence, and that means that going into the courtroom there should be no preconceptions one way or the other, so that the jury just sits and focuses really keenly on the evidence as it unfolds in the witness box, and puts out of their mind anything which they might have seen in the media, or God forbid and often far worse, in social media.”

Meanwhile, [a resurfaced tweet has revealed](#) Wilkinson was aware of the danger in mentioning Brittany Higgins’ trial well before the Gold Logies at the weekend.

Wilkinson “completely obliterated” the line between an allegation and a finding of guilt, according to Chief Justice McCallum, who subsequently postponed the trial of Higgins’ accused rapist Bruce Lehrmann.

But barely a year ago, Wilkinson tweeted that “naming the man on social media and passing judgment could have dire consequences for the outcome of any trial”.

“On the issue of the 26 yo man summonsed for an alleged sexual assault of a woman in Parliament House in March 2019 can I implore everyone to respect what’s in play here,” she tweeted in August 2021.

Under the ACT Criminal Code, a person can be charged with an offence if they publish “something that could cause a miscarriage of justice in a legal proceeding”.

Doing so intentionally carries a maximum penalty of 1000 penalty units, 10 years imprisonment or both, while doing so recklessly carries a maximum penalty of 700 penalty units, seven years imprisonment or both.



Brittany Higgins and Lisa Wilkinson. (Photo by Lisa Maree Williams/Getty Images)

Justice McCallum said she was making the order to delay the planned trial start date on June 27 with “gritted teeth”. “Unfortunately ... the recent publicity [of the speech] does, in my view, change the landscape,” she said.

“Because of its immediacy, its intensity and its capacity to obliterate the important distinction between an allegation that remains untested at law. For those reasons, regrettably and with gritted teeth, I have concluded that the trial date of 27 June towards which the parties have been carefully steering must be vacated.”

Former Ten weatherman [Tim Bailey publicly slammed Wilkinson](#) in a since-deleted tweet, demanding the veteran journalist “pull (her) head in”.

Wilkinson won the Logie for Most Outstanding News Coverage or Public Affairs Report at Sunday’s Logie Awards for her reporting on the Higgins case.

ON THE SHOW

Lisa Wilkinson hires lawyer who blasted her Logies speech as 'ill-advised' on Sunrise

The media personality has lawyered-up amid concerns she could be slapped with serious charges.

Hamish Goodall / Updated 23.06.2022



[Lisa Wilkinson](#) has hired a senior Australian barrister just hours after he blasted her on [Sunrise](#) over her "ill-advised" [Logie Awards speech](#).

Dr Matthew Collins told [Sunrise](#) on Wednesday it was a "serious possibility" the media personality could face legal troubles after her speech resulted in the [delay of Brittany Higgins' rape trial](#).

See more on Wilkinson's latest move in the video player above

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It's understood Collins was approached to represent Wilkinson and Network 10 later that day amid concerns she could be charged with contempt of court or similar offences.

During his interview on the Seven breakfast show, the Australian Bar Association president Collins explained how the TV star's decision to reference Higgins when she took to the stage after winning an award was the wrong one.

"It's certainly possible that the authorities will be looking at the speech that she made to the Logies and assessing that speech against the standard which applies in this branch of the law," the top barrister told [David Koch](#) and [Natalie Barr](#).

"That standard is, did anything that she do have a tendency to interfere with the administration of justice?"

Collins said Wilkinson's speech was "ill-advised" and that a media veteran should have known better.

"You would hope that whenever the media is contemplating running a story about a serious criminal trial which is about to begin, they would be attuned to the potential risks," he added.

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"The mainstream media understand the risk inhering with talking about cases which are about to go to trial, particularly serious high-profile cases.

"So clearly this was ill-advised.

"The concern is that potential members of the jury whose job is to apply the presumption of innocence and to focus on the evidence in the trial might be influenced by things they've been exposed to in the media and in social media."

See Collins' full interview on Sunrise in the video player below

5:09	3:13	4:14	5:43	2:4
G Flip on Sunrise	Brittany Higgins paid \$2.3 million in compensation	Mark Bouris on the Reserve Bank's Christmas gift to	New Hollywood film has seen Channel 7's interview go viral	Gifts for farmer: Queens

Lawyer explains Higgins trial delay.

In a statement, a Ten spokesperson confirmed the network had hired Collins and said management "fully supports Lisa Wilkinson".

"Both Network 10 and Lisa Wilkinson take their legal obligations very seriously, including in the preparation and delivery of her speech given at the Logies event," they said.

"In light of the continuing proceedings, it would be inappropriate to comment further at this time."

Brittany Higgins' rape trial delayed

It comes after the ACT Supreme Court Chief Justice Lucy McCallum on Tuesday chose to delay the trial of Bruce Lehrmann, the man accused of sexually assaulting fellow Liberal staffer Brittany Higgins inside an office in Parliament House in 2019, due to Wilkinson's speech and publicity it generated.

Lehrmann was due to stand trial next week over the alleged rape and has pleaded not guilty.

On Thursday, McCallum set the trial to begin on October 4.

"A period of three months is a significant period where prejudice issues fade in the mind of potential jurors," she told the court.

Director of Public Prosecutions Shane Drumgold said he had sought written undertakings from Network Ten and Wilkinson about public commentary on the allegations, and they appeared to be forthcoming.

On Tuesday, McCallum told the court she had delayed the criminal trial "with gritted teeth" after Lehrmann's defence team requested a temporary stay.

"Unfortunately, however, the recent publicity (of the speech) does, in my view, change the landscape," she said.

"Because of its immediacy, its intensity and its capacity to obliterate the important distinction between an allegation that remains untested at law.



The trial of a man accused of sexually assaulting Brittany Higgins inside Parliament House has been delayed following a Logie Awards speech by Lisa Wilkinson. Credit: Instagram

Bruce Lehrmann is accused of sexually assaulting fellow Liberal Party staffer Higgins inside an office in Parliament House in 2019. Credit: Instagram

Earlier this week, it was also revealed that Wilkinson was warned four days before Sunday's Logies that she could hinder the trial by speaking about Higgins at the awards night.

Despite the caution, the 62-year-old took to the stage after winning the Most Outstanding News Coverage or Public Affairs Report award for her January 2021 interview with the alleged rape victim.

"Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial," McCallum said.

"Unsurprisingly, the award, and the content of the speech have been the subject of further commentary."

Wilkinson delivered the speech despite being warned against doing so. Credit: Getty Images

McCallum said the significant publicity had now "obliterated" the distinction between an allegation and a finding of guilt.

"The public at large is given to believe guilt is established. The importance of the rule of law has been set at nil."

- *With AAP*

2:45	2:27	1:14	3:13	5:00
Gifts for Queensland farmers stolen by Queensland thieves	Australia's 'Roo-ver' takes on its mission to the moon	Prince Harry in the High Court over his right to protection	Brittany Higgins paid \$2.3 million in compensation	G Flip c
Logie speech delays Higgins's trial				

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RE: R v Lehrmann (ACT Supreme Court Proceeding SC264/21) [TGLAW-Legal.FID3680211]

From: "Saunders, Marlia" <[REDACTED]>
To: "Drumgold, Shane" <[REDACTED]>
Cc: "Priestly, Erin" <[REDACTED]>; "Jerome, Skye" <[REDACTED]>; "Greig, Mitchell" <[REDACTED]>; Matthew Collins <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _5142487 _ Engagement and Estimates <{f3680211}.[REDACTED]>
Date: Thu, 23 Jun 2022 15:20:31 +1000

Dear Mr Drumgold

In response to your queries, we advise that:

1. A direction has already been sent out to Network Ten journalists in the following terms:
 - ~ All reporting on the trial of Bruce Lehrmann, Brittany Higgins and related applications is to be strictly limited to general news reporting, such as the reporting of the proceedings as they are conducted in open Court until the conclusion of the trial.
 - ~ Please refrain from commenting on, liking or sharing on social media platforms posts about the trial, related applications, Bruce Lehrmann and Brittany Higgins, in particular opinion pieces.
 - ~ All stories on all platforms should be run past legal.
2. Each of Network Ten and Lisa Wilkinson acknowledge that interfering with the due administration of the law, or a deliberate breach of the sub judice principle may constitute the offence of contempt of court.

Please let us know if anything further is required.

Kind regards

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

From: Saunders, Marlia
Sent: Thursday, 23 June 2022 2:22 PM
To: 'Drumgold, Shane' <[REDACTED]>
Cc: Priestly, Erin <[REDACTED]>; Jerome, Skye <[REDACTED]>; Greig, Mitchell <[REDACTED]>; Matthew Collins <[REDACTED]>
Subject: RE: R v Lehrmann (ACT Supreme Court Proceeding SC264/21)

Dear Mr Drumgold

Thank you for email.

I am currently confirming instructions with my client and will come back to you as soon as possible.

Kind regards

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

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From: Drumgold, Shane <[REDACTED]>
Sent: Thursday, 23 June 2022 11:36 AM
To: Saunders, Marlia <[REDACTED]>
Cc: Priestly, Erin <[REDACTED]>; Jerome, Skye <[REDACTED]>; Greig, Mitchell

<[REDACTED]; Matthew Collins <[REDACTED]>
Subject: RE: R v Lehrmann (ACT Supreme Court Proceeding SC264/21)

~
OFFICIAL: Sensitive

~
 Dear Ms McGarvey and Ms Saunders

Thank you for your letter dated 22 June 2022, in which you confirm that you have directed all future commentary on your platforms and by your journalist concerning Mr Lehrmann, Ms Higgins and this proceeding be strictly limited to general news report, such as reporting of the proceedings as they are conducted in open court.

~
 Can I seek some further clarification to enable me to determine whether, in our view, there is a real risk of serious interference with the administration of justice (see R v Eastman (No 42) [2018] ACTSC 176):

- ~
 1)~ Do you agree to direct all commentators on your platforms not to make or publish commentary surrounding the allegations or circumstances in the case of R v Lehrmann SCC 264 of 2021, including commentary on witnesses, the complainant and the accused but excluding general news reports such as the proceedings as they are conducted in open court, prior to 7 November 2022?

~

- 2)~ Do you acknowledge that interfering with the due administration of the law, or a deliberate breach of the sub judice principle may constitute the offence of contempt of court?

~
 ~
 ~



Shane Drumgold SC

Director

Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

T: [REDACTED] (Direct line)

T: [REDACTED] (Executive Officer Katie Cantwell)

M: [REDACTED]

E: [REDACTED]

E: [REDACTED]

W: www.dpp.act.gov.au

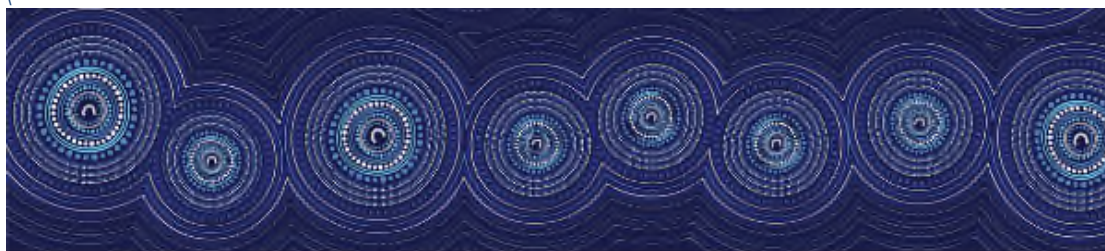
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 We acknowledge and respect their continuing culture and the contribution they make
 to the life of this city and this region

Artwork by Ngarrindjeri artist Jordan Lovegrove

~

From: Saunders, Marlia <[REDACTED]>

Sent: Wednesday, 22 June 2022 4:30 PM

To: Associate to Chief Justice McCallum <Associate.McCallumCJ@courts.act.gov.au>

Cc: Drumgold, Shane <[REDACTED]>; Priestly, Erin <[REDACTED]>; Jerome, Skye <[REDACTED]>; Roff, Emma <[REDACTED]>; [REDACTED]; Matthew Collins <[REDACTED]>

Subject: R v Lehrmann (ACT Supreme Court Proceeding SC264/21)

~

~
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~
 Dear Associate
 ~
R v Lehrmann (ACT Supreme Court Proceeding SC264/21)
 ~
 We act for Network Ten Pty Limited and Lisa Wilkinson in relation to the above proceedings.
 ~
 We **attach** a letter to the Court from our clients. We would appreciate it if you could please bring the letter to her Honour's attention.
 ~
 We understand that Mr Drumgold will tender the letter in Court tomorrow morning.
 ~
 Kind regards
 ~
Marlia Saunders | Partner
THOMSON GEER
 T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

~
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RE: R v Lehrmann (ACT Supreme Court Proceeding SC264/21) [TGLAW-Legal.FID3680211]

From: "Drumgold, Shane" <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: "Priestly, Erin" <[REDACTED]>; "Jerome, Skye" <[REDACTED]>; "Greig, Mitchell" <[REDACTED]>; Matthew Collins <[REDACTED]>
Date: Thu, 23 Jun 2022 15:59:46 +1000

OFFICIAL: Sensitive

Dear Ms Saunders
 My desire was to also address commentary on witnesses, the complainant and the accused that may impact their credibility at trial, but I believe the second point in number 1 addresses this.

Kind regards



Shane Drumgold SC

Director

Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

T: [REDACTED] (Direct line)

T: [REDACTED] (Executive Officer Katie Cantwell)

M: [REDACTED]

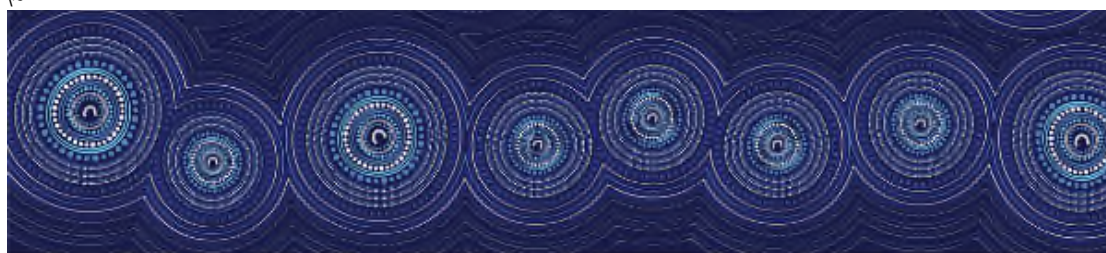
E: [REDACTED]

E: [REDACTED] (EO)

W: www.dpp.act.gov.au

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We acknowledge the Traditional Custodians of the ACT, the Ngunnawal people
 We acknowledge and respect their continuing culture and the contribution they make
 to the life of this city and this region

Artwork by Ngarrindjeri artist Jordan Lovegrove

From: Saunders, Marlia <[REDACTED]>
Sent: Thursday, 23 June 2022 3:21 PM
To: Drumgold, Shane <[REDACTED]>
Cc: Priestly, Erin <[REDACTED]>; Jerome, Skye <[REDACTED]>; Greig, Mitchell <[REDACTED]>; 'Matthew Collins' <[REDACTED]>
Subject: RE: R v Lehrmann (ACT Supreme Court Proceeding SC264/21) [TGLAW-Legal.FID3680211]

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 2. Each of Network Ten and Lisa Wilkinson acknowledge that interfering with the due administration of the law, or a deliberate breach of the sub judice principle may constitute the offence of contempt of court.

Please let us know if anything further is required.

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Kind regards

~
Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

~

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Sent: Thursday, 23 June 2022 2:22 PM
To: 'Drumgold, Shane' <[REDACTED]>
Cc: Priestly, Erin <[REDACTED]>; Jerome, Skye <[REDACTED]>; Greig, Mitchell <[REDACTED]>; Matthew Collins <[REDACTED]>
Subject: RE: R v Lehrmann (ACT Supreme Court Proceeding SC264/21)

~
Dear Mr Drumgold

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~
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Kind regards

~
Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
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Advice | Transactions | Disputes

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OFFICIAL: Sensitive

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Shane Drumgold SC

Director

Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

T: [REDACTED] (Direct line)

T: [REDACTED] (Executive Officer Katie Cantwell)

M: [REDACTED]

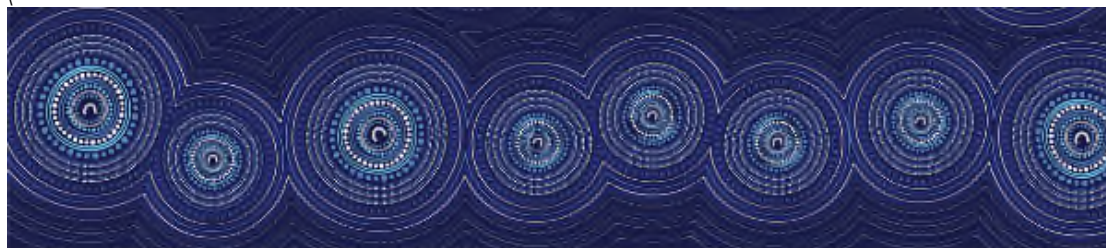
E: [REDACTED]

E: [REDACTED] (EO)

W: www.dpp.act.gov.au

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We acknowledge and respect their continuing culture and the contribution they make
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Cc: Drumgold, Shane <[REDACTED]>; Priestly, Erin <[REDACTED]>; Jerome, Skye <[REDACTED]>; Roff, Emma <[REDACTED]>; [REDACTED] Matthew Collins <[REDACTED]>

Subject: R v Lehmann (ACT Supreme Court Proceeding SC264/21)

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Dear Associate

R v Lehmann (ACT Supreme Court Proceeding SC264/21)

We act for Network Ten Pty Limited and Lisa Wilkinson in relation to the above proceedings.

We **attach** a letter to the Court from our clients. We would appreciate it if you could please bring the letter to her Honour's attention.

We understand that Mr Drumgold will tender the letter in Court tomorrow morning.

~

Kind regards

~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tgjlaw.com.au

Advice | Transactions | Disputes

~

#####

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From: Sarah Thornton <[REDACTED]>
Date: 23 June 2022 at 4:59:58 pm AEST
To: Catherine Donovan <[REDACTED]>, Tasha Smithies
<[REDACTED]>
Cc: Lisa Wilkinson External <[REDACTED]>
Subject: Final Version - Pls distribute

“Recent reporting on Lisa Wilkinson by some media organisations has been inaccurate and unfair. There are significant facts that cannot be disclosed until after the trial has concluded.

“This reporting is now causing significant harm, and we ask these organisations to cease this harassment to allow Lisa the best opportunity to give her evidence in court and to enable the trial to go ahead in a fair and timely manner.

“We are closely monitoring all coverage of this issue and Lisa and Network 10 reserve their rights in respect of any future defamation claims.

“Network 10 continues to fully support Lisa in her ongoing and full commitment to doing the right thing as a witness in the trial.”

Sarah Thornton

Head of Popular Factual

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



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Re: Thank you

From: Nick Fordham <[REDACTED]>
To: Peter FitzSimons <[REDACTED]>
Cc: Sarah Thornton <[REDACTED]>; Catherine Donovan <[REDACTED]>;
 Tasha Smithies <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>; Chris
 Bendall <[REDACTED]>
Date: Thu, 23 Jun 2022 17:48:11 +1000
Attachments: Unnamed Attachment (68 bytes)

Thank you team. We will get through this.

Appreciate everyone's support and efforts.

NF

NICK FORDHAM
 CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 23 Jun 2022, at 5:40 pm, Peter FitzSimons <[REDACTED]> wrote:

And allow me to say in turn, how much we appreciated YOU, Sarah, and everyone.

This was, what we call in the trade, a shower of shit, but we have come a long way forward in 48 hours.

Peter

On 23 Jun 2022, at 5:32 pm, Sarah Thornton <[REDACTED]> wrote:

Team: I just wanted to say thank you for the way we've all worked together

I appreciate you all immensely.

Onwards

S

Sarah Thornton

Head of Popular Factual

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009

<image001.png>

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From: Lisa Wilkinson <[REDACTED]>
Sent: Thursday, June 23, 2022 9:00 PM
To: Tasha Smithies <[REDACTED]>
Cc: Sarah Thornton <[REDACTED]>; Catherine Donovan <[REDACTED]>; Nick Fordham <[REDACTED]>; Chris Bendall <[REDACTED]>
Subject: Re: Thank you

Thanks so much Tasha. I in turn have to thank all of you for your ongoing and absolutely unwavering support since Sunday. I am trying really hard to hold it together, but not always succeeding.

I have just had a great meeting with Scott though, from the security team, and I feel so much better having all of his assistance while I remain every pap's number one target right now.

With enormous thanks,

Lisa.

Sent from my iPad

On 23 Jun 2022, at 6:09 pm, Tasha Smithies <[REDACTED]> wrote:

Thanks Sarah, Cat, Chris, Nick, Peter and especially to Lisa, your courage under such constant pressure and desire to honour Brittany is admirable.

Leon Switzer, Brittany's lawyer reached out to our external lawyer to express her support for you, she is in no way upset with Lisa – on their request, we also provided a copy of the letter handed up in Court to her lawyer.

Kind regards,
Tasha

Tasha Smithies
Senior Litigation Counsel
[REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Sarah Thornton <[REDACTED]>

Sent: Thursday, 23 June 2022 5:33 PM

To: Catherine Donovan <[REDACTED]>; Tasha Smithies <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>; Nick Fordham <[REDACTED]>; [REDACTED]; Chris Bendall <[REDACTED]>

Subject: Thank you

Team: I just wanted to say thank you for the way we've all worked together
I appreciate you all immensely.
Onwards
S

Sarah Thornton

Head of Popular Factual

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>
Sent: Monday, July 4, 2022 3:54 PM
To: Tasha Smithies <[REDACTED]>; Sarah Thornton <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Subject: Defamatory item in today's Australian

Dear Tasha,

This item in today's The Australia Media Diary about Aaron Patrick's book being recalled states TWICE as fact that I "made comments about Higgins' allegations" in my Logies speech. I absolutely did not.

The same piece also states that Judge McCallum in her ruling said that my speech "had completely obliterated the line between allegation and guilt".

I have to be honest, I am still not strong enough to read Judge McCallum's words, but my strong understanding after speaking to Angus is that she did not make that specific allegation about my speech. I understood that she was talking about all the commentary that came AFTER my speech.

These two allegations about what was and wasn't said have been repeated right throughout News Corp, the Daily Mail, various TV reporters across a number of networks, and hence picked up right across social media for two weeks now, and as far as I know we are not doing anything to correct it.

Tasha, I am already having enough trouble having to deal with the headlines about the DPP warning that I never received.

But this defamatory rubbish has to stop.

With thanks,

Lisa.

◀ Mail 9:28 am Mon 4 Jul

theaustralian.com.au

4G 100%

READ NEXT



"HarperCollins has temporarily paused supply until resolution of an upcoming criminal trial," he said in a written statement.



COMMENTARY

Brace for the next painful wave of inflation

ERIC JOHNSTON

Despite this on Friday afternoon the book was still available for purchase from numerous bookstores, shops and online sites including Angus & Robertson, Booktopia and Big W.

The criminal trial was due to start in the ACT Supreme Court last month but was delayed until October after it was derailed following a speech given at the Logies on June 19 by Network Ten's co-host Lisa Wilkinson.

She made comments about Higgins' allegations just days out from the criminal trial starting.

Consequently Chief Justice Lucy McCallum stayed the accused man Bruce Lehrmann's trial, after Wilkinson made remarks about the allegations after winning the award for the story for the most outstanding news coverage or public affairs report for her interview that aired on The Project in January 2021.

During the TV interview Ms Higgins did with Wilkinson, she detailed the alleged rape by a former colleague on the night of March 22, 2019.

Justice McCallum said Wilkinson's speech at the Logies had "completely obliterated" the line between allegation and guilt.

New & improved business newsletter. Get the edge with AM and PM briefings, plus breaking news alerts in your inbox.

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Patrick's book details the accounts of former Prime Minister Malcolm Turnbull's campaign against Scott Morrison and many recent controversies that plagued the

Sent from my iPad

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From: Lisa Wilkinson <[REDACTED]>
Sent: Monday, 4 July 2022 3:54 PM
To: Tasha Smithies <[REDACTED]>; Sarah Thornton <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Subject: Defamatory item in today's Australian

Dear Tasha,

This item in today's The Australia Media Diary about Aaron Patrick's book being recalled states TWICE as fact that I "made comments about Higgins' allegations" in my Logies speech. I absolutely did not.

The same piece also states that Judge McCallum in her ruling said that my speech "had completely obliterated the line between allegation and guilt".

I have to be honest, I am still not strong enough to read Judge McCallum's words, but my strong understanding after speaking to Angus is that she did not make that specific allegation about my speech. I understood that she was talking about all the commentary that came AFTER my speech.

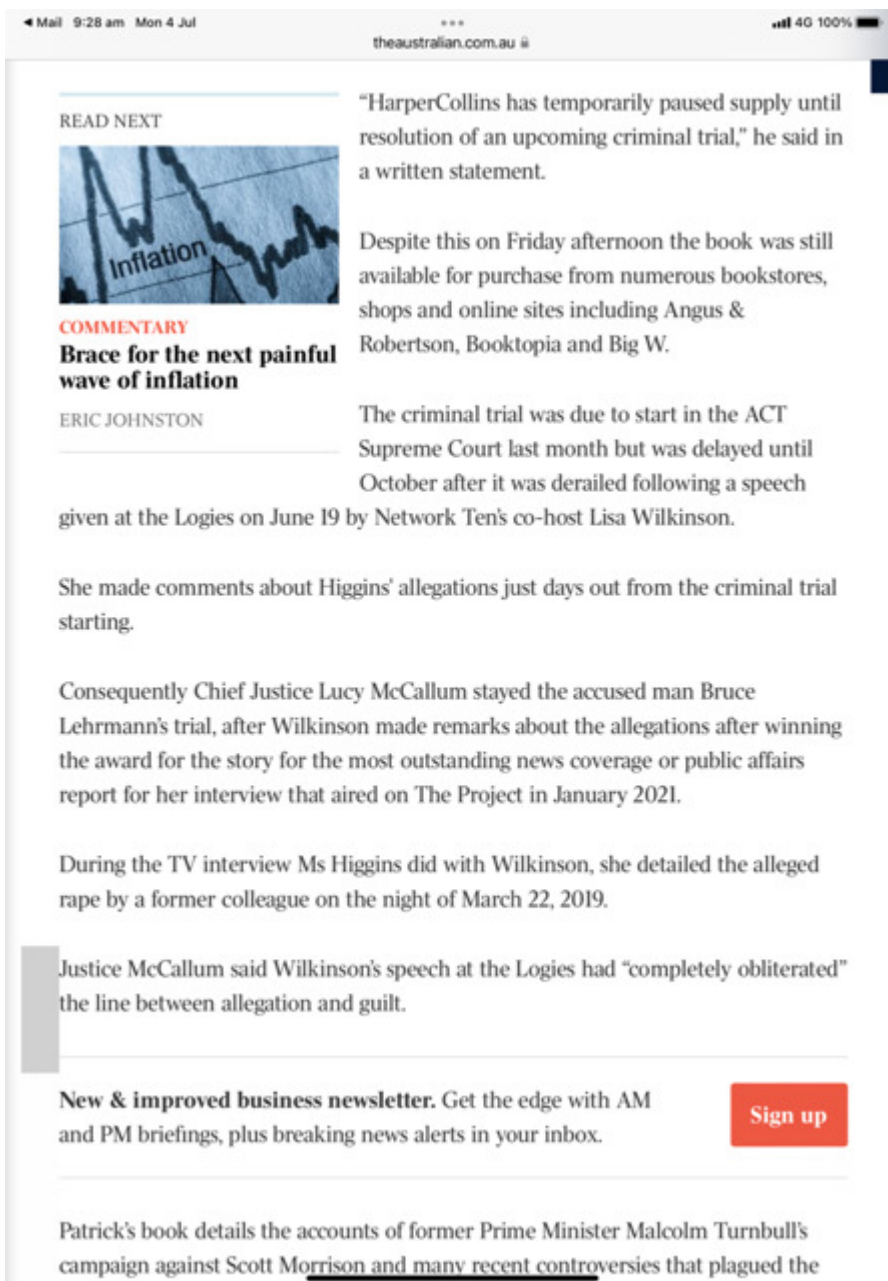
These two allegations about what was and wasn't said have been repeated right throughout News Corp, the Daily Mail, various TV reporters across a number of networks, and hence picked up right across social media for two weeks now, and as far as I know we are not doing anything to correct it.

Tasha, I am already having enough trouble having to deal with the headlines about the DPP warning that I never received.

But this defamatory rubbish has to stop.

With thanks,

Lisa.



Sent from my iPad

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From: Tasha Smithies <[REDACTED]>
Date: 1 August 2022 at 10:47:10 am AEST
To: Lisa Wilkinson External <[REDACTED]>, Myles Farley
<[REDACTED]>
Cc: Chris Bendall <[REDACTED]>, Tasha Smithies
<[REDACTED]>, Sarah Thornton <[REDACTED]>
Subject: RE: R v Lehrmann | update - PRIVILEGED & CONFIDENTIAL

Thanks Lisa,

We are looking to engage a criminal defence barrister Louise Jardim from Samuel Griffiths Chambers: <https://www.samuelgriffithchambers.com.au/barrister/louise-jardim/> who will assist in answering some of your queries around giving evidence and assist in preparing you to give evidence on all topics including the recent press. There are some complexities around being a witness/third party and what we can do in Court but the defence barrister can assist in navigating these.

I suggest on your return we arrange the catch up call with those you suggest below and then map out some time with the barrister, Nick is also welcome to participate in the meetings with the barrister. Unless you have any concerns, we will move ahead with engaging Louise so that we can provide her with the relevant background material and line up some time with her on your return and after our strategy discussion.

Kind regards,
Tasha

Tasha Smithies
Senior Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>
Sent: Sunday, 31 July 2022 2:06 PM
To: Myles Farley <[REDACTED]>
Cc: Chris Bendall <[REDACTED]>; Tasha Smithies <[REDACTED]>
Subject: Re: R v Lehrmann | update - PRIVILEGED & CONFIDENTIAL

Hi Myles,

Thanks for all of the below.

I hadn't received a separate letter, but I was aware from all the fallout from the Logies that October 4 was the new date. The only dates that are an issue for me are the 20th and 21st October, which I have already put in for as two holiday days.

That's good news that Malia agrees that we only supply messages that are directly about the allegations (as indicated in the subpoena). From those 19 pages of messages I supplied, which ones does she think apply? On the basis of that, I will send through a couple of WhatsApp messages tonight (that don't mention the allegations but are purely from the time that we were planning the interview in Jan/Feb after the show), and that will be it.

I am heading off on three weeks holidays tomorrow, so unless there is something urgent we have to deal with, could we possibly wait until I get back for any strategy call? Sarah Thornton mentioned that there was a plan to have a face-to-face strategy meeting that would also include Cat, Chris, Sarah and my agent Nick Fordham and a couple of others, as well at the end of August/beginning of September too. Not sure where that is up to, but that is something I am extremely keen to do.

Most particularly, I would be keen to get Malia's thoughts on whether we would be wise to make some sort of approach to the judge before the trial gets underway to clarify the detail of that meeting I had with the DPP, and what was ACTUALLY said to me about my speech, so that if the defence decide they just want to destroy my credibility as a witness on the basis of the Judge's damning comments about me (as everybody is telling me they will), the judge can then decide the fairness of that sort of treatment of me in the witness box before it happens.

Kind regards,

Lisa.

Sent from my iPad

On 31 Jul 2022, at 12:33 pm, Myles Farley <[REDACTED]> wrote:

Hi Lisa

Just wanted to update you on a few things, including the subpoenas.

Trial

I've **attached** the attached letter from the DPP, in case you didn't receive a copy separately – just informing you that the trial has moved to 4 October and that you'll be required to attend to give evidence...

Marlia has liaised with the DPP. At this stage, the best estimate they can provide is that you won't be called until the week beginning the 10 October. This will depend on the speed of the trial during the first week – they'll update you at the end of the first week (7 October). Are there any dates you won't be available around his time?

As flagged previously, we intend to brief a specialist criminal barrister to assist you ahead of the trial, someone who has worked on sexual assault cases previously and will understand all the potential issues/ fallout that may arise.

Subpoenas

Just wondering if you've found any whatsapp messages with Brittany or David you mentioned you might still have? Feel free to send through, ideally ASAP before Tuesday.

We don't have a definitive opinion from Marlia yet regarding what to produce – but I think you'll be pleased to hear her initial view is that we should only be providing the messages that strictly respond to the subpoena (i.e. relevant to the Parliament House allegations).

Call

We think it would be good to arrange a call (with Sarah, Chris, Tasha and me) early this week to update you on these matters, particularly around trial preparations – we're thinking either Tuesday or Thursday, if that would be suitable?

Otherwise, feel free to call me with any queries in the interim (or send through any additional material for the subpoenas you may find).

Thanks
Myles

Myles Farley

Senior Legal Counsel

O [REDACTED] M [REDACTED]

Como Centre, Level 4, 620 Chapel Street South Yarra, Melbourne, VIC 3141

<image001.png>

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From: Tasha Smithies <[REDACTED]>
Date: 25 October 2022 at 11:14:28 am AEDT
To: Lisa Wilkinson External <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>, Sarah Thornton
<[REDACTED]>, Catherine Donovan <[REDACTED]>, Tamara
Simoneau <[REDACTED]>, Chris Bendall <[REDACTED]>,
Myles Farley <[REDACTED]>
Subject: RE: R v Lehrmann - Discussion with Shane Drumgold SC PRIVILEGED AND CONFIDENTIAL

Thanks Lisa,
I will pass this on to Marlia.
Kind regards,
Tasha

Tasha Smithies
Senior Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

<image001.png>

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Islander peoples as the first people of the nation and the traditional
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From: Lisa Wilkinson <[REDACTED]>
Sent: Tuesday, 25 October 2022 9:58 AM
To: Tasha Smithies <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; Sarah Thornton
<[REDACTED]>; Catherine Donovan <[REDACTED]>; Tamara
Simoneau <[REDACTED]>; Chris Bendall <[REDACTED]>;
Myles Farley <[REDACTED]>
Subject: Re: R v Lehrmann - Discussion with Shane Drumgold SC PRIVILEGED AND CONFIDENTIAL

Thanks so much Tasha. That does look promising.

I understand the constraints that exist for him depending on the verdict, but my strong preference is that he releases one simple statement about the Logies warning that never happened, and the fact I

did not do “anything even remotely resembling contempt of court”, rather than engaging in individual “responses” to media enquiries.

Drumgold has run a pretty ordinary case for Brittany, and is clearly not great on his feet, so I worry that he could use words during interviews that get completely taken out of context and cause further issues once a dozen or so of the usual Murdoch and Daily Mail suspects want to make me the topic of their “media enquiries”.

One simple statement (released hopefully in consultation with us) and he can then refer them back to that statement whenever questions about me come up.

Kind regards,

Lisa.

Sent from my iPad

On 24 Oct 2022, at 7:06 pm, Tasha Smithies <[REDACTED]> wrote:

Hi Lisa,

As the jury hasn't come back with a verdict and no indication of when we might get one, we thought there was no harm Marlia reaching out to the DPP to see if we could get some initial thoughts from him rather than waiting some-time after a verdict. Please see Marlia's email below on the DPP's response which was better than expected. We will continue to wait on a verdict and please let me know if you would like any further information from Marlia.

Kind regards,
Tasha

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

<image001.png>

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From: Saunders, Marlia <[REDACTED]>

Sent: Monday, 24 October 2022 2:10 PM

To: Tasha Smithies <[REDACTED]>; Myles Farley <[REDACTED]>

Subject: R v Lehrmann - Discussion with Shane Drumgold SC [TGLAW-Legal.FID3680207]

Dear Tasha and Myles

As discussed with Tasha earlier today, I had a telephone call with the ACT DPP Shane Drumgold SC this morning.

I explained to him that Lisa has been the subject of intense and unfair criticism in the media since the stay of the trial was granted in June, largely based on the judge's finding that she was warned by Mr Drumgold not to give a speech, which is incorrect. I informed him that the reports are continuing even 4 months later, and that they are impacting her personally and causing her distress.

He said that he hasn't been able to say anything to date in response to questions from the media so as not to impact the trial, but that his view is that there has never been a suggestion that a contempt of court was committed by Lisa. He said her conduct did not was not "anything remotely resembling contempt of court". If the trial results in a concluded outcome (ie, a verdict or acquittal, rather than a hung jury), he intends to make that clear in his responses to media queries that ask whether a decision has been made to lay contempt charges. He noted he will need to be careful with how he phrases it, since he has already been accused of favouritism in shutting down book sales which mention the allegations but not charging Lisa with contempt. He noted he is also conscious that his primary duty is to the court and not to any witness, so he needs to be careful not to exceed his authority.

I consider that the conversation was very positive and Mr Drumgold seemed very sympathetic to Lisa's position. In the circumstances, I recommend that we hold off sending a letter to him at this time and waiting to see what transpires following the jury's verdict. We can always follow up with another phone call if need be, or send the letter down the track.

I note that Mr Drumgold will be hamstrung in what he can say on the matter if there is a hung jury, given there may be a retrial. It is also very unlikely that he will give a detailed statement or apology to Lisa given his concerns about already being seen to be overly protective of her. However, it does seem that he is motivated to speak out about this.

Please let me know if you have any questions.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER
T [REDACTED] | **M** [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tglaw.com.au

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From: Tasha Smithies <[REDACTED]>
Date: 28 October 2022 at 4:33:10 pm AEDT
To: Catherine Donovan <[REDACTED]>, Lisa Wilkinson External
<[REDACTED]>
Cc: Nick Fordham [REDACTED]
Subject: RE: Crisis Comms

Thanks Cat,
Lisa/Nick, you may recall from the last PR strategy session that it was decided not to send warning letters in advance to press but monitor articles and correct glaring inaccuracies, this remains the approach and Cat has a process in place to monitor articles.
Kind regards,
Tasha

Tasha Smithies
Senior Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Catherine Donovan <[REDACTED]>
Sent: Friday, 28 October 2022 3:07 PM
To: Lisa Wilkinson External <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; Tasha Smithies
<[REDACTED]>
Subject: RE: Crisis Comms

Hi Lisa

Just looping in Tasha as well.

We will continue to monitor all press and then work with Tasha to see what we can correct now.

We are also keeping copies of all of these articles so then we can go through these again post trial.

We have a pretty good media monitoring system in place, but if you see anything at all that you are worried about, please send this through as well.

Tasha, let me know if you think we should send a (legal) note to any of these publications as well (put them on notice).

Thank you
Cat

Catherine Donovan
VP Publicity & Communications



<image001.png>

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From: Lisa Wilkinson <[REDACTED]>
Sent: Friday, 28 October 2022 9:45 AM
To: Catherine Donovan <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Subject: Re: Crisis Comms

Thanks so much to you both.

Given the yesterday's outcome, do the crisis coms people think we have to wait another six months or so before we seek factual corrections on articles such as this? My thinking is that we can at least nip in the bud the constant reporting of this as fact. By my calculations there will be dozens and dozens of stories between now and then that continue to repeat this lie.

And should we do the same with the News Corp factual errors on this score? I have seen exactly the same allegation regularly repeated. Particularly early on. And let's face it, anyone doing an update on me and the trial will just go back to the early stories to get their "facts" around the Logies speech.

They probably need to know they are being watched at a legal/defamatory level.

Love your thoughts.

Cheers,

Lisa.

Sent from my iPad

On 28 Oct 2022, at 10:10 am, Catherine Donovan [REDACTED]
wrote:

Morning Lisa and Nick

Yes, no worries at all.

Tasha is across and we had also picked this up via our media monitoring. We have added it to the list.

Thank you.
Cat

Catherine Donovan
VP Publicity & Communications

[REDACTED] [REDACTED]
[REDACTED]

<image001.png>

*Paramount acknowledges the Australian Aboriginal and Torres Strait
Islander peoples as the first people of the nation and the traditional
custodians of the lands where we live, learn and work.*

From: Nick Fordham <[REDACTED]>
Sent: Friday, 28 October 2022 3:48 AM
To: Lisa Wilkinson External <[REDACTED]>
Cc: Catherine Donovan <[REDACTED]>
Subject: Re: Crisis Comms

Thanks Lisa.

Cat, should we share with Tasha?

Regards,

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 27 Oct 2022, at 3:55 pm, Lisa Wilkinson
<[REDACTED]> wrote:

Dear Cat, Nick,

Just passing on this piece today from today's Daily Mail - where these two journalists, Jade Hobman and Eliza McPhee clearly say that I discussed the trial in my Logies speech.

This is a completely false accusation.

Hoping it can be passed on to the Crisis Comms team to address once we are in a position to make a statement and correct the record at the completion of the trial.

<https://www.dailymail.co.uk/news/article-11360337/Lisa-Wilkinson-sits-SILENCE-Project-Brittany-Higgins-rape-trial-ends.html>

With thanks,

Lisa.

Sent from my iPad

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From: Tasha Smithies <[REDACTED]>
Date: 2 November 2022 at 10:46:13 am AEDT
To: Catherine Donovan <[REDACTED]>, Nick Fordham
<[REDACTED]>, Chris Bendall <[REDACTED]>
Cc: Lisa Wilkinson External <[REDACTED]>, Tamara Simoneau
<[REDACTED]>, Myles Farley <[REDACTED]>, Alix Hill
<[REDACTED]>, Raquel Lennan <[REDACTED]>
Subject: Re: Crisis Comms

Thank you - new invite sent (coming from Tamara for 4.15 today).

Tasha Smithies
Senior Litigation Counsel
M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

On 2 Nov 2022, at 8:29 am, Tasha Smithies <[REDACTED]> wrote:

Can we make this 4.15 as Lisa has to jump on a flight post the call?

Tasha Smithies
Senior Litigation Counsel
M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

On 31 Oct 2022, at 1:51 pm, Tasha Smithies
<[REDACTED]> wrote:

Looping in Raquel in Tamara's absence.
I am wondering if the usual 4.30pm time on Wednesday might work? If so Raquel could you please send an updated invite to those on this email list.
Kind regards,
Tasha

Tasha Smithies
Senior Litigation Counsel
[REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

<image001.png>

Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Catherine Donovan <[REDACTED]>
Sent: Monday, 31 October 2022 7:45 AM
To: Nick Fordham <[REDACTED]>; Chris Bendall <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Myles Farley <[REDACTED]>; Alix Hill <[REDACTED]>
Subject: RE: Crisis Comms

Morning all

I can't do tomorrow unfortunately.

I can do the scheduled meeting we have for today if that suited or Wednesday.

Thank you.
Cat

Catherine Donovan
VP Publicity & Communications
[REDACTED]
[REDACTED]
[REDACTED]

<image001.png>

Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Sent: Monday, 31 October 2022 5:35 AM
To: Chris Bendall <[REDACTED]>

Cc: Tasha Smithies <[REDACTED]>; Lisa Wilkinson
External <[REDACTED]>; Catherine Donovan
<[REDACTED]>; Tamara Simoneau
[REDACTED]>; Myles Farley
<[REDACTED]>; Alix Hill
<[REDACTED]>
Subject: Re: Crisis Comms

Thanks Chris. I will work around everyone else's schedules.

Regards,

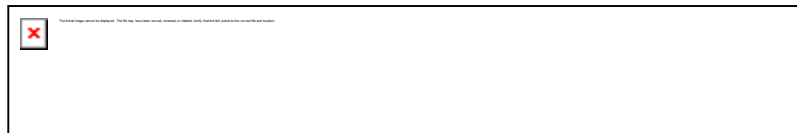
Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 31 Oct 2022, at 5:24 am, Chris Bendall
<[REDACTED]> wrote:

Thanks Tasha - Tamara is away today so should
we line something up for Tuesday?

Chris Bendall
Executive Producer



Como Centre, Level 4, 620 Chapel Street South
Yarra Melbourne VIC 3141
t. 03 9275 1370 m. [REDACTED]

[REDACTED]
tenplay.com.au

From: Tasha Smithies
<[REDACTED]>
Sent: Sunday, 30 October 2022 7:56 PM
To: Nick Fordham
<[REDACTED]>; Lisa
Wilkinson External <[REDACTED]>
Cc: Catherine Donovan
<[REDACTED]>; Tamara
Simoneau <[REDACTED]>; Chris
Bendall <[REDACTED]>; Myles
Farley <[REDACTED]>
Subject: RE: Crisis Comms

Hi Nick and Lisa,

Looping in Tamara and Chris given the issues extend beyond legal (the legal position remains the same).
Happy to discuss on Monday or Tuesday.
Kind regards,
Tasha

Tasha Smithies

Senior Litigation Counsel

[REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW
2009

<image001.png>

*Paramount acknowledges the Australian Aboriginal and Torres Strait
Islander peoples as the first people of the nation and the
traditional
custodians of the lands where we live, learn and work.*

From: Nick Fordham

<[REDACTED]>

Sent: Friday, 28 October 2022 10:11 PM

To: Lisa Wilkinson External

<[REDACTED]>

Cc: Tasha Smithies

<[REDACTED]>; Catherine

Donovan <[REDACTED]>

Subject: Re: Crisis Comms

Agreed Lisa.

It would be great to reconnect on this on Monday
and discuss a revised strategy.

Have we found the leak yet? Have they been
warned not to talk to the Australian?

Regards

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 28 Oct 2022, at 2:02 pm, Lisa
Wilkinson

<[REDACTED]>

wrote:

Thanks Tasha.

Unfortunately that was before we knew we were going to have to survive this from a PR perspective for yet another five months before we would be able to correct it.

I understand the constraints around Drumgold, and any possible correction there, but when they say that I talked about the allegations in my Logies speech, that is a complete lie, and shouldn't be allowed to be continually reported as fact.

We will be approaching nine months of this narrative - and we won't have done a thing to stop it. It's not good for me, it's not good for the show, and it's not good for the network.

Would love to chat with you all on this if possible.

King regards,

Lisa.

Sent from my iPad

On 28 Oct 2022, at
4:33 pm, Tasha
Smithies

<[REDACTED]>
[REDACTED]>

wrote:

Thanks Cat,
Lisa/Nick, you may recall from the last PR strategy session that it was decided not to send warning letters in advance to press but monitor articles and correct glaring inaccuracies, this remains the approach and Cat

has a process in place to monitor articles.

Kind regards,
Tasha

Tasha Smithies
Senior Litigation
Counsel

[REDACTED]
[REDACTED] M [REDACTED]
[REDACTED]
1 Saunders Street
Pyrmont, Sydney,
NSW 2009

<image001.png>

*Paramount
acknowledges the
Australian Aboriginal and
Torres Strait
Islander peoples as the
first people of the nation
and the traditional
custodians of the lands
where we live, learn and
work.*

From: Catherine
Donovan

<[REDACTED]>
[REDACTED]

Sent: Friday, 28
October 2022 3:07
PM

To: Lisa Wilkinson
External

<[REDACTED]>
[REDACTED]

Cc: Nick Fordham

<[REDACTED]>;
[REDACTED]

Tasha Smithies

<[REDACTED]>
[REDACTED]

Subject: RE: Crisis
Comms

Hi Lisa

Just looping in
Tasha as well.

We will continue to
monitor all press
and then work with

From: Tasha Smithies
Sent: Tuesday, July 5, 2022 7:35 AM
To: Lisa Wilkinson <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; Sarah Thornton <[REDACTED]>
Subject: RE: Defamatory item in today's Australian - confidential and privileged

Thanks Lisa,

I can understand where you are coming from as the articles contain inaccuracies and are potentially defamatory/not defensible. There are obviously both a legal and PR perspectives. I will leave the PR perspective with Cat and her team.

From a legal perspective, my concern about writing to them at this time is the upcoming trial and the request from the Judge, assurances provided that no further comment on the matter would be made, and risk of contempt. Any legal letter sent will generate more publicity arguably instigated by N10/you and the risk is that the defence raise this again with the Judge.

Another legal aspect to consider is that given we can treat what has been said by the DPP with a grain of salt, it's possible that the defence tries to raise this issue and the comments in the audio tape in any cross examination of you and we will be reliant on the DPP/Judge to shut it down, so feel its unwise to risk upsetting the Judge further prior to the trial. To this end we are speaking to external lawyers this week to work out the best way to respond to the defence subpoenas (as these won't go away) and witness preparation. I am keen down the track to engage a criminal barrister who specialises in this area to help with preparing you to give evidence.

I will also raise this publicity with the external lawyers to see if they have any further thoughts from a legal perspective and will come back to you.

Kind Regards,
Tasha

Tasha Smithies
Senior Litigation Counsel
[REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>
Sent: Monday, 4 July 2022 3:54 PM
To: Tasha Smithies <[REDACTED]>; Sarah Thornton <[REDACTED]>

Cc: Nick Fordham <[REDACTED]>
 Subject: Defamatory item in today's Australian

Dear Tasha,

This item in today's The Australia Media Diary about Aaron Patrick's book being recalled states TWICE as fact that I "made comments about Higgins' allegations" in my Logies speech. I absolutely did not.

The same piece also states that Judge McCallum in her ruling said that my speech "had completely obliterated the line between allegation and guilt".

I have to be honest, I am still not strong enough to read Judge McCallum's words, but my strong understanding after speaking to Angus is that she did not make that specific allegation about my speech. I understood that she was talking about all the commentary that came AFTER my speech.

These two allegations about what was and wasn't said have been repeated right throughout News Corp, the Daily Mail, various TV reporters across a number of networks, and hence picked up right across social media for two weeks now, and as far as I know we are not doing anything to correct it.

Tasha, I am already having enough trouble having to deal with the headlines about the DPP warning that I never received.


But this defamatory rubbish has to stop.

With thanks,

Lisa.

Mail 9:28 am Mon 4 Jul
theaustralian.com.au
4G 100%

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COMMENTARY

Brace for the next painful wave of inflation

ERIC JOHNSTON

"HarperCollins has temporarily paused supply until resolution of an upcoming criminal trial," he said in a written statement.

Despite this on Friday afternoon the book was still available for purchase from numerous bookstores, shops and online sites including Angus & Robertson, Booktopia and Big W.

The criminal trial was due to start in the ACT Supreme Court last month but was delayed until October after it was derailed following a speech given at the Logies on June 19 by Network Ten's co-host Lisa Wilkinson.

She made comments about Higgins' allegations just days out from the criminal trial starting.

Consequently Chief Justice Lucy McCallum stayed the accused man Bruce Lehrmann's trial, after Wilkinson made remarks about the allegations after winning the award for the story for the most outstanding news coverage or public affairs report for her interview that aired on The Project in January 2021.

128
318

During the TV interview Ms Higgins did with Wilkinson, she detailed the alleged rape by a former colleague on the night of March 22, 2019.

Justice McCallum said Wilkinson's speech at the Logies had "completely obliterated" the line between allegation and guilt.

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Patrick's book details the accounts of former Prime Minister Malcolm Turnbull's campaign against Scott Morrison and many recent controversies that plagued the

Sent from my iPad

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From: Lisa Wilkinson <[REDACTED]>
Sent: Tuesday, July 5, 2022 8:04 AM
To: Tasha Smithies <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; Sarah Thornton <[REDACTED]>
Subject: Re: Defamatory item in today's Australian - confidential and privileged

Thanks so much for your careful and speedy consideration Tasha.

I understand. For now, for the sake of the trial, and all other further complications, I just have to wear it.

Kind regards,

Lisa.

Sent from my iPad

On 5 Jul 2022, at 7:35 am, Tasha Smithies <[REDACTED]> wrote:

Thanks Lisa,

I can understand where you are coming from as the articles contain inaccuracies and are potentially defamatory/not defensible. There are obviously both a legal and PR perspectives. I will leave the PR perspective with Cat and her team.

From a legal perspective, my concern about writing to them at this time is the upcoming trial and the request from the Judge, assurances provided that no further comment on the matter would be made, and risk of contempt. Any legal letter sent will generate more publicity arguably instigated by N10/you and the risk is that the defence raise this again with the Judge.

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I will also raise this publicity with the external lawyers to see if they have any further thoughts from a legal perspective and will come back to you.

Kind Regards,
Tasha

Tasha Smithies
Senior Litigation Counsel
[REDACTED] M [REDACTED]

1 Saunders Street Pymont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Lisa Wilkinson <[REDACTED]>
Sent: Monday, 4 July 2022 3:54 PM
To: Tasha Smithies <[REDACTED]>; Sarah Thornton <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Subject: Defamatory item in today's Australian

Dear Tasha,

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◀ Mail 9:28 am Mon 4 Jul

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COMMENTARY

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She made comments about Higgins' allegations just days out from the criminal trial starting.

Consequently Chief Justice Lucy McCallum stayed the accused man Bruce Lehrmann's trial, after Wilkinson made remarks about the allegations after winning the award for the story for the most outstanding news coverage or public affairs report for her interview that aired on The Project in January 2021.

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Level 14, 60 Martin Place
 Sydney NSW 2000 Australia

GPO Box 3909 Sydney NSW 2001

Our ref MS:5142487

6 July 2022

Kamy Saeedi Law
 Level 19/68 Pitt Street
 SYDNEY NSW 2000

Attention Kamy Saeedi / Rachel Fisher

Dear Colleagues

R v Lehrmann (No. SCC 264 of 2021)
Subpoenas to Network Ten Pty Ltd and Ms Lisa Wilkinson

We act for Network Ten Pty Ltd (**Network Ten**) and Ms Lisa Wilkinson.

We refer to the subpoenas to produce filed 30 June 2022 issued to each of our clients (**Subpoenas**).

As previously foreshadowed to you by Tasha Smithies from Network Ten, our clients consider that the Subpoenas are overly broad and oppressive. The categories set out in the respective Schedules should be narrowed in scope to confine the Subpoenas to relevant subject matter, relevant dates and relevant staff of Network Ten. Otherwise, we consider the Subpoenas constitute an impermissible fishing expedition and are liable to be set aside.

In particular, we note the Schedules should be revised to:

- consistently identify a specific class of communications sought by your client (eg communications which relate to Ms Higgins' allegation that she was sexually assaulted at Australian Parliament House in March 2019);
- only capture communications pre-dating Ms Higgins' interview with Ms Wilkinson which was broadcast by Network Ten on 15 February 2021; and
- only seek documents relating to Network Ten staff who worked on the interview with Ms Higgins, as opposed to Network Ten staff more broadly, which would capture more than 100 people.

For the avoidance of doubt, please confirm that you will not be calling on the initial subpoenas filed by your client which you provided to our clients via email, given it appears that they have now been superseded by the Subpoenas.

Wilkinson Subpoena

We consider the Schedule to the Wilkinson subpoena should be amended as follows:

- 1 Copies of all communications with Brittany Higgins between 23 March 2019 and ~~27 June 2022~~ 15 February 2021, relating to an allegation ~~that she was~~ of sexual assault at Australian Parliament House in March 2019, in any form, including but not limited to text messages, iMessages, direct

messages, encrypted communications, emails (including attachments), voice recordings or memos.

- 2 Copies of all communications with David Sharaz, relating to ~~Brittany Higgins and/or~~ an allegation that ~~Brittany Higgins was~~ of sexual assaulted at Australian Parliament House in March 2019, between 23 March 2019 and ~~27 June 2022~~ 15 February 2021, in any form, including but not limited to text messages, iMessages, direct messages, encrypted communications, emails (including attachments), voice recordings or memos.
- 3 Copies of all notes, emails, memoranda, briefings or other documents recording or summarising any telephone conversations between Brittany Higgins or David Sharaz and Lisa Wilkinson during 1 December 2020 to ~~30 June 2021~~ 15 February 2021 relating to an allegation that Ms Higgins was sexually assaulted at Australian Parliament House in March 2019.

Network Ten Subpoena

We consider the Schedule to the Network Ten subpoena should be amended as follows:

- 1 Copies of all communications between Brittany Higgins and ~~Network Ten Pty Limited~~, Lisa Wilkinson or production staff of The Project who worked on the segment containing Lisa Wilkinson's interview with Brittany Higgins broadcast by Network Ten Pty Limited on The Project on 15 February 2021, relating to Ms Higgins' allegation that she was sexually assaulted at Australian Parliament House in March 2019, between 23 March 2019 to 27 June 2022 and 15 February 2021 but not limited to text messages, iMessages, direct messages, emails (including attachments), encrypted communications, voice recordings or voice memos.
- 2 Copies of all contracts or agreements including confidentiality agreements or exclusivity deals between Paramount ANZ, Network Ten Pty Limited or any of its their related entities, staff or representatives and Brittany Higgins between 23 March 2019 and 15 February 2021.
- 3 All records of payments made by or on behalf of ~~Paramount ANZ~~, Network Ten Pty Limited or any of ~~its their~~ related entities, staff or representatives to Brittany Higgins, or any other person or entity on behalf of or representing Brittany Higgins, between 23 March 2019 and ~~27 June 2022~~ 15 February 2021.
- 4 Copies of all communications with David Sharaz and ~~Network Ten Pty Limited~~, Lisa Wilkinson or production staff of The Project who worked on the segment containing Lisa Wilkinson's interview with Brittany Higgins broadcast by Network Ten Pty Limited on The Project on 15 February 2021, between 23 March 2019 to 27 June 2022 15 February 2021, relating to ~~Brittany~~ Ms Higgins' allegation that she was ~~and/or an alleged~~ sexual assaulted at Australian Parliament House in March 2019, including but not limited to text messages, iMessages, direct messages, emails (including attachments), encrypted communications, voice recordings and voice memos.

Next Steps

Please confirm that you agree to amend the Schedules for the Subpoenas in accordance with the above.

If your client does not agree, our clients will make an application to set aside the Subpoenas. This letter will be provided to the Court in respect of costs.

We otherwise request that you provide an acknowledgement that your client will pay our client's costs reasonably incurred in complying with the Subpoena including:

- time spent locating, reviewing and collating the documents; and
- legal costs incurred in relation to seeking advice as to the scope and validity of the Subpoenas and any issues that arise through the production of documents (such as confidentiality or legal professional privilege).

We note that conduct money in the amount of \$150.00 was provided to each addressee.

Having regard to the current breadth and scope of the Subpoenas, even if narrowed, it is unlikely that the conduct money provided will be sufficient to pay our client's reasonable costs of complying with the Subpoena.

In the event your client does not agree to pay our client's reasonable costs for complying with the Subpoena, the Court will likely order your client to pay these costs pursuant to r 6611 of the *Court Procedure Rules 2006* (ACT).

We request that you provide a response **by 5pm on 8 July 2022**.

Yours faithfully
THOMSON GEER



Marlia Saunders

Partner

T [REDACTED]

M [REDACTED]

[REDACTED]

From: Saunders, Marlia <[REDACTED]>
Sent: Friday, 30 September 2022 2:10 PM
To: Greig, Mitchell <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>; SVC_DPPCases <[REDACTED]>
Subject: RE: New Trial Date - R v Lehmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Dear Mr Greig

Further to our email below, we confirm that our client would prefer to make her own transportation and accommodation arrangements in Canberra.

While she is available to attend Court on Monday 17 and Tuesday 18 October, we remind you that she is unavailable for the remainder of that week.

Can you please confirm the following matters in due course:

1. 1. Will there be a breakout room available at the Court for Ms Wilkinson to use while waiting to give evidence?
2. 2. Will there be space in the court room for two support people to sit while Ms Wilkinson gives evidence?
3. 3. Can you please provide us with the prosecution's witness list once it has been deployed?

Finally, in case it comes up during Ms Wilkinson's cross-examination, we note that Network Ten Pty Limited wishes to maintain privilege over any legal advice given to The Project in relation to its broadcast.

Please let us know if you would like to discuss any of these matters.

Kind regards

Marlia Saunders | Partner
THOMSON GEER
 T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

[Advice](#) | [Transactions](#) | [Disputes](#)

From: Saunders, Marlia
Sent: Thursday, 22 September 2022 10:34 PM
To: 'Greig, Mitchell' <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>; SVC_DPPCases <[REDACTED]>
Subject: RE: New Trial Date - R v Lehmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

Dear Mr Mitchell

Thank you for your email.

That timing is suitable for our client, however she may prefer to organise her own flights and accommodation. We will make enquiries and come back to you.

Kind regards

Marlia Saunders | Partner
THOMSON GEER
 T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

[Advice](#) | [Transactions](#) | [Disputes](#)

From: Greig, Mitchell <[REDACTED]>
Sent: Tuesday, 20 September 2022 7:26 AM
To: Saunders, Marlia <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>; SVC_DPPCases <[REDACTED]>
Subject: RE: New Trial Date - R v Lehmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

OFFICIAL

Dear Ms Saunders,

A slight change in that Ms Wilkinson won't be required until the 3rd week, beginning the 17th October. We are estimating that she will give her evidence on Monday 17th October.

Part of the arrangements for Crown witnesses is that we can organise her flights and accommodation for the time that she is required to give evidence. Are you able to confirm whether Ms Wilkinson will be required to fly out of Sydney or Melbourne on Sunday 16th October?

Kind regards,



Mitchell Greig

Prosecutor Associate

Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

T: [REDACTED]

W: www.dpp.act.gov.au

For a full range of victims rights, please go to www.dpp.act.gov.au and go to the Witnesses and Victims link.

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From: Saunders, Marlia <[REDACTED]>
Sent: Friday, 2 September 2022 9:50 AM
To: Greig, Mitchell <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>; SVC_DPPCases <[REDACTED]>
Subject: RE: New Trial Date - R v Lehmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Dear Mr Greig

Apologies for the delayed response.

Thank you for confirming that Ms Wilkinson will not be required until the week beginning Monday 10 October 2022. If that is to change, can you please let us know as soon as possible.

The other dates on which Ms Wilkinson is not available during the trial are: Tuesday 11 October and Wednesday 19 – Friday 21 October.

Kind regards

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

From: Greig, Mitchell <[REDACTED]>
Sent: Wednesday, 27 July 2022 9:01 AM
To: Saunders, Marlia <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>; SVC_DPPCases <[REDACTED]>
Subject: RE: New Trial Date - R v Lehmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

OFFICIAL

Dear Ms Saunders,

Thank you for advising us, that is noted.

At this stage, the best estimate we can provide is that Ms Wilkinson won't be called until the week beginning the 10 October. This will all be dependent on the speed of the trial during the first week. We will be able to provide an update at the end of the first week, around the 7 October.

Are there certain dates that Ms Wilkinson would not be available during the trial period?

Kind regards,



Mitchell Greig

Prosecutor Associate

Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

T: [REDACTED]

W: www.dpp.act.gov.au

For a full range of victims rights, please go to www.dpp.act.gov.au and go to the Witnesses and Victims link.

Please consider the environment before printing this e-mail

From: Saunders, Marlia <[REDACTED]>
Sent: Tuesday, 26 July 2022 3:05 PM
To: Greig, Mitchell <[REDACTED]>
Cc: O'Beirne, Conor [REDACTED]; SVC_DPPCases [REDACTED]
Subject: RE: New Trial Date - R v Lehrmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Dear Mr Greig

We refer to your email below and the attached letter, which have been forwarded to us for a response.

We act for Network Ten Pty Limited and Lisa Wilkinson in relation to these proceedings. Please direct all future correspondence in this matter to us.

We confirm that Ms Wilkinson is aware of the new trial date. For planning purposes, are you able to confirm your best estimate of when during the four-week period Ms Wilkinson will be required to give evidence?

Kind regards

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

From: Greig, Mitchell <[REDACTED]>
Sent: Monday, 25 July 2022 9:53 AM
To: Tasha Smithies <[REDACTED]>
Cc: SVC_DPPCases <[REDACTED]>
Subject: New Trial Date - R v Lehrmann - Formal Letter (DPP Ref: 202113941)

OFFICIAL

Dear Tasha,

We don't have a contact email address for Ms Wilkinson, can you please forward this letter through to her. The letter is to formally advise her of the change of date of the trial.

I understand that Ms Wilkinson is aware of the new date, however we send these letters through to all witnesses for trials.

Thanks for your assistance and if you require anything further, please don't hesitate to contact us.

Kind regards,



Mitchell Greig
 Prosecutor Associate
 Office of the Director of Public Prosecutions (ACT)
 GPO Box 595, Canberra ACT 2601 (DX 5725)
 T: [REDACTED]
 W: www.dpp.act.gov.au

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 #####

Re: R v Lehrmann | update - PRIVILEGED & CONFIDENTIAL

From: Lisa Wilkinson <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Cc: Myles Farley <[REDACTED]>; Chris Bendall <[REDACTED]>; Sarah Thornton <[REDACTED]>; Nick Fordham <[REDACTED]>
Date: Fri, 26 Aug 2022 09:29:53 +1000
Attachments: Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes)

Hi Tasha,

Thanks for all of the below. Very happy to have Louise on board with prepping me for my court appearance. Just letting you know that I am now back from holidays, and my diary is really starting to fill up in the coming weeks. Let me know when you would like to start scheduling all of these meetings.

With thanks,

Lisa.

Sent from my iPad

On 1 Aug 2022, at 10:47 am, Tasha Smithies <[REDACTED]> wrote:

Thanks Lisa,

We are looking to engage a criminal defence barrister Louise Jardim from Samuel Griffiths Chambers: <https://www.samuelgriffithchambers.com.au/barrister/louise-jardim/> who will assist in answering some of your queries around giving evidence and assist in preparing you to give evidence on all topics including the recent press. There are some complexities around being a witness/third party and what we can do in Court but the defence barrister can assist in navigating these.

I suggest on your return we arrange the catch up call with those you suggest below and then map out some time with the barrister, Nick is also welcome to participate in the meetings with the barrister. Unless you have any concerns, we will move ahead with engaging Louise so that we can provide her with the relevant background material and line up some time with her on your return and after our strategy discussion.

Kind regards,

Tasha

Tasha Smithies
 Senior Litigation Counsel
 [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Lisa Wilkinson <[REDACTED]>
Sent: Sunday, 31 July 2022 2:06 PM
To: Myles Farley <[REDACTED]>
Cc: Chris Bendall <[REDACTED]>; Tasha Smithies <[REDACTED]>
Subject: Re: R v Lehrmann | update - PRIVILEGED & CONFIDENTIAL

Hi Myles,

Thanks for all of the below.

I hadn't received a separate letter, but I was aware from all the fallout from the Logies that October 4 was the new date. The only dates that are an issue for me are the 20th and 21st October, which I have already put in for as two holiday days.

That's good news that Malia agrees that we only supply messages that are directly about the allegations (as indicated in the subpoena). From those 19 pages of messages I supplied, which ones does she think apply? On the basis of that, I will send through a couple of WhatsApp messages tonight (that don't mention the allegations but are purely from the time that we were planning the interview in Jan/Feb after the show), and that will be it.

I am heading off on three weeks holidays tomorrow, so unless there is something urgent we have to deal with, could we possibly wait until I get back for any strategy call? Sarah Thornton mentioned that there was a plan to have a face-to-face strategy meeting that would also include Cat, Chris, Sarah and my agent Nick Fordham and a couple of others, as well at the end of August/beginning of September too. Not sure where that is up to, but that is something I am extremely keen to do.

Most particularly, I would be keen to get Malia's thoughts on whether we would be wise to make some sort of approach to the judge before the trial gets underway to clarify the detail of that meeting I had with the DPP, and what was ACTUALLY said to me about my speech, so that if the defence decide they just want to destroy my credibility as a witness on the basis of the Judge's damning comments about me (as everybody is telling me they will), the judge can then decide the fairness of that sort of treatment of me in the witness box before it happens.

Kind regards,

Lisa.

Sent from my iPad

On 31 Jul 2022, at 12:33 pm, Myles Farley <[REDACTED]> wrote:

Hi Lisa

Just wanted to update you on a few things, including the subpoenas.

Trial

I've **attached** the attached letter from the DPP, in case you didn't receive a copy separately – just informing you that the trial has moved to 4 October and that you'll be required to attend to give evidence...

Marlia has liaised with the DPP. At this stage, the best estimate they can provide is that you won't be called until the week beginning the 10 October. This will depend on the speed of the trial during the first week – they'll update you at the end of the first week (7 October). Are there any dates you won't be available around his time?

As flagged previously, we intend to brief a specialist criminal barrister to assist you ahead of the trial, someone who has worked on sexual assault cases previously and will understand all the potential issues/ fallout that may arise.

Subpoenas

Just wondering if you've found any whatsapp messages with Brittany or David you mentioned you might still have? Feel free to send through, ideally ASAP before Tuesday.

We don't have a definitive opinion from Marlia yet regarding what to produce – but I think you'll be pleased to hear her initial view is that we should only be providing the messages that strictly respond to the subpoena (i.e. relevant to the Parliament House allegations).

Call

We think it would be good to arrange a call (with Sarah, Chris, Tasha and me) early this week to update you on these matters, particularly around trial preparations – we're thinking either Tuesday or Thursday, if that would be suitable?

Otherwise, feel free to call me with any queries in the interim (or send through any additional material for the subpoenas you may find).

Thanks

Myles

Myles Farley

Senior Legal Counsel

Como Centre, Level 4, 620 Chapel Street South Yarra, Melbourne, VIC 3141



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Re: R v Lehrmann - Update [TGLAW-Legal.FID3680207]

From: Lisa Wilkinson <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Cc: Sarah Thornton <[REDACTED]>; Myles Farley <[REDACTED]>
Date: Thu, 01 Sep 2022 11:16:19 +1000
Attachments: Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes)

Hi Tasha,

Thanks for this. I haven't responded before now as my filming schedule has been moving around a lot, but I think Sharyn now has a pretty good handle on what next week looks like for me. I am in Melbourne Tuesday to Friday of next week hosting the show but I believe I have a number of interviews and screenings each morning, so next week is not good at all. To be honest too Tasha, I am finding the leadup to the trial quite stressful, and I would rather not have one of these meetings on a hosting day.

The following week of the 12th is preferable for me as I am in Brisbane filming Monday 12th and Tuesday 13th, but currently free on Wednesday 14th. Thursday and Friday, as usual, are hosting days in Melbourne.

Unfortunately the week of the 26th is not good for me as Monday is one of my "weekend days", and I have the Tuesday and Wednesday as scheduled leave days, and then I am in Melbourne for the show on the Thursday and Friday.

Could we instead have that meeting in the week prior? Tuesday the 20th is currently good for me.

I will copy this response, and send it to Sharyn separately (cc-ing you, Sarah and Myles), so she is across my suggestions on timing and whether she is aware of anything that conflicts with any of these dates and times.

With thanks,

Lisa.

Sent from my iPad

On 31 Aug 2022, at 4:41 pm, Tasha Smithies <[REDACTED]> wrote:

Hi Lisa,

I have sent a separate email to arrange an internal catch up meeting. I am also happy to update Nick or anyone else in a separate call if that would assist. Could you please let me know as soon as possible some time options to meet with Louise during the week of 5 September, the next during the week of 12 September and then another one during the week of 26 September.

Kind regards,

Tasha

Tasha Smithies
 Senior Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Tasha Smithies
Sent: Friday, 26 August 2022 4:53 PM
To: Lisa Wilkinson External <[REDACTED]>
Cc: Sarah Thornton <[REDACTED]>; Myles Farley <[REDACTED]>
Subject: FW: R v Lehrmann - Update [TGLAW-Legal.FID3680207]

Lisa,

Welcome back, I hope you had a lovely time away.

Please see email below by way of background. Please let know some days that suit you best for conferences with Louise – if you can give me some options that work in the time frames Louise has suggested below that would be great so we can find a time that also fits with Louise's Court commitments – she is Sydney based. Marlia and I will work around Louise and your availability.

I will also line up next week an internal update call with Sarah, Chris and Angus and anyone else who you would like to participate - I can provide an update for everyone and any concerns can be discussed.

Have a lovely weekend.

Kind regards,

Tasha

Tasha Smithies
 Senior Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Saunders, Marlia <[REDACTED]>
Sent: Thursday, 25 August 2022 4:03 PM
To: Tasha Smithies <[REDACTED]>; Myles Farley <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>
Subject: R v Lehrmann - Update [TGLAW-Legal.FID3680207]

Hi Tasha and Myles

Conor and I had a meeting with the criminal barrister, Louise Jardim, this afternoon. She has read the material and has a lot of ideas for topics to canvass with Lisa.

She has proposed that we schedule three conferences with Lisa to break up the topics so as not to overwhelm her. The third meeting may not be required but it would be good to plan for it in case it's needed. If possible, we think we should schedule the first meeting with her during the week of 5 September, the next during the week of 12 September and then another one during the week of 26 September.

Louise suggested we also consider having a virtual meeting with Lisa after the Crown opening during the trial.

She has asked us to prepare a chronology which covers:

- The contact Lisa had with Brittany and David prior to the broadcast; and
- What information and documents were provided and when.

Can you please let us know:

- Lisa's availability for the three conferences prior to the trial – we recommend that at least the first one should be in person;
- Any unavailable dates Lisa has during the trial so we can let the DPP know; and
- Whether you would like us to provide a cost estimate for this work until the conclusion of Lisa's evidence.

Please give us a call if you would like to discuss, otherwise it would be good to book in some dates as soon as possible.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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From: Tasha Smithies
Sent: Friday, September 2, 2022 10:37 AM
To: Lisa Wilkinson <[REDACTED]>
Cc: Sharyn Hart <[REDACTED]>; Sarah Thornton <[REDACTED]>
Subject: RE: R v Lehmann - Update [TGLAW-Legal.FID3680207]

Hi Lisa,
 I have set out a bit of a plan for the various meetings we have chatted about and are organising and I will go back to Marlia with those times on the 13th and 20th of September. I will also touch base with Cat in the meantime.
 Kind regards,
 Tasha

First Conference with criminal barrister Louise

In person at Thomson Geer's Office

Tuesday 13th September (looking at 3pm - to be confirmed)

Attendees: Lisa, Tasha, Marlia (possibly junior lawyer Connor who will also be able to take notes etc..)

Internal update meeting generally and on Subpoenas

By Teams/phone

Looking at Wednesday 14th September (Llew, Raquel and Sharyn are in the process of arranging – thank you!)

Attendees: Lisa, Chris, Sarah, Tamara, Angus and Tasha

Second Conference with criminal barrister Louise

In person at Thomson Geer's Office

Tuesday 20th September (looking at 4pm - to be confirmed)

Attendees: Lisa, Tasha, Marlia (by zoom) and Connor

Internal Conference to determine media strategy

In person – I would suggest at Ten

Date: TBC: but after the 20th September meeting with Louise

Attendees: Lisa, Nick Fordham, Sarah, Tamara, Tasha, Cat (or possibly Douglas Wright who was assisting Cat or both – to be confirmed). Can also consider having external lawyer Marlia present.

Third Conference with criminal barrister Louise

Closer to start of trial which is 4 October or after opening – date to be decided after first two conferences.

Ongoing throughout trial:

We are looking at putting in place a daily update call which involved among others as needed Publicity and Legal and The Project (Chris, Sarah and Tamara) when the trial started – 4 or 4.30pm daily. It may not be needed each day but could be helpful after say the DPP opening, when you give evidence, Defence opening as examples. We can chat about who is on this call and how this would work closer to the trial.

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>
Sent: Friday, 2 September 2022 10:09 AM
To: Tasha Smithies <[REDACTED]>
Cc: Sharyn Hart <[REDACTED]>; Sarah Thornton <[REDACTED]>
Subject: Re: R v Lehmann - Update [TGLAW-Legal.FID3680207]

Hi Tasha,

3PM on the 13th would be good for me. And 4PM on the 20th is fine for me also. Both of them at Thomson Greer.

Who, at this stage, do you expect will also be in attendance? And are you thinking that once those two meetings are out of the way, we move forward on the strategy meeting for how this is all handled publicly?

Best,

Lisa.

Sent from my iPad

On 2 Sep 2022, at 9:18 am, Tasha Smithies <[REDACTED]> wrote:

Hi Sharyn (and Lisa),

Is there a preferred time on the Tuesday the 13th for Lisa to meet with the barrister, Louise. I think Thomson Geer offices (in town in Sydney) rather than Ten's offices is the better option and I can meet Lisa out the front of their offices and head up with her.

Would 4pm on the Tuesday 20th work for Lisa for the second conference with Louise again at Thomson Geer's offices.

Kind regards,
 Tasha

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Saunders, Marlia <[REDACTED]>
Sent: Friday, 2 September 2022 9:09 AM
To: Tasha Smithies <[REDACTED]>; Myles Farley <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>
Subject: RE: R v Lehmann - Update [TGLAW-Legal.FID3680207]

Hi Tasha

Thanks for your email.

Either 13 and 14 September are good for us. Does Lisa have any preferred times on those days? We will check Louise's availability now and come back to you. Is Lisa happy to come to our offices for the conference, or would it be better for us to come to Ten?

The following week I will be in London for the MLRC conference but if Lisa is available to meet in the afternoon of Tuesday 20th, I can dial in on Zoom. 4pm Sydney time will be 7am London time, so either 4pm, 4.30pm or 5pm would be fine. Conor is available to be there in person.

We'll let the DPP know about her unavailable dates during the trial.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | [tgllaw.com.au](mailto:[REDACTED]@tgllaw.com.au)

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To: Tasha Smithies <[REDACTED]>
Cc: Sharyn Hart <[REDACTED]>; Sarah Thornton <[REDACTED]>
Subject: Re: R v Lehmann - Update [TGLAW-Legal.FID3680207]

Thanks so much Tasha. I am fine with all of those times and timings.

Just on that second meeting on the 20th at 4PM at Thomson Greer, I would like to include my agent, Nick Fordham so he is completely across all the complexities of the legal issues ahead of the later strategy meeting he will be involved in which, I imagine, will now be in that last week of September starting the 27th (given my time off in that week of the 20th, and then my hosting commitments on the Thursday and Friday).

Let me know and I will loop Nick in.

With thanks,

Lisa.

Sent from my iPad

On 2 Sep 2022, at 10:46 am, Tasha Smithies <[REDACTED]> wrote:

Hi Lisa,

Marlia heard back from Louise and she is fine for 4pm on the 20th September but can we make it 5pm on the 13th of September as she has an inquest 13/14th. She could also do 5pm on Wednesday 14th if that suited better.

Kind regards,
Tasha

Tasha Smithies
Senior Litigation Counsel
[REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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Tasha Smithies

Senior Litigation Counsel

[REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>
Sent: Friday, 2 September 2022 10:09 AM
To: Tasha Smithies <[REDACTED]>
Cc: Sharyn Hart <[REDACTED]>; Sarah Thornton <[REDACTED]>
Subject: Re: R v Lehrmann - Update [TGLAW-Legal.FID3680207]

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Best,

Lisa.

Sent from my iPad

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Kind regards,
 Tasha

Tasha Smithies
 Senior Litigation Counsel
 [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Saunders, Marlia <[REDACTED]>
Sent: Friday, 2 September 2022 9:09 AM
To: Tasha Smithies <[REDACTED]>; Myles Farley <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>
Subject: RE: R v Lehrmann - Update [TGLAW-Legal.FID3680207]

Hi Tasha

Thanks for your email.

Either 13 and 14 September are good for us. Does Lisa have any preferred times on those days? We will check Louise's availability now and come back to you. Is Lisa happy to come to our offices for the conference, or would it be better for us to come to Ten?

The following week I will be in London for the MLRC conference but if Lisa is available to meet in the afternoon of Tuesday 20th, I can dial in on Zoom. 4pm Sydney time will be 7am London time, so either 4pm, 4.30pm or 5pm would be fine. Conor is available to be there in person.

We'll let the DPP know about her unavailable dates during the trial.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

Level 14, 60 Martin Place, Sydney NSW 2000 Australia
marlia@tglaw.com.au

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Re: Tweet by Just saying on Twitter

From: Tasha Smithies <[REDACTED]>
To: Lisa Wilkinson External <[REDACTED]>
Date: Sun, 18 Sep 2022 16:35:42 +1000
Attachments: Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes)

Hi Lisa,
 I don't think it relates to anything we supplied. The linked article refers to a 56,000 report which was heavily redacted, my guess is it was some sort of investigation report which included transcripts maybe prepared by the Federal Police or by someone in the then PM's office investigating the issue, possibly post the story breaking.
 Kind regards,
 Tasha
Tasha Smithies
 Senior Litigation Counsel
 Paramount ANZ
 M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009

On 18 Sep 2022, at 2:28 am, Lisa Wilkinson <[REDACTED]> wrote:



Just saying
 @kangaroos991



BREAKING: Prosecutors in the Brittany Higgins case are fighting to keep certain evidence under wraps, arguing it is not relevant in the upcoming trial of a man charged with her sexual assault.

thenewdaily.com.au/news/crime-new...

16/9/2022, 8:16 am

Hey Tasha,

Love your thoughts on this and whether it involves anything we have offered up?

Kind regards, Lisa.

Sent from my iPhone

Conferences - details in the one email - Privileged and Confidential

From: Tasha Smithies <[REDACTED]>
To: Lisa Wilkinson External <[REDACTED]>
Date: Thu, 29 Sep 2022 07:18:49 +1000
Attachments: Unnamed Attachment (68 bytes)

Hi Lisa,
 Below is a brief email just summarising the meetings, locations and attendees. I can meet you and Nick in the foyer of 60 Martin Place for the meetings with Louise.

I also had a chat to Marlia about the DPP meeting and she was of the view that the meeting was confidential and privileged, however, it was the DPP's privilege and they obviously chose to waive it (they didn't need to consult us in order to do so) and most likely tied in with their added obligations to provide material to the Court in their possession where relevant to an issue being considered by the Court. Happy to chat further about this.

Cat is in Sydney on the Friday the 7th for a planning day which is great as she can attend the PR strategy session in person. Please do give me a call tomorrow [REDACTED] if you have any further queries.

Kind regards,

Tasha

Friday 30 September 10-12pm

At the offices of Thomson Geer Level 14, 60 Martin place, Sydney.

Attendees: Lisa, Nick, Louise, Tasha, Marlia (and possibly Connor from Thomson Geer)

Wednesday 5 October 10-12pm

At the offices of Thomson Geer Level 14, 60 Martin place, Sydney.

Attendees: Lisa, Nick, Louise, Tasha, Marlia (and possibly Connor from Thomson Geer)

Friday 7 October 10.30-11.30

At Network Ten in Sydney

Attendees: Lisa, Nick, Chris (by Teams), Tamara, Cat, Tasha and Marlia if she can make it.

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Tasha Smithies
Sent: Thursday, September 29, 2022 1:27 PM
To: Lisa Wilkinson <[REDACTED]>
Subject: RE: Conferences - details in the one email - Privileged and Confidential

Hi Lisa,
 9.45am in the foyer is great.
 There was no recording of the meeting with the DPP – it would be unusual if they did record it and they would have had to asked permission if they were going to record it.
 Glad you have an opportunity to review everything today.
 See you tomorrow.
 Kind regards,
 Tasha

Tasha Smithies
 Senior Litigation Counsel
 [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>
Sent: Thursday, 29 September 2022 10:20 AM
To: Tasha Smithies <[REDACTED]>
Subject: Re: Conferences - details in the one email - Privileged and Confidential

Thanks for all this Tasha.

I have just got off a call to Myles who is resending through the transcripts and tapes for me to review today ahead of tomorrow's meeting.

Yesterday I went through the original signed record of police interview again.

PR Strategy meeting today - Privileged and Confidential

From: Tasha Smithies <[REDACTED]>
To: Chris Bendall <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>; Nick Fordham <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Catherine Donovan <[REDACTED]>; "Saunders, Marlia" <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>
Date: Fri, 07 Oct 2022 08:42:53 +1100
Attachments: Unnamed Attachment (68 bytes)

Hi Everyone,
 I thought it may assist given limited time and with the trial well underway to have a brief agenda for today's meeting. We are meeting in the ANZAC Boardroom – level 5. Chris and Marlia will join via teams.
 Feel free to call me on [REDACTED] if any queries.

Kind regards,

Tasha

\~
 Legal update (TS with Marlia to add any comments)

- Status of trial
- Witness preparation
- Brittany's evidence yesterday – exact statements/comments, context and where picked up or otherwise

\~
 Publicity – 3 areas to consider responses:

- Evidence given at the trial prior to Lisa giving evidence
- When Lisa gives evidence
- Outcome of Trial (a) verdict of guilt (b) verdict of not guilty

\~
 Logistics around Lisa giving evidence:

- Travel/accommodation
- Security
- Entry/exit of Court

\~

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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PR Strategy meeting today - Privileged and Confidential

From: Tasha Smithies <[REDACTED]>
To: Chris Bendall <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>; Nick Fordham <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Catherine Donovan <[REDACTED]>; "Saunders, Marlia" <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>
Date: Fri, 07 Oct 2022 08:42:53 +1100
Attachments: Unnamed Attachment (68 bytes)

Hi Everyone,
 I thought it may assist given limited time and with the trial well underway to have a brief agenda for today's meeting. We are meeting in the ANZAC Boardroom – level 5. Chris and Marlia will join via teams.
 Feel free to call me on [REDACTED] if any queries.

Kind regards,

Tasha

Legal update (TS with Marlia to add any comments)

- Status of trial
- Witness preparation
- Brittany's evidence yesterday – exact statements/comments, context and where picked up or otherwise

Publicity – 3 areas to consider responses:

- Evidence given at the trial prior to Lisa giving evidence
- When Lisa gives evidence
- Outcome of Trial (a) verdict of guilt (b) verdict of not guilty

Logistics around Lisa giving evidence:

- Travel/accommodation
- Security
- Entry/exit of Court

Tasha Smithies
 Senior Litigation Counsel

O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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RE: New Trial Date - R v Lehrmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

From: "Pitney, Sarah" <[REDACTED]>
To: "Greig, Mitchell" <[REDACTED]>; "Saunders, Marlia" <[REDACTED]>
Cc: "O'Beirne, Conor" <[REDACTED]>; SVC_DPPCases <[REDACTED]>; "Jerome, Skye" <[REDACTED]>
Date: Tue, 11 Oct 2022 10:23:02 +1100

OFFICIAL

Dear Ms Saunders

The parties have agreed that Ms Wilkinson is no longer required to give evidence.

Kind regards



Sarah Pitney
 Prosecutor
 Office of the Director of Public Prosecutions (ACT)
 GPO Box 595, Canberra ACT 2601 (DX 5725)
 T: [REDACTED]
 T: ([REDACTED])
 E: [REDACTED]
 W: www.dpp.act.gov.au
 Please note that I do not work Thursday mornings or Fridays.

Please consider the environment before printing this e-mail

For a full range of victims rights, please go to www.dpp.act.gov.au and go to the Witnesses and Victims link

From: Greig, Mitchell <[REDACTED]>
Sent: Friday, 30 September 2022 5:35 PM
To: Saunders, Marlia <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>; SVC_DPPCases <[REDACTED]>; Jerome, Skye <[REDACTED]>
Subject: RE: New Trial Date - R v Lehrmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

OFFICIAL

Dear Ms Saunders,

Thank you for your email. We have noted that Ms Wilkinson will attend to her own accommodation and travel arrangements. We have also noted Channel 10's position regarding the broadcast of The Project.

The DPP will apply for two support people to be present during Ms Wilkinson's evidence. We will require the names of each person and we would like to confer with each support person prior to the application being made.

The DPP has noted Ms Wilkinson's availability and will do our best to call her on the nominated dates. However, please be advised, that there are unexpected delays in criminal trials and we may be forced to call Ms Wilkinson on a different day than previously anticipated. The DPP does not provide witness lists to witnesses and will not be doing so in this case.

Kind regards,

Mitchell Greig
 Prosecutor Associate
 Office of the Director of Public Prosecutions (ACT)
 GPO Box 595, Canberra ACT 2601 (DX 5725)
 T: [REDACTED]



W: www.dpp.act.gov.au

For a full range of victims rights, please go to www.dpp.act.gov.au and go to the Witnesses and Victims link.

Please consider the environment before printing this e-mail

From: Saunders, Marlia <[REDACTED]>
Sent: Friday, 30 September 2022 2:10 PM
To: Greig, Mitchell <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>; SVC_DPPCases <[REDACTED]>
Subject: RE: New Trial Date - R v Lehmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

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Dear Mr Greig

Further to our email below, we confirm that our client would prefer to make her own transportation and accommodation arrangements in Canberra.

While she is available to attend Court on Monday 17 and Tuesday 18 October, we remind you that she is unavailable for the remainder of that week.

Can you please confirm the following matters in due course:

1. 1. Will there be a breakout room available at the Court for Ms Wilkinson to use while waiting to give evidence?
2. 2. Will there be space in the court room for two support people to sit while Ms Wilkinson gives evidence?
3. 3. Can you please provide us with the prosecution's witness list once it has been deployed?

Finally, in case it comes up during Ms Wilkinson's cross-examination, we note that Network Ten Pty Limited wishes to maintain privilege over any legal advice given to The Project in relation to its broadcast.

Please let us know if you would like to discuss any of these matters.

Kind regards

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

From: Saunders, Marlia
Sent: Thursday, 22 September 2022 10:34 PM
To: 'Greig, Mitchell' <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>; SVC_DPPCases <[REDACTED]>
Subject: RE: New Trial Date - R v Lehmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

Dear Mr Mitchell

Thank you for your email.

That timing is suitable for our client, however she may prefer to organise her own flights and accommodation. We will make enquiries and come back to you.

Kind regards

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

From: Greig, Mitchell <[REDACTED]>
Sent: Tuesday, 20 September 2022 7:26 AM
To: Saunders, Marlia <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>; SVC_DPPCases <[REDACTED]>
Subject: RE: New Trial Date - R v Lehmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

OFFICIAL

Dear Ms Saunders,

A slight change in that Ms Wilkinson won't be required until the 3rd week, beginning the 17th October. We are estimating that she will give her evidence on Monday 17th October.

Part of the arrangements for Crown witnesses is that we can organise her flights and accommodation for the time that she is required to give evidence. Are you able to confirm whether Ms Wilkinson will be required to fly out of Sydney or Melbourne on Sunday 16th October?

Kind regards,



Mitchell Greig

Prosecutor Associate

Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

T: [REDACTED]

W: www.dpp.act.gov.au

For a full range of victims rights, please go to www.dpp.act.gov.au and go to the Witnesses and Victims link.

Please consider the environment before printing this e-mail

From: Saunders, Marlia <[REDACTED]>
Sent: Friday, 2 September 2022 9:50 AM
To: Greig, Mitchell <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>; SVC_DPPCases <[REDACTED]>
Subject: RE: New Trial Date - R v Lehmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

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Dear Mr Greig

Apologies for the delayed response.

Thank you for confirming that Ms Wilkinson will not be required until the week beginning Monday 10 October 2022. If that is to change, can you please let us know as soon as possible.

The other dates on which Ms Wilkinson is not available during the trial are: Tuesday 11 October and Wednesday 19 – Friday 21 October.

Kind regards

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

From: Greig, Mitchell <[REDACTED]>
Sent: Wednesday, 27 July 2022 9:01 AM
To: Saunders, Marlia <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>; SVC_DPPCases <[REDACTED]>
Subject: RE: New Trial Date - R v Lehmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

OFFICIAL

Dear Ms Saunders,

Thank you for advising us, that is noted.

At this stage, the best estimate we can provide is that Ms Wilkinson won't be called until the week beginning the 10 October. This will all be dependent on the speed of the trial during the first week. We will be able to provide an update at the end of the first week, around the 7 October.

Are there certain dates that Ms Wilkinson would not be available during the trial period?

Kind regards,



Mitchell Greig

Prosecutor Associate

Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

T: [REDACTED]

W: www.dpp.act.gov.au

For a full range of victims rights, please go to www.dpp.act.gov.au and go to the Witnesses and Victims link.

Please consider the environment before printing this e-mail

From: Saunders, Marlia <[REDACTED]>
Sent: Tuesday, 26 July 2022 3:05 PM
To: Greig, Mitchell <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>; SVC_DPPCases <[REDACTED]>
Subject: RE: New Trial Date - R v Lehmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

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Dear Mr Greig

We refer to your email below and the attached letter, which have been forwarded to us for a response.

We act for Network Ten Pty Limited and Lisa Wilkinson in relation to these proceedings. Please direct all future correspondence in this matter to us.

We confirm that Ms Wilkinson is aware of the new trial date. For planning purposes, are you able to confirm your best estimate of when during the four-week period Ms Wilkinson will be required to give evidence?

Kind regards

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

From: Greig, Mitchell <[REDACTED]>
Sent: Monday, 25 July 2022 9:53 AM
To: Tasha Smithies <[REDACTED]>
Cc: SVC_DPPCases <[REDACTED]>
Subject: New Trial Date - R v Lehmann - Formal Letter (DPP Ref: 202113941)

OFFICIAL

Dear Tasha,

We don't have a contact email address for Ms Wilkinson, can you please forward this letter through to her. The letter is to formally advise her of the change of date of the trial.

I understand that Ms Wilkinson is aware of the new date, however we send these letters through to all witnesses for trials.

Thanks for your assistance and if you require anything further, please don't hesitate to contact us.

Kind regards,



Mitchell Greig
Prosecutor Associate
Office of the Director of Public Prosecutions (ACT)
GPO Box 595, Canberra ACT 2601 (DX 5725)
T: [REDACTED]
W: www.dpp.act.gov.au

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#####

Re: R v Lehrmann - witness list - Privileged and Confidential

From: Nick Fordham <[REDACTED]>
To: Lisa Wilkinson External <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Chris Bendall <[REDACTED]>; Catherine Donovan <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Sarah Thornton <[REDACTED]>; Myles Farley <[REDACTED]>; Alix Hill <[REDACTED]>
Date: Mon, 17 Oct 2022 10:47:04 +1100
Attachments: Unnamed Attachment (68 bytes)

Thank you Lisa.

I'm currently in New York so mornings your time is best for me.

Regards,

Nick

NICK FORDHAM
 CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 16 Oct 2022, at 7:23 pm, Lisa Wilkinson <[REDACTED]> wrote:

Dear Tasha, everyone,

I am extremely concerned that we are just days away from a verdict being handed down in the trial, and we have no current strategy in place for how we deal with either outcome.

Can I request an urgent meeting tomorrow where we put all possibilities on the table, with a plan going forward that at the very least involves getting a statement from Drumgold confirming his conversation with Tasha, that I was not "warned".

With thanks,

Lisa.

Sent from my iPad

On 14 Oct 2022, at 1:04 pm, Tasha Smithies <[REDACTED]> wrote:

Hi Lisa,

At this stage it has not been tendered as evidence which means no one can get hold of it. It is still possible that relevant parts that witnesses are asked about or potentially all of it are tendered by the DPP or even the defence in the remainder of the trial. If tendered, it will then be up to the Judge to decide if access is granted.

The more likely outcome is that only relevant parts that witnesses are asked about are tendered (often to point out an inconsistency or motive of Brittany) and then access granted to those parts only.

Kind regards,

Tasha

Tasha Smithies
 Senior Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>
Sent: Friday, 14 October 2022 9:36 AM
To: Tasha Smithies <[REDACTED]>
Cc: Chris Bendall <[REDACTED]>; Nick Fordham <[REDACTED]>; Catherine Donovan <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Sarah Thornton <[REDACTED]>; Myles Farley <[REDACTED]>
Subject: Re: R v Lehmann - witness list - Privileged and Confidential

Thanks so much Tasha. Can you - or Myles - just confirm please that this means that no journalist can get a hold of the full six hour audio tape of our pre-interview with Brittany and David?

Kind regards,

Lisa.

Sent from my iPad

On 13 Oct 2022, at 4:59 pm, Tasha Smithies <[REDACTED]> wrote:

Hi Everyone,

Please see attached witness list circulated by the Court – you will see that in addition to Reynolds, Cash and David Shiraz are still listed. Myles has indicated they heard from witness 23 today so the balance of DPP witnesses will give evidence most likely on Monday or Tuesday.

Kind regards,

Tasha

Tasha Smithies
 Senior Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Tasha Smithies
Sent: Monday, October 17, 2022 2:56 PM
To: Lisa Wilkinson [REDACTED]
Cc: Chris Bendall [REDACTED]; Nick Fordham [REDACTED]; Catherine Donovan [REDACTED]; Tamara Simoneau [REDACTED]; Sarah Thornton [REDACTED]; Myles Farley [REDACTED]
Subject: RE: R v Lehmann - witness list - Privileged and Confidential

Thanks Lisa,
 I think it would be useful to have the draft statements before we meet, so suggest Wednesday is better than tomorrow morning although subject to everyone's availability. I can join by Teams either morning – will leave it for others to respond to work out best time.
 Kind regards,
 Tasha

Tasha Smithies
 Senior Litigation Counsel
 [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Lisa Wilkinson [REDACTED]
Sent: Monday, 17 October 2022 2:43 PM
To: Tasha Smithies [REDACTED]
Cc: Chris Bendall [REDACTED]; Nick Fordham [REDACTED]; Catherine Donovan [REDACTED]; Tamara Simoneau [REDACTED]; Sarah Thornton [REDACTED]; Myles Farley [REDACTED]
Subject: Re: R v Lehmann - witness list - Privileged and Confidential

Thanks Tasha,

Appreciate all of that, but I still think a meeting tomorrow (remembering that I'm on a flight to Brisbane at 6pm on Wednesday night, and out of the picture Thursday and Friday), where we go through all the possibilities, and how we frame our approach to

Drumgold - and when - would be advantageous.

With Nick in New York, morning is going to be best. I would like my husband Peter to also be involved if possible. We are very happy to come into Channel Ten.

Can I suggest 11am tomorrow?

Best regards,

Lisa.

Sent from my iPhone

On 17 Oct 2022, at 1:10 pm, Tasha Smithies <[REDACTED]> wrote:

Hi Lisa,

The defence has a few witnesses to call, however, it does depend on how long the jury takes to deliberate so I think having PR responses for a guilty and non-guilty verdict ready to go is a good idea. Cat was working on these and we should have a call to discuss them.

I think it's highly unlikely that Drumgold (even if we ask again) will correct the record either in Court or by other means given the current criminal trial. If you would like the external lawyers to chat to him, from a timing perspective that's best done after any verdict but happy to discuss at any meeting and then follow up with external lawyers.

Kind regards,
Tasha

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Lisa Wilkinson <[REDACTED]>

Sent: Monday, 17 October 2022 10:23 AM

To: Tasha Smithies <[REDACTED]>

Cc: Chris Bendall <[REDACTED]>; Nick Fordham <[REDACTED]>; Catherine Donovan <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Sarah Thornton <[REDACTED]>; Myles Farley <[REDACTED]>

Subject: Re: R v Lehrmann - witness list - Privileged and Confidential

Dear Tasha, everyone,

I am extremely concerned that we are just days away from a verdict being handed down in the trial, and we have no current strategy in place for how we deal with either outcome.

Can I request an urgent meeting tomorrow where we put all possibilities on the table, with a plan going forward that at the very least involves getting a statement from Drumgold confirming his conversation with Tasha, that I was not "warned".

With thanks,

Lisa.

Sent from my iPad

On 14 Oct 2022, at 1:04 pm, Tasha Smithies <[REDACTED]> wrote:

Hi Lisa,

At this stage it has not been tendered as evidence which means no one can get hold of it. It is still possible that relevant parts that witnesses are asked about or potentially all of it are tendered by the DPP or even the defence in the remainder of the trial. If tendered, it will then be up to the Judge to decide if access is granted.

The more likely outcome is that only relevant parts that witnesses are asked about are tendered (often to point out an inconsistency or motive of Brittany) and then access granted to those parts only.

Kind regards,
Tasha

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>

Sent: Friday, 14 October 2022 9:36 AM

To: Tasha Smithies <[REDACTED]>

Cc: Chris Bendall <[REDACTED]>; Nick Fordham <[REDACTED]>; Catherine Donovan <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Sarah Thornton <[REDACTED]>; Myles Farley <[REDACTED]>

Subject: Re: R v Lehrmann - witness list - Privileged and Confidential

Thanks so much Tasha. Can you - or Myles - just confirm please that this means that no journalist can get a hold of the full six hour audio tape of our pre-interview with Brittany and David?

Kind regards,

Lisa.

Sent from my iPad

On 13 Oct 2022, at 4:59 pm, Tasha Smithies <[REDACTED]> wrote:

Hi Everyone,

Please see attached witness list circulated by the Court – you will see that in addition to Reynolds, Cash and David Shiraz are still listed. Myles has indicated they heard from witness 23 today so the balance of DPP witnesses will give evidence most likely on Monday or Tuesday.

Kind regards,
Tasha

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



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[EXTERNAL] FW: PR Strategy



From: Tasha Smithies
Sent: Monday, 17 October 2022 7:15 PM
To: Myles Farley <[REDACTED]>
Subject: FW: PR Strategy

Hi Myles,

Tamara's pa set this up, you are welcome to join, I now have a better idea of what Lisa is after and spoken to Marlia already and will call you tomorrow.
Tasha

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>
Sent: Monday, 17 October 2022 6:28 PM
To: Tasha Smithies <[REDACTED]>
Cc: Tamara Simoneau <[REDACTED]>; Catherine Donovan <[REDACTED]>;
[REDACTED] Chris Bendall <[REDACTED]>
Subject: Re: PR Strategy

I'm good with a 9.30 start.

Sent from my iPad

On 17 Oct 2022, at 6:18 pm, Tasha Smithies <[REDACTED]> wrote:

Hi Everyone,
I have a meeting 8.30-10 (also urgent) which I can try to finish at 9.30 – can we make this a 9.30am start? Or I will join then.
Kind regards,
Tasha

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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-----Original Appointment-----

From: Raquel Lennan <[REDACTED]> **On Behalf Of** Tamara Simoneau
Sent: Monday, 17 October 2022 6:05 PM
To: Catherine Donovan; [REDACTED]; Lisa Wilkinson External; Chris Bendall; Tasha Smithies
Subject: PR Strategy
When: Wednesday, 19 October 2022 9:00 AM-9:30 AM (UTC+10:00) Canberra, Melbourne, Sydney.
Where: Microsoft Teams Meeting

Microsoft Teams meeting

Join on your computer, mobile app or room device[Click here to join the meeting](#)

Meeting ID: 432 106 307 936

Passcode: qWLMwo

[Download Teams](#) | [Join on the web](#)**Or call in (audio only)**[+61 2 8320 9269](#), [895342428#](#) Australia, Sydney

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RE: Private & Confidential [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Cc: Myles Farley <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}.[REDACTED]>
Date: Tue, 18 Oct 2022 14:49:54 +1100
Attachments: Lisa Wilkinson - Letter to Mr Shane Drumgold SC - October 2022 (80149868v1).DOCX (293.76 kB)

Hi Tasha

Please find **attached** a draft letter to the DPP on TG letterhead – give me a call if you'd like to discuss once you've had a chance to review it.

I agree that it would be best to have a phone call with the DPP first before sending the letter.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

From: Tasha Smithies <[REDACTED]>
Sent: Tuesday, 18 October 2022 12:13 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Myles Farley <[REDACTED]>
Subject: FW: Private & Confidential

Hi Marlia,

Please see below FYI – which I won't be sending. I am wondering if it may assist for tomorrow to circulate a draft today of a letter from TG to discuss which whilst has a human element avoids an contempt issues. It could say that Lisa is happy to chat to him directly or seek an apology? I also wondered if a call first with the DPP first as a heads up about the email.

I will send through the draft statements by separate email.

Kind regards,
 Tasha

Tasha Smithies
 Senior Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Nick Fordham <[REDACTED]>
Sent: Tuesday, 18 October 2022 11:52 AM
To: Tasha Smithies <[REDACTED]>
Subject: Private & Confidential

Hi Tasha,

Nice to chat earlier ahead of our call tomorrow.

Glad I could give you a heads up that I was sending this and also reiterate how important this is to Lisa (and all of us) to have this corrected.

Please see the below a proposed draft as a starting point for consideration and discussion.

We look forward to further advice from you and Marlia.

Regards,

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

Dear Mr Drumgold SC,

As you will recall, I am the Senior legal counsel for Channel Ten, who was present in your meeting with Ms Lisa Wilkinson on Wednesday, June 15th this year, to discuss with us, the Lehrmann trial, and her possible appearance as a witness at that trial.

Also, as you will recall, at the end of that more than two hour privileged meeting, Ms Wilkinson voluntarily raised with you her concerns and sought your counsel about the unfortunate timing of the upcoming Logie Awards four days later and the possibility of her having to accept an award for her interview with Ms Brittany Higgins, and therefore give a speech to a national TV audience in response.

You told her that she could not mention the trial, and she assured you in that meeting that the speech she had written, and we had legally approved, did not mention the trial, the accused, the charges, or Parliament House itself as that was the location of the alleged charges.

Then on Tuesday, June 21st, without any warning from you that you were waiving legal privilege over that meeting, Justice Macallum announced that "Ms Wilkinson was warned not to give that speech, but she went ahead and gave it anyway". Mr Drumgold, that statement is simply not true, but it led news reports and front pages across the country, and has continued to be reported as fact for the last four months.

On the afternoon of Wednesday, 22 June you had a conversation with Marlia Saunders – partner at Tomson Geer – concerning the injustice done to the name of Ms Wilkinson, after your meeting with Justice Macallum regarding that meeting with Ms Wilkinson and myself.

Thank you for your words: "The media have reported that I told her [Lisa] not to give a speech. I didn't say that. All I said was that it was not my role to provide legal advice and it could give rise to an application for a stay."

That, for the record, is precisely the way Ms Wilkinson and I recall that crucial conversation, which has been so wildly misreported, and which for some reason also led to Justice Macallum believing that Ms Wilkinson should have used the word "alleged" in her speech. Again, Ms Wilkinson at no point in her speech mentioned any aspect of the case or the charges before the court.

In the months since, there have been columns written by a number of influential journalists around the country insisting she should have been put in prison for contempt of court. For four months now, as Ms Wilkinson has continued to honour her commitment to the court to remain silent, her name and reputation have been constantly trashed, all because of that misinterpretation.

Thank you, however, for your reported sentiment, as recorded by Ms Saunders in that conversation of June 22nd: "He said he feels the need to correct reports that there was a positive direction not to give a speech. He feels Lisa has been poorly treated. He said he will give some thought as to how he can deal with it tomorrow and said he might say something in open court."

I note that this never happened, but I am formally requesting, now that the case is over, can you please correct the record, to formally right this wrong done to Ms Wilkinson?

What has happened to her is completely unjust, and again, we appreciate your previous words acknowledging that in your conversation with Ms Saunders. But we now, respectfully, look to you as an honourable man, working within the justice system, who is able to

DRAFT

Our ref MS:5142487

18 October 2022

Mr Shane Drumgold SC
Office of the Director of Public Prosecutions
Reserve Bank Building
20-22 London Circuit
CANBERRA CITY ACT 2601

Dear Mr Drumgold SC

**R v Bruce Lehrmann, Supreme Court of the Australian Capital Territory
Proceedings No. SCC 264 of 2021**

As you are aware, we act for Lisa Wilkinson.

Our client continues to be extremely disappointed and distressed about media reports which have criticised her in connection with the above proceedings, particularly in connection with the Logie Awards speech she gave on 19 June 2022.

It is Ms Wilkinson's strong view that she was never warned by you, during your meeting on 15 June 2022 or otherwise, not to give a Logies speech. Her recollection is that all you told her was that she could not mention the trial. She took care to ensure that she did not mention the trial, the accused, the charges or even Parliament House in the speech that she gave.

Ms Wilkinson feels that she has been treated unfairly by the Office of the Director of Public Prosecutions in that:

1. she was not given notice that a note of the 15 June 2022 meeting would be tendered in Court in support of an application for a stay of the proceedings;
2. you did not correct the record when her Honour Chief Justice McCallum found at [22] of her judgment: "Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial". This finding has gone on to be reported as a fact by the media and has provided a basis for our client to be strongly criticised. At the height of the publicity has been calls by influential journalists for Ms Wilkinson to be imprisoned for contempt of court;
3. on the afternoon of 22 June 2022, you said to me in a telephone conversation words to the following effect:

"The media have reported that I told her not to give a speech. I didn't say that. All I said was that it was not my role to provide legal advice and it could give rise to an application for a stay."

You said that you felt the need to correct reports that there had been a positive direction from you not to give a speech and that you felt Ms Wilkinson had been poorly treated in the media. You

said you would give some thought as to how he could deal with the issue in open court the following day; and

4. the following day, you said nothing in open court to correct the record in this regard.

For four months now, Ms Wilkinson has remained silent on this issue to avoid prejudicing the trial in these proceedings in any way, while her name and reputation have been repeatedly trashed in the media because the record has not been corrected. Now that the trial has concluded, our client respectfully requests that you release a public statement that clarifies the true situation so that her name and reputation can be restored.

We would be happy to discuss this request with you further if required. We look forward to hearing from you at your earliest convenience.

Yours faithfully
THOMSON GEER

Marlia Saunders

Partner

T [REDACTED]

M [REDACTED]
[REDACTED]

Re: Draft Agenda for PR strategy meeting - Privileged and Confidential

From: Tasha Smithies <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Date: Tue, 18 Oct 2022 18:15:40 +1100
Attachments: image001.png (13.65 kB)

Thanks for offering Marlia but I think everyone is joining via Teams incl me so no need.
 Tasha

Tasha Smithies
 Senior Litigation Counsel
 M\~ [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009

On 18 Oct 2022, at 6:14 pm, Saunders, Marlia <[REDACTED]> wrote:

No worries Tasha!

\~

Would you like me to come to this in person? My other meeting has been cancelled, so I am able to if you think it would be productive.

\~

Kind regards

\~

Marlia

\~

Marlia Saunders | Partner
THOMSON GEER
 T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

\~

From: Tasha Smithies <[REDACTED]>
Sent: Tuesday, 18 October 2022 5:53 PM
To: Saunders, Marlia <[REDACTED]>
Subject: FW: Draft Agenda for PR strategy meeting - Privileged and Confidential

\~

Apologies Malia,

I accidentally left you off – everyone knows you are coming!

Kind regards,

Tasha

\~

Tasha Smithies
 Senior Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009

<image001.png>

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 custodians of the lands where we live, learn and work.*

|

<~WRD0001.jpg>

From: Tasha Smithies <[REDACTED]>
Sent: Tuesday, 18 October 2022 5:07 PM
To: Lisa Wilkinson External <[REDACTED]>; Nick Fordham <[REDACTED]>; Tamara
 Simoneau <[REDACTED]>; Catherine Donovan <[REDACTED]>; Sarah Thornton
 <[REDACTED]>; Chris Bendall <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Myles Farley <[REDACTED]>
Subject: FW: Draft Agenda for PR strategy meeting - Privileged and Confidential

\~

Hi Everyone,

\~

Draft Agenda for tomorrows 9.30am meeting:

\~

1. Very brief update on status of Court proceedings.
2. Draft media responses to a guilt/not guilty verdict (see below for ease).
3. Writing/speaking to the DPP (see attached draft letter that could be sent after Marlia first speaks to the DPP)
4. Writing to media - potential contempt and defamation issues, PR considerations

\~

Kind regards,

Tasha

\~

\~

Draft media responses:

\~

The below will be provided to media against enquiry only. This will not be sent out proactively.

\~

The below will be attributed to a Network 10 spokesperson.

\~

Upon a guilty verdict:

Lisa Wilkinson and The Project respect the Court, criminal justice system and acknowledge the verdict handed down by the jury. We understand this is a difficult time for many involved in this trial.

\~

We must acknowledge the bravery and courage of Brittany Higgins in speaking out and sharing her story. This was an important story to tell. It shed a light on the unacceptable history of workplace behaviour and

culture at Parliament House and helped lead an important national conversation.

\~

Upon a not guilty verdict:

Lisa Wilkinson and The Project respect the Court, criminal justice system and acknowledge the verdict handed down by the jury. We understand this is a difficult time for many involved in this trial.

\~

We must acknowledge the bravery and courage of Brittany Higgins in speaking out and sharing her story. This was an important story to tell, which helped shape national conversations surrounding workplace behaviour and culture at Parliament House and at workplaces across the country.

\~

\~

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

<image001.png>

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RE: Draft Agenda for PR strategy meeting - Privileged and Confidential

From: Tasha Smithies <[REDACTED]>
To: Nick Fordham <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>;
 Tamara Simoneau <[REDACTED]>; Catherine Donovan <[REDACTED]>;
 Sarah Thornton <[REDACTED]>; Chris Bendall <[REDACTED]>
Cc: Myles Farley <[REDACTED]>; "Saunders, Marlia" <[REDACTED]>
Date: Wed, 19 Oct 2022 07:02:35 +1100
Attachments: Unnamed Attachment (68 bytes)

Hi Nick,

~

I think we can add in the second paragraph that it was both Lisa's and my recollection.

~

It was only in the phone call not in correspondence – I have looped in Marlia who can confirm when we meet this morning.

~

Kind regards,

Tasha

~

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Nick Fordham <[REDACTED]>
Sent: Wednesday, 19 October 2022 3:08 AM
To: Tasha Smithies <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Catherine Donovan <[REDACTED]>; Sarah Thornton <[REDACTED]>; Chris Bendall <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Myles Farley <[REDACTED]>
Subject: Re: Draft Agenda for PR strategy meeting - Privileged and Confidential

~

Many thanks Tasha.

~

To add further weight, it needs to be made clear this isn't just 'Lisa's recollection', it was also yours and anyone else present at that meeting. Did he only confirm this on the phone call or was this covered in any correspondence?

~

This should put pressure on and hopefully a clear indication we're all going to see this through until corrected.

~

Regards,

~

Nick

~

~

~

~

~

~

NICK FORDHAM
 CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

~

From: Tasha Smithies <[REDACTED]>

Sent: Tuesday, October 18, 2022 2:07 am

To: [REDACTED]; Tamara [REDACTED]

Cc: [REDACTED]

Subject: FW: Draft Agenda for PR strategy meeting - Privileged and Confidential

Hi Everyone,

Draft Agenda for tomorrows 9.30am meeting:

1. Very brief update on status of Court proceedings.
2. Draft media responses to a guilt/not guilty verdict (see below for ease).
3. Writing/speaking to the DPP (see attached draft letter that could be sent after Marlia first speaks to the DPP)
4. Writing to media - potential contempt and defamation issues, PR considerations

Kind regards,
Tasha

Draft media responses:

The below will be provided to media against enquiry only. This will not be sent out proactively.

The below will be attributed to a Network 10 spokesperson.

Upon a guilty verdict:

Lisa Wilkinson and The Project respect the Court, criminal justice system and acknowledge the verdict handed down by the jury. We understand this is a difficult time for many involved in this trial.

We must acknowledge the bravery and courage of Brittany Higgins in speaking out and sharing her story. This was an important story to tell. It shed a light on the unacceptable history of workplace behaviour and culture at Parliament House and helped lead an important national conversation.

Upon a not guilty verdict:

Lisa Wilkinson and The Project respect the Court, criminal justice system and acknowledge the verdict handed down by the jury. We understand this is a difficult time for many involved in this trial.

We must acknowledge the bravery and courage of Brittany Higgins in speaking out and sharing her story. This was an important story to tell, which helped shape national conversations surrounding workplace behaviour and culture at Parliament House and at workplaces across the country.

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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RE: Draft Agenda for PR strategy meeting - Privileged and Confidential

From: "Saunders, Marlia" <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Date: Wed, 19 Oct 2022 08:56:37 +1100

Noted, thanks Tasha.

\~

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | [tgllaw.com.au](mailto:[REDACTED]@tgllaw.com.au)

[Advice](#) | [Transactions](#) | [Disputes](#)

\~

From: Tasha Smithies <[REDACTED]>
Sent: Wednesday, 19 October 2022 7:14 AM
To: Saunders, Marlia <[REDACTED]>
Cc: Myles Farley <[REDACTED]>
Subject: FW: Draft Agenda for PR strategy meeting - Privileged and Confidential

\~

Hi Marlia,
 Just as an FYI.
 Kind regards,
 Tasha

\~

Tasha Smithies
 Senior Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Tasha Smithies
Sent: Wednesday, 19 October 2022 7:13 AM
To: Nick Fordham <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Catherine Donovan <[REDACTED]>; Sarah Thornton <[REDACTED]>; Chris Bendall <[REDACTED]>
Cc: Myles Farley <[REDACTED]>
Subject: RE: Draft Agenda for PR strategy meeting - Privileged and Confidential

\~

Hi Nick,
 \~
 Happy to discuss further this morning.

\~

If it helps, from a legal perspective I don't think N10 (or Lisa or The Project) should comment at all and if asked the response should be 'No comment'. N10 doesn't comment on cases it is a party too and in this instance we are not even a party and Lisa wasn't called as a witness. It avoids provoking a party to proceedings (eg to sue for defamation), to be seen to undermine the Court process (given we will continue to have cases in many Courts in all States) and it's difficult to read anything into a 'no comment response. In this instance being a third party it also means we don't make the story about N10 or Lisa or The Project.

\~

There may be PR and commercial reasons for a response and legal are comfortable with the content of the statements below. Others may have differing views which we can discuss this morning.

\~

Kind regards,
 Tasha

\~
The below will be attributed to a Network 10 spokesperson.

\~
Upon a guilty verdict:

Lisa Wilkinson and The Project respect the Court, criminal justice system and acknowledge the verdict handed down by the jury. We understand this is a difficult time for many involved in this trial.

\~
We must acknowledge the bravery and courage of Brittany Higgins in speaking out and sharing her story. This was an important story to tell. It shed a light on the unacceptable history of workplace behaviour and culture at Parliament House and helped lead an important national conversation.

\~
Upon a not guilty verdict:

Lisa Wilkinson and The Project respect the Court, criminal justice system and acknowledge the verdict handed down by the jury. We understand this is a difficult time for many involved in this trial.

\~
We must acknowledge the bravery and courage of Brittany Higgins in speaking out and sharing her story. This was an important story to tell, which helped shape national conversations surrounding workplace behaviour and culture at Parliament House and at workplaces across the country.

\~
Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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Fwd: Draft Agenda for PR strategy meeting - Privileged and Confidential

From: Tasha Smithies <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>; Myles Farley <[REDACTED]>
Date: Wed, 19 Oct 2022 09:28:43 +1100
Attachments: Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes)

I will suggest we review this later not in the meeting

\~
Tasha Smithies
 Senior Litigation Counsel
 Paramount ANZ
 M\~ [REDACTED]
 [REDACTED] Pyrmont, Sydney, NSW 2009

Begin forwarded message:

From: Nick Fordham <[REDACTED]>
Date: 19 October 2022 at 9:26:01 am AEDT
To: Tasha Smithies <[REDACTED]>
Subject: Re: Draft Agenda for PR strategy meeting - Privileged and Confidential

Hi Tasha,

\~

Lisa has marked up proposed changes below.

\~

**R\~v Bruce Lehmann, Supreme Court of the Australian Capital Territory
 Proceedings No. SCC 264 of 2021**

\~
 As you are aware, we act for Lisa Wilkinson.

\~
 Our client continues to be extremely (AGGRIEVED/CONCERNED BY REPORTS CRITICISING HER ROLE IN THE THREE MONTH DELAY PLACED UPON THE ABOVE PROCEEDINGS - SPECIFICALLY) in connection with the Logie Awards speech she gave on 19 June 2022.

\~
 It is Ms Wilkinson's strong view (AND THE VIEW OF NETWORK TEN'S SENIOR LEGAL COUNSEL, TASHA SMITHIES, WHO WAS ALSO IN THAT MEETING TAKING ALL APPROPRIATE CONTEMPORANEOUS NOTES) that she was never (SPECIFICALLY) warned by you, during your meeting on 15 June 2022 or otherwise, not to give a Logie speech. (BOTH MS WILKINSON'S AND MS SMITHIES' CLEAR) recollection is that all you ADVISED was that she could not mention (ANYTHING REGARDING) the trial (AS THAT COULD GIVE RISE TO A STAY).

\~
 IN THAT MEETING, MS WILKINSON VOLUNTARILY SHARED WITH YOU HER CONCERNS OVER THE TIMING OF THE LOGIES IN RELATION TO THE IMPENDING TRIAL AND WAS SEEKING YOUR LEARNED COUNSEL. SHE ATTEMPTED TO READ THE SPEECH OUT TO YOU, BUT YOU STOPPED HER AND SAID YOU WERE "NOT A SPEECHWRITER". AS MS WILKINSON TOLD YOU, SHE WAS VERY AWARE OF THE SENSITIVITIES AT PLAY WITH THE TRIAL APPROACHING, HENCE HER REQUEST FOR YOUR ADVICE, AND HAD TAKEN ENORMOUS CARE IN THE SPEECH SHE HAD PREPARED, AND WHICH HAD BEEN CLEARED BY MS SMITHIES, NOT TO mention the trial, the accused, the charges or even Parliament House in the speech that she gave.

\~
 Ms Wilkinson feels that she has been treated unfairly by the Office of the Director of Public Prosecutions in that:
 1. she was not given notice that a note of the 15 June 2022 meeting (WHICH BOTH MS WILKINSON AND MS SMITHIES UNDERSTOOD TO BE PRIVILEGED) would be tendered in Court in support of an application for a stay of the proceedings;
 2. you did not correct the record when her Honour Chief Justice McCallum found at [22] of her judgment: "Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial". This finding has gone on to be reported as a fact by the media THAT LISA WILKINSON WAS WARNED, BUT SHE WENT AHEAD AND GAVE THE SPEECH ANYWAY and has provided a basis for our client to be strongly AND REPEATEDLY criticised FOR HER ETHICS AS A JOURNALIST, AND ONE WHO HAS NO REGARD

FOR THE JUDICIAL SYSTEM IN THIS COUNTRY. THIS LED, AT the height of the publicity, AND SINCE, FOR calls TO BE MADE by influential journalists for Ms Wilkinson to be imprisoned for contempt of court;
3. on the afternoon of 22 June 2022, you said to me in a telephone conversation words to the following effect:

"The media have reported that I told her not to give a speech. I didn't say that. All I said was that it was not my role to provide legal advice and it could give rise to an application for a stay."

You said that you felt the need to correct reports that there had been a positive direction from you not to give a speech and that you felt Ms Wilkinson had been poorly treated in the media. You said you would give some thought as to how he could deal with the issue in open court the following day; and

4. the following day, you said nothing in open court to correct the record in this regard.

For four months now, Ms Wilkinson has HONoured HER COMMITMENT TO THE COURT TO remain silent on this issue to avoid prejudicing the trial in these proceedings in any way, while her name and reputation have been repeatedly trashed in the media because the record has not been corrected. Now that the trial has concluded, our client respectfully requests that you release IN CONSULTATION WITH MYSELF, a public statement that clarifies the true situation AND CORRECTS THE PUBLIC RECORD so that her name and reputation ON THIS MATTER can be restored.

~
We would be happy to discuss this request with you further if required. We look forward to hearing from you at your earliest convenience.

~

~

Regards,

~

Nick

~

~

NICK FORDHAM



CEO

13-15 Little Burton Street

DARLINGHURST NSW 2010
AUSTRALIA

[REDACTED]

www.thefordhamcompany.com.au

si ~  ~ 

~

~

From: Tasha Smithies <[REDACTED]>

Date: Tuesday, 18 October 2022 at 5:07 pm

To: Lisa Wilkinson <[REDACTED]>, Nick Fordham <[REDACTED]>, Tamara Simoneau <[REDACTED]>, Catherine Donovan <[REDACTED]>, Sarah Thornton <[REDACTED]>, Chris Bendall <[REDACTED]>

Cc: Tasha Smithies <[REDACTED]>, Myles Farley <[REDACTED]>

Subject: FW: Draft Agenda for PR strategy meeting - Privileged and Confidential

~

Hi Everyone,

~

Draft Agenda for tomorrow's 9.30am meeting:

~

1. Very brief update on status of Court proceedings.

2. Draft media responses to a guilt/not guilty verdict (see below for ease).
3. Writing/speaking to the DPP (see attached draft letter that could be sent after Marlia first speaks to the DPP)
4. Writing to media - potential contempt and defamation issues, PR considerations

\~

Kind regards,

Tasha

\~

\~

Draft media responses:

\~

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\~

The below will be attributed to a Network 10 spokesperson.

\~

Upon a guilty verdict:

Lisa Wilkinson and The Project respect the Court, criminal justice system and acknowledge the verdict handed down by the jury. We understand this is a difficult time for many involved in this trial.

\~

We must acknowledge the bravery and courage of Brittany Higgins in speaking out and sharing her story. This was an important story to tell. It shed a light on the unacceptable history of workplace behaviour and culture at Parliament House and helped lead an important national conversation.

\~

Upon a not guilty verdict:

Lisa Wilkinson and The Project respect the Court, criminal justice system and acknowledge the verdict handed down by the jury. We understand this is a difficult time for many involved in this trial.

\~

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\~

\~

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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RE: Draft Agenda for PR strategy meeting - Privileged and Confidential [TGLAW-Legal.FID3680207]

From: Tasha Smithies <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: Myles Farley <[REDACTED]>
Date: Thu, 20 Oct 2022 14:27:11 +1100
Attachments: Unnamed Attachment (68 bytes)

Thanks Marlia,
 This looks good, I will send to Lisa and lets see how we go!
 Kind regards,
 Tasha

\~
Tasha Smithies
 Senior Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pymont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Saunders, Marlia <[REDACTED]>
Sent: Wednesday, 19 October 2022 12:58 PM
To: Tasha Smithies <[REDACTED]>; Myles Farley <[REDACTED]>
Subject: RE: Draft Agenda for PR strategy meeting - Privileged and Confidential [TGLAW-Legal.FID3680207]

\~
 Hi Tasha

\~
 As discussed, I've marked up the letter in the **attached** version to incorporate some of Lisa's feedback, but consider that we should retain our drafting in some respects.

\~
 We can revisit it once the trial is concluded and I've had a chance to speak with the DPP.

\~
 Kind regards

\~
 Marlia

\~
Marlia Saunders | Partner
THOMSON GEER
 T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

\~
From: Tasha Smithies <[REDACTED]>
Sent: Wednesday, 19 October 2022 9:29 AM
To: Saunders, Marlia <[REDACTED]>; Myles Farley <[REDACTED]>
Subject: Fwd: Draft Agenda for PR strategy meeting - Privileged and Confidential

\~
 I will suggest we review this later not in the meeting

\~
Tasha Smithies
 Senior Litigation Counsel

Paramount ANZ

M\~[REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009

Begin forwarded message:

From: Nick Fordham <[REDACTED]>
Date: 19 October 2022 at 9:26:01 am AEDT
To: Tasha Smithies <[REDACTED]>
Subject: Re: Draft Agenda for PR strategy meeting - Privileged and Confidential

Hi Tasha,

\~

Lisa has marked up proposed changes below.

\~

**R\~v Bruce Lehrmann, Supreme Court of the Australian Capital Territory
 Proceedings No. SCC 264 of 2021**

\~

As you are aware, we act for Lisa Wilkinson.

\~

Our client continues to be extremely (AGGRIEVED/CONCERNED BY REPORTS CRITICISING HER ROLE IN THE THREE MONTH DELAY PLACED UPON THE ABOVE PROCEEDINGS - SPECIFICALLY) in connection with the Logie Awards speech she gave on 19 June 2022.

\~

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Ms Wilkinson feels that she has been treated unfairly by the Office of the Director of Public Prosecutions in that:

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4. the following day, you said nothing in open court to correct the record in this regard.

For four months now, Ms Wilkinson has HONoured HER COMMITMENT TO THE COURT TO remain silent on this issue to avoid prejudicing the trial in these proceedings in any way, while her name and reputation have been repeatedly trashed in the media because the record has not been corrected. Now that the trial has concluded, our client respectfully requests that you release IN CONSULTATION WITH MYSELF, a public statement that clarifies the true situation AND CORRECTS THE PUBLIC RECORD so that her name and reputation ON THIS MATTER can be restored.

\~

We would be happy to discuss this request with you further if required. We look forward to hearing from you at your earliest convenience.

\~

\~

Regards,

\~
Nick
\~

\~
NICK FORDHAM
CEO
13-15 Little Burton Street
DARLINGHURST NSW 2010
AUSTRALIA
[REDACTED]
www.thefordhamcompany.com.au
\~ [Twitter] \~ [LinkedIn]

\~
\~

From: Tasha Smithies <[REDACTED]>
Date: Tuesday, 18 October 2022 at 5:07 pm
To: Lisa Wilkinson <[REDACTED]>, Nick Fordham <[REDACTED]>, Tamara Simoneau <[REDACTED]>, Catherine Donovan <[REDACTED]>, Sarah Thornton <[REDACTED]>, Chris Bendall <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>, Myles Farley <[REDACTED]>
Subject: FW: Draft Agenda for PR strategy meeting - Privileged and Confidential

\~
Hi Everyone,
\~

Draft Agenda for tomorrows 9.30am meeting:

1. Very brief update on status of Court proceedings.
2. Draft media responses to a guilt/not guilty verdict (see below for ease).
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4. Writing to media - potential contempt and defamation issues, PR considerations

\~
Kind regards,
Tasha
\~

\~
Draft media responses:

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The below will be attributed to a Network 10 spokesperson.

\~
Upon a guilty verdict:

Lisa Wilkinson and The Project respect the Court, criminal justice system and acknowledge the verdict handed down by the jury. We understand this is a difficult time for many involved in this trial.

\~
We must acknowledge the bravery and courage of Brittany Higgins in speaking out and sharing her story. This was an important story to tell. It shed a light on the unacceptable history of workplace behaviour and culture at Parliament House and helped lead an important national conversation.

\~
Upon a not guilty verdict:

Lisa Wilkinson and The Project respect the Court, criminal justice system and acknowledge the verdict handed down by the jury. We understand this is a difficult time for many involved in this trial.

\~
We must acknowledge the bravery and courage of Brittany Higgins in speaking out and sharing her story. This was an important story to tell, which helped shape national conversations surrounding workplace behaviour and culture at Parliament House and at workplaces across the country.

\~
Tasha Smithies
Senior Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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DRAFT

Our ref MS:5142487

18 October 2022

Mr Shane Drumgold SC
Office of the Director of Public Prosecutions
Reserve Bank Building
20-22 London Circuit
CANBERRA CITY ACT 2601

Dear Mr Drumgold SC

**R v Bruce Lehrmann, Supreme Court of the Australian Capital Territory
Proceedings No. SCC 264 of 2021**

As you are aware, we act for Lisa Wilkinson.

Our client continues to be extremely ~~disappointed and distressed~~ concerned about media reports which have criticised her role in the three month delay of the trial in connection with the above proceedings, ~~particularly~~ in connection with the Logie Awards speech she gave on 19 June 2022.

It is ~~Ms Wilkinson's~~ the strong view of both Ms Wilkinson and Network Ten Senior Litigation Counsel Tasha Smithies that ~~she~~ Ms Wilkinson was never specifically warned by you, during your meeting on 15 June 2022 or otherwise, not to give a Logies speech. ~~Her~~ Their recollection is that ~~all you told her~~ your only advice was that ~~she~~ Ms Wilkinson could not mention the trial as that could give rise to a stay. ~~She~~ Ms Wilkinson took care to ensure that she did not mention the trial, the accused, the charges or even Parliament House in the speech that she gave.

Ms Wilkinson feels that she has been treated unfairly by the Office of the Director of Public Prosecutions in that:

1. she was not given notice that a note of the 15 June 2022 meeting would be tendered in Court in support of an application for a stay of the proceedings;
2. you did not correct the record when her Honour Chief Justice McCallum found at [22] of her judgment: "Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial". This finding has gone on to be reported as a fact by the media that Ms Wilkinson was warned not to give a speech but that she went ahead and gave the speech anyway. It has and has provided a basis for our client's ethics as a journalist to be strongly and repeatedly criticised. At the height of the publicity has been calls by influential journalists for Ms Wilkinson to be imprisoned for contempt of court;
3. on the afternoon of 22 June 2022, you said to me in a telephone conversation words to the following effect:

"The media have reported that I told her not to give a speech. I didn't say that. All I said was that it was not my role to provide legal advice and it could give rise to an application for a stay."

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For four months now, Ms Wilkinson has honoured her commitment to the Court to remain~~ed~~ silent on this issue to avoid prejudicing the trial in these proceedings in any way, while her name and reputation have been repeatedly trashed in the media because the record has not been corrected. Now that the trial has concluded, our client respectfully requests that you release a public statement that clarifies the true situation and corrects the public record so that her name and reputation on this issue can be restored. Our client would like the opportunity to review and approve the statement before it is released.

We would be happy to discuss this request with you further if required. We look forward to hearing from you at your earliest convenience.

Yours faithfully
THOMSON GEER

Marlia Saunders
Partner

■■■■■■■■■■
■■■■■■■■■■
■■■■■■■■■■■■■■■■■■■■

FW: Draft Agenda for PR strategy meeting - Privileged and Confidential

From: Tasha Smithies <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Date: Tue, 18 Oct 2022 17:52:51 +1100
Attachments: Unnamed Attachment (68 bytes); Lisa Wilkinson - Letter to Mr Shane Drumgold SC - October 2022 (80149868v1).DOCX (293.76 kB)

Apologies Malia,
 I accidentally left you off – everyone knows you are coming!
 Kind regards,
 Tasha

\~
Tasha Smithies
 Senior Litigation Counsel
 [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Tasha Smithies <[REDACTED]>
Sent: Tuesday, 18 October 2022 5:07 PM
To: Lisa Wilkinson External <[REDACTED]>; Nick Fordham <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Catherine Donovan <[REDACTED]>; Sarah Thornton <[REDACTED]>; Chris Bendall <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Myles Farley <[REDACTED]>
Subject: FW: Draft Agenda for PR strategy meeting - Privileged and Confidential

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 Tasha

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\~

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\\

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\\

\\

Tasha Smithies

Senior Litigation Counsel

██████████ M ██████████

1 Saunders Street Pyrmont, Sydney, NSW 2009



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Ten/Lisa Wilkinson - PR call

19/10/22

Defence doing
Tasha - Judge's summary up today then jury will start
deliberating
unlikely to get a verdict today

PR statements - would not usually comment on legal proceedings

Here we are 3rd party - LW did not give evidence
Preference is that response is 'no comment'
Mindful of potential defamation proceedings

Should be no comment from LW + The Project too.

Nick - If Ten not commenting, Lisa won't either

Carl - If not guilty, don't want to risk further publicity / expense

Want to say stand by story
Peter F \swarrow If say we stand by story, could be
defamatory as new publication if
Tasha \swarrow found NG

Can always resist

Chris_B (Project) - comfortable with that
our story is not the trial - if we
comment could be tied to trial

Carl - Lisa is dickbait - top story on news.com.au
need to take oxygen out

Tasha - linking to DPP - start by conversation then
follow w. letter

Lisa has sent through comments - we will
review

Snaps a lot on phone - may be forthcoming

Any statement should be in consultation w. us

Think we should wait until next week
Give him some space (sleep).

↳ will be exhausted.

Think ~~he's~~ unlikely to do it - not in his interests

may be reluctant to undermine authority
of judge

Peter F - Can Tim say 'we stand by his'

Tasha - How will that be reported?

Some crossed him but remedy is depo
action - they will say it's a fair
report of proceedings + honest opinion
based on judge's decision

Anything that can be done legally re judge's
findings?

- not a party - no standing
- appeal courts reluctant to disturb findings
- absolute privilege

Backgrounding

should be banner as usual for LW.

Regular hosting

Assumed defamation issue

if guilty, may appeal

Happy to say TS was at meeting
+ agrees in recollection

Don't refer to notes - don't want
to invite trouble:

Tasha
Nyles
Wica/Peter F
Nick F
Chris B
Cat D
Tamara
Sarah

From: Tasha Smithies
Sent: Thursday, October 20, 2022 2:48 PM
To: Lisa Wilkinson External <[REDACTED]>
Cc: Myles Farley <[REDACTED]>
Subject: FW: Draft Agenda for PR strategy meeting - Privileged and Confidential [TGLAW-Legal.FID3680207]

Hi Lisa,
Please see below and attached. We can re-visit this again once Malia speaks to the DPP as that conversation may mean its re-framed in some way.
Kind regards,
Tasha

Tasha Smithies
Senior Litigation Counsel
[REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Saunders, Marlia <[REDACTED]>
Sent: Wednesday, 19 October 2022 12:58 PM
To: Tasha Smithies <[REDACTED]>; Myles Farley <[REDACTED]>
Subject: RE: Draft Agenda for PR strategy meeting - Privileged and Confidential [TGLAW-Legal.FID3680207]

Hi Tasha

As discussed, I've marked up the letter in the **attached** version to incorporate some of Lisa's feedback, but consider that we should retain our drafting in some respects.

We can revisit it once the trial is concluded and I've had a chance to speak with the DPP.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

██████████ | M ██████████
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
██████████ | tglaw.com.au

Advice | Transactions | Disputes

Level 14, 60 Martin Place
 Sydney NSW 2000 Australia

GPO Box 3909 Sydney NSW 2001

DRAFT

Our ref MS:5142487

18 October 2022

Mr Shane Drumgold SC
 Office of the Director of Public Prosecutions
 Reserve Bank Building
 20-22 London Circuit
 CANBERRA CITY ACT 2601

Dear Mr Drumgold SC

**R v Bruce Lehrmann, Supreme Court of the Australian Capital Territory
 Proceedings No. SCC 264 of 2021**

As you are aware, we act for Lisa Wilkinson.

Our client continues to be extremely concerned about media reports which have criticised her role in the three month delay of the trial in the above proceedings in connection with the Logie Awards speech she gave on 19 June 2022.

It is the strong view of both Ms Wilkinson and Network Ten Senior Litigation Counsel Tasha Smithies that Ms Wilkinson was never specifically warned by you, during your meeting on 15 June 2022 or otherwise, not to give a Logies speech. Their recollection is that your only advice was that Ms Wilkinson could not mention the trial as that could give rise to a stay. Ms Wilkinson took care to ensure that she did not mention the trial, the accused, the charges or even Parliament House in the speech that she gave.

Ms Wilkinson feels that she has been treated unfairly by the Office of the Director of Public Prosecutions in that:

1. she was not given notice that a note of the 15 June 2022 meeting would be tendered in Court in support of an application for a stay of the proceedings;
2. you did not correct the record when her Honour Chief Justice McCallum found at [22] of her judgment: "Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial". This finding has gone on to be reported as a fact by the media that Ms Wilkinson was warned not to give a speech but that she went ahead and gave the speech anyway. It has provided a basis for our client's ethics as a journalist to be strongly and repeatedly criticised. At the height of the publicity has been calls by influential journalists for Ms Wilkinson to be imprisoned for contempt of court;
3. on the afternoon of 22 June 2022, you said to me in a telephone conversation words to the following effect:

"The media have reported that I told her not to give a speech. I didn't say that. All I said was that it was not my role to provide legal advice and it could give rise to an application for a stay."

You said that you felt the need to correct reports that there had been a positive direction from you not to give a speech and that you felt Ms Wilkinson had been poorly treated in the media. You said you would give some thought as to how he could deal with the issue in open court the following day; and

4. the following day, you said nothing in open court to correct the record in this regard.

For four months now, Ms Wilkinson has honoured her commitment to the Court to remain silent on this issue to avoid prejudicing the trial in these proceedings in any way, while her name and reputation have been repeatedly trashed in the media because the record has not been corrected. Now that the trial has concluded, our client respectfully requests that you release a public statement that clarifies the true situation and corrects the public record so that her name and reputation on this issue can be restored. Our client would like the opportunity to review and approve the statement before it is released.

We would be happy to discuss this request with you further if required. We look forward to hearing from you at your earliest convenience.

Yours faithfully
THOMSON GEER

Marlia Saunders
Partner

■■■■■■■■■■
■■■■■■■■■■
■■■■■■■■■■

Re: R v Lehrmann - Discussion with Shane Drumgold SC PRIVILEGED AND CONFIDENTIAL

From: Lisa Wilkinson <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; Sarah Thornton <[REDACTED]>; Catherine Donovan <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Chris Bendall <[REDACTED]>; Myles Farley <[REDACTED]>
Date: Tue, 25 Oct 2022 09:57:45 +1100
Attachments: Unnamed Attachment (68 bytes)

Thanks so much Tasha. That does look promising.

I understand the constraints that exist for him depending on the verdict, but my strong preference is that he releases one simple statement about the Logies warning that never happened, and the fact I did not do "anything even remotely resembling contempt of court", rather than engaging in individual "responses" to media enquiries.

Drumgold has run a pretty ordinary case for Brittany, and is clearly not great on his feet, so I worry that he could use words during interviews that get completely taken out of context and cause further issues once a dozen or so of the usual Murdoch and Daily Mail suspects want to make me the topic of their "media enquiries".

One simple statement (released hopefully in consultation with us) and he can then refer them back to that statement whenever questions about me come up.

Kind regards,

Lisa.

Sent from my iPad

On 24 Oct 2022, at 7:06 pm, Tasha Smithies <[REDACTED]> wrote:

Hi Lisa,

As the jury hasn't come back with a verdict and no indication of when we might get one, we thought there was no harm Marlia reaching out to the DPP to see if we could get some initial thoughts from him rather than waiting some-time after a verdict. Please see Marlia's email below on the DPP's response which was better than expected. We will continue to wait on a verdict and please let me know if you would like any further information from Marlia.

Kind regards,

Tasha

Tasha Smithies
 Senior Litigation Counsel
 [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Saunders, Marlia <[REDACTED]>
Sent: Monday, 24 October 2022 2:10 PM
To: Tasha Smithies <[REDACTED]>; Myles Farley <[REDACTED]>
Subject: R v Lehmann - Discussion with Shane Drumgold SC [TGLAW-Legal.FID3680207]

Dear Tasha and Myles

As discussed with Tasha earlier today, I had a telephone call with the ACT DPP Shane Drumgold SC this morning.

I explained to him that Lisa has been the subject of intense and unfair criticism in the media since the stay of the trial was granted in June, largely based on the judge's finding that she was warned by Mr Drumgold not to give a speech, which is incorrect. I informed him that the reports are continuing even 4 months later, and that they are impacting her personally and causing her distress.

He said that he hasn't been able to say anything to date in response to questions from the media so as not to impact the trial, but that his view is that there has never been a suggestion that a contempt of court was committed by Lisa. He said her conduct did not was not "anything remotely resembling contempt of court". If the trial results in a concluded outcome (ie, a verdict or acquittal, rather than a hung jury), he intends to make that clear in his responses to media queries that ask whether a decision has been made to lay contempt charges. He noted he will need to be careful with how he phrases it, since he has already been accused of favouritism in shutting down book sales which mention the allegations but not charging Lisa with contempt. He noted he is also conscious that his primary duty is to the court and not to any witness, so he needs to be careful not to exceed his authority.

I consider that the conversation was very positive and Mr Drumgold seemed very sympathetic to Lisa's position. In the circumstances, I recommend that we hold off sending a letter to him at this time and waiting to see what transpires following the jury's verdict. We can always follow up with another phone call if need be, or send the letter down the track.

I note that Mr Drumgold will be hamstrung in what he can say on the matter if there is a hung jury, given there may be a retrial. It is also very unlikely that he will give a detailed statement or apology to Lisa given his concerns about already being seen to be overly protective of her. However, it does seem that he is motivated to speak out about this.

Please let me know if you have any questions.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

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Lisa Wilkinson / Tan
T/A Tasha Smithies

21 / 10 / 22

If ring goes over to Monday, call DPP on Monday morning.

No harm having conversation

Can raise issue & leave it with him to consider

May choose to do nothing but worth trying

T/A Shane Dringold SC 24/10/22

Have been able to say anything

None a of anything remotely resembling contempt of court

Reports have lined me up for same reasons

This intense media coverage has been new to me
Have never encountered this

would think they would have moved on
Stay is no longer an operative factor

At a loss to understand how it is still a story
one of the issues that troubles me

never try to give legal advice

Acutely conscious there was a judgment in place
Can't use my authority to bridge a gap that
the judgment can't bridge

ERC for everybody but if I was to jump out &
go on defence for a witness

most of media is already suggesting I am
early protection of LW & C

James Albrechtsen wrote an column to that effect
if he is asked whether

ERC contempt of court was
not attempted

What was applied was a
safety pause

pretty keen to do that
for my own benefit

WPH	office
5x5	2
3	5
8x2	8x3
5x2	2
5	16x3
16x2	

To avoid alleg of favouritism)

B/c I shut down books but didn't charge
Will be conspicuous in answer but I will give
that answer ~~and~~

Has been asked numerous Q re whether decision
made to lay charges

- haven't been able to answer b/c of that
Now that concluded will be free to answer of outcome

Think subject of story will transfer to Linda
Keypolds + Michaela Tash

may comment in writing about that

Once that concluded, inquiry should recommence
with political interference in that

narrative may change

Seems to me that a story is no longer a story.
If there was any harm, it's now non-existent

Never ^{been} any suggestion that any contempt has
been committed

April 2021 - called for inquiry into political
interference into criminal process.

Update to Tasha

Email recommending to sit on letter for
now + can follow up with another call

if need be

Need to give him a chance

Can also send another letter if need be

will be hamstringing if there is a hung jury

Needs to be careful in how he words things
won't get an all-out apology

Sympathised but 1st duty is to the court - ^{can't} exceed his
authority.

R v Lehrmann - Discussion with Shane Drumgold SC [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: "Smithies Tasha ([REDACTED])" <[REDACTED]>; "Farley Myles ([REDACTED])" <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}.[REDACTED]>
Date: Mon, 24 Oct 2022 14:09:31 +1100

Dear Tasha and Myles

As discussed with Tasha earlier today, I had a telephone call with the ACT DPP Shane Drumgold SC this morning.

I explained to him that Lisa has been the subject of intense and unfair criticism in the media since the stay of the trial was granted in June, largely based on the judge's finding that she was warned by Mr Drumgold not to give a speech, which is incorrect. I informed him that the reports are continuing even 4 months later, and that they are impacting her personally and causing her distress.

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Please let me know if you have any questions.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

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~

FW: R v Lehrmann - Discussion with Shane Drumgold SC PRIVILEGED AND CONFIDENTIAL

From: Tasha Smithies <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: Myles Farley <[REDACTED]>
Date: Tue, 25 Oct 2022 11:14:50 +1100
Attachments: Unnamed Attachment (68 bytes)

Hi Marlia,
 Lisa's thoughts below.
 Kind regards,
 Tasha

~
Tasha Smithies
 Senior Litigation Counsel
 [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>
Sent: Tuesday, 25 October 2022 9:58 AM
To: Tasha Smithies <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; Sarah Thornton <[REDACTED]>; Catherine Donovan <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Chris Bendall <[REDACTED]>; Myles Farley <[REDACTED]>
Subject: Re: R v Lehrmann - Discussion with Shane Drumgold SC PRIVILEGED AND CONFIDENTIAL

~
 Thanks so much Tasha. That does look promising.

~
 I understand the constraints that exist for him depending on the verdict, but my strong preference is that he releases one simple statement about the Logies warning that never happened, and the fact I did not do "anything even remotely resembling contempt of court", rather than engaging in individual "responses" to media enquiries.

~
 Drumgold has run a pretty ordinary case for Brittany, and is clearly not great on his feet, so I worry that he could use words during interviews that get completely taken out of context and cause further issues once a dozen or so of the usual Murdoch and Daily Mail suspects want to make me the topic of their "media enquiries".

~
 One simple statement (released hopefully in consultation with us) and he can then refer them back to that statement whenever questions about me come up.

Kind regards,
 ~
 Lisa.

Sent from my iPad

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RE: JURY HAS BEEN DISHCHARGED

From: Tasha Smithies <[REDACTED]>
To: Lisa Wilkinson External <[REDACTED]>
Cc: Chris Bendall <[REDACTED]>; Catherine Donovan <[REDACTED]>; Sarah Thornton <[REDACTED]>; Nick Fordham <[REDACTED]>; "Saunders, Marlia" <[REDACTED]>
Date: Thu, 27 Oct 2022 11:52:54 +1100
Attachments: Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes)

Hi Lisa,

~

As the contempt period continues to run – it's like the trial never happened, you are unable to comment on the trial. Your commitment to the Court is not to comment or talk about what may or may not happen in the trial ie: influence the trial outcome in any way.

~

Our legal view is that in any cross, if it's a straight Court Report eg: if the questions are fairly straight (i.e. What happened in court today? What does a re-trial mean – noting that any pre-record will be reviewed by legal- you can do the cross.

~

There can be no chat off the back of any cross/editorialising or comment and we will need to include the fact he has pleaded not guilty.

~

There are PR ramifications if you do any cross, and also if you don't but no legal concerns.

~

Kind regards,

Tasha

~

~

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>
Sent: Thursday, 27 October 2022 11:29 AM
To: Tasha Smithies <[REDACTED]>
Cc: Chris Bendall <[REDACTED]>; Catherine Donovan <[REDACTED]>; Sarah Thornton <[REDACTED]>; Nick Fordham <[REDACTED]>; Marlia Saunders <[REDACTED]>
Subject: Re: JURY HAS BEEN DISHCHARGED

~

Wondering what this means in regards to my commitment to the court not to talk or report on the trial until its conclusion? Can we find out ahead of tonight's show please?

~

~

Sent from my iPad

On 27 Oct 2022, at 10:57 am, Tasha Smithies <[REDACTED]> wrote:

Yes Myles and I wondered the same thing! It must have been recent and maybe in an attempt to assist breaking the deadlock.

Tasha Smithies

Senior Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>

Sent: Thursday, 27 October 2022 10:54 AM

To: Chris Bendall <[REDACTED]>

Cc: Tasha Smithies <[REDACTED]>; Catherine Donovan <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Sarah Thornton <[REDACTED]>; Nick Fordham <[REDACTED]>; Marlia Saunders <[REDACTED]>

Subject: Re: JURY HAS BEEN DISCHARGED

~
Sounds like someone might have googled and discovered that there were four or five other women who had made various accusations against Lehrmann...

Sent from my iPad

On 27 Oct 2022, at 10:30 am, Chris Bendall <[REDACTED]> wrote:

Thanks Tasha - we will cover tonight with a short package and a court cross (pre-record).

~

Chris Bendall

Executive Producer



Como Centre, Level 4, 620 Chapel Street South Yarra Melbourne VIC 3141

t. [REDACTED]

[REDACTED]

tenplay.com.au ~

From: Tasha Smithies <[REDACTED]>

Sent: Thursday, 27 October 2022 10:26 AM

To: Chris Bendall <[REDACTED]>; Catherine Donovan <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Sarah Thornton <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>; Nick Fordham <[REDACTED]>

Cc: Marlia Saunders <[REDACTED]>

Subject: JURY HAS BEEN DISCHARGED

~

Hi Everyone,

~

You may have heard that the jury was discharged because a juror had conducted their own research and brought some material in to the jury room. This means that the jury has to be discharged and that's what the Judge has done as she can't risk the jury being affected by the material in its deliberations. It means there is NO VERDICT, and the DPP will need to decide if they want to run the trial again.

\~
A bit like the hung jury – this means we have to wait and see what happens.

\~
Need to stick with no comment.

\~
Happy to discuss but don't think we need a call this afternoon as nothing more we can do but wait. Please just give me a call.

\~
Kind regards,
Tasha

\~
Tasha Smithies
Senior Litigation Counsel

M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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To: Lisa Wilkinson External <[REDACTED]>
Cc: Chris Bendall <[REDACTED]>; Catherine Donovan <[REDACTED]>; Sarah Thornton <[REDACTED]>; Nick Fordham <[REDACTED]>; "Saunders, Marlia" <[REDACTED]>
Date: Thu, 27 Oct 2022 11:52:54 +1100
Attachments: Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes)

Hi Lisa,

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Kind regards,
Tasha

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~

Tasha Smithies
Senior Litigation Counsel

[REDACTED] M [REDACTED]
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~

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Sent from my iPad

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Yes Myles and I wondered the same thing! It must have been recent and maybe in an attempt to assist breaking the deadlock.

Tasha Smithies

Senior Litigation Counsel

██████████ M ██████████
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Lisa Wilkinson <██████████>

Sent: Thursday, 27 October 2022 10:54 AM

To: Chris Bendall <██████████>

Cc: Tasha Smithies <██████████>; Catherine Donovan <██████████>; Tamara Simoneau <██████████>; Sarah Thornton <██████████>; Nick Fordham <██████████>; Marlia Saunders <██████████>

Subject: Re: JURY HAS BEEN DISHCHARGED

~
Sounds like someone might have googled and discovered that there were four or five other women who had made various accusations against Lehrmann...

Sent from my iPad

On 27 Oct 2022, at 10:30 am, Chris Bendall <██████████> wrote:

Thanks Tasha - we will cover tonight with a short package and a court cross (pre-record).

~

Chris Bendall

Executive Producer



Como Centre, Level 4, 620 Chapel Street South Yarra Melbourne VIC 3141

t. ██████████ m. ██████████

██████████
tenplay.com.au ~

From: Tasha Smithies <██████████>

Sent: Thursday, 27 October 2022 10:26 AM

To: Chris Bendall <██████████>; Catherine Donovan <██████████>; Tamara Simoneau <██████████>; Sarah Thornton <██████████>; Lisa Wilkinson External <██████████>; Nick Fordham <██████████>

Cc: Marlia Saunders <██████████>

Subject: JURY HAS BEEN DISHCHARGED

~

Hi Everyone,

~

You may have heard that the jury was discharged because a juror had conducted their now research and brought some material in to the jury room. This means that the jury has to be discharged and that's what the Judge has done as she can't risk the jury being affected by the material in its deliberations. It means there is NO VERDICT, and the DPP will need to decide if they want to run the trial again.

\~
A bit like the hung jury – this means we have to wait and see what happens.

\~
Need to stick with no comment.

\~
Happy to discuss but don't think we need a call this afternoon as nothing more we can do but wait. Please just give me a call.

\~
Kind regards,
Tasha

\~
Tasha Smithies
Senior Litigation Counsel

1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Tasha Smithies
Sent: Thursday, October 27, 2022 6:21 PM
To: Lisa Wilkinson [REDACTED]
Subject: RE: JURY HAS BEEN DISCHARGED

Hi Lisa,
 Yes, it's more likely than not that she will, and its been listed to suit her availability, so unless something happens that means she can't hear it, it will be before her.
 Kind regards,
 Tasha

Tasha Smithies
 Senior Litigation Counsel
 [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Lisa Wilkinson [REDACTED]
Sent: Thursday, 27 October 2022 12:27 PM
To: Tasha Smithies [REDACTED]
Subject: Re: JURY HAS BEEN DISCHARGED

Do we believe that McCallum will be running the new trial?

Sent from my iPhone

On 27 Oct 2022, at 11:53 am, Tasha Smithies [REDACTED] wrote:

Hi Lisa,

As the contempt period continues to run – it's like the trial never happened, you are unable to comment on the trial. Your commitment to the Court is not to comment or talk about what may or may not happen in the trial ie: influence the trial outcome in any way.

Our legal view is that in any cross, if it's a straight Court Report eg: if the questions are fairly straight (i.e. What happened in court today? What does a re-trial mean – noting that any pre-record will be reviewed by legal- you can do the cross.

There can be no chat off the back of any cross/editorialising or comment and we will need to include the fact he has pleaded not guilty.

There are PR ramifications if you do any cross, and also if you don't but no legal concerns.

Kind regards,
Tasha

Tasha Smithies

Senior Litigation Counsel

[REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>
Sent: Thursday, 27 October 2022 11:29 AM
To: Tasha Smithies <[REDACTED]>
Cc: Chris Bendall <[REDACTED]>; Catherine Donovan <[REDACTED]>; Sarah Thornton <[REDACTED]>; Nick Fordham <[REDACTED]>; Marlia Saunders <[REDACTED]>
Subject: Re: JURY HAS BEEN DISCHARGED

Wondering what this means in regards to my commitment to the court not to talk or report on the trial until its conclusion?
Can we find out ahead of tonight's show please?

Sent from my iPad

On 27 Oct 2022, at 10:57 am, Tasha Smithies <[REDACTED]> wrote:

Yes Myles and I wondered the same thing! It must have been recent and maybe in an attempt to assist breaking the deadlock.

Tasha Smithies

Senior Litigation Counsel

[REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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custodians of the lands where we live, learn and work.

From: Lisa Wilkinson [REDACTED]
Sent: Thursday, 27 October 2022 10:54 AM
To: Chris Bendall [REDACTED]
Cc: Tasha Smithies [REDACTED]; Catherine Donovan [REDACTED]; Tamara Simoneau [REDACTED]; Sarah Thornton [REDACTED]; Nick Fordham [REDACTED]; Marlia Saunders [REDACTED]
Subject: Re: JURY HAS BEEN DISCHARGED

Sounds like someone might have googled and discovered that there were four or five other women who had made various accusations against Lehrmann...

Sent from my iPad

On 27 Oct 2022, at 10:30 am, Chris Bendall [REDACTED] wrote:

Thanks Tasha - we will cover tonight with a short package and a court cross (pre-record).

Chris Bendall
 Executive Producer



Como Centre, Level 4, 620 Chapel Street South Yarra Melbourne VIC 3141

tenplay.com.au

From: Tasha Smithies [REDACTED]
Sent: Thursday, 27 October 2022 10:26 AM
To: Chris Bendall [REDACTED]; Catherine Donovan [REDACTED]; Tamara Simoneau [REDACTED]; Sarah Thornton [REDACTED]; Lisa Wilkinson External [REDACTED]; Nick Fordham [REDACTED]
Cc: Marlia Saunders [REDACTED]
Subject: JURY HAS BEEN DISCHARGED

Hi Everyone,

You may have heard that the jury was discharged because a juror had conducted their own research and brought some material in to the jury room. This means that the jury has to be discharged and that's what the Judge has done as she can't risk the jury being affected by the material in its deliberations. It means there is NO VERDICT, and the DPP will need to decide if they want to run the trial again.

A bit like the hung jury – this means we have to wait and see what happens.

Need to stick with no comment.

Happy to discuss but don't think we need a call this afternoon as nothing more we can do but wait. Please just give me a call.

Kind regards,
 Tasha

Tasha Smithies
 Senior Litigation Counsel
 [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson [REDACTED]
Sent: Friday, October 28, 2022 5:02 PM
To: Tasha Smithies [REDACTED]
Cc: Catherine Donovan [REDACTED]; Nick Fordham [REDACTED]
Subject: Re: Crisis Comms

Thanks Tasha.

Unfortunately that was before we knew we were going to have to survive this from a PR perspective for yet another five months before we would be able to correct it.

I understand the constraints around Drumgold, and any possible correction there, but when they say that I talked about the allegations in my Logies speech, that is a complete lie, and shouldn't be allowed to be continually reported as fact.

We will be approaching nine months of this narrative - and we won't have done a thing to stop it. It's not good for me, it's not good for the show, and it's not good for the network.

Would love to chat with you all on this if possible.

King regards,

Lisa.

Sent from my iPad

On 28 Oct 2022, at 4:33 pm, Tasha Smithies [REDACTED] wrote:

Thanks Cat,
 Lisa/Nick, you may recall from the last PR strategy session that it was decided not to send warning letters in advance to press but monitor articles and correct glaring inaccuracies, this remains the approach and Cat has a process in place to monitor articles.
 Kind regards,
 Tasha

Tasha Smithies
 Senior Litigation Counsel

M
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Catherine Donovan
Sent: Friday, 28 October 2022 3:07 PM
To: Lisa Wilkinson External <>
Cc: Nick Fordham <>; Tasha Smithies <>
Subject: RE: Crisis Comms

Hi Lisa

Just looping in Tasha as well.

We will continue to monitor all press and then work with Tasha to see what we can correct now.

We are also keeping copies of all of these articles so then we can go through these again post trial.

We have a pretty good media monitoring system in place, but if you see anything at all that you are worried about, please send this through as well.

Tasha, let me know if you think we should send a (legal) note to any of these publications as well (put them on notice).

Thank you
Cat

Catherine Donovan
VP Publicity & Communications



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From: Lisa Wilkinson <>
Sent: Friday, 28 October 2022 9:45 AM
To: Catherine Donovan <>
Cc: Nick Fordham <>
Subject: Re: Crisis Comms

Thanks so much to you both.

Given the yesterday's outcome, do the crisis coms people think we have to wait another six months or so before we seek factual corrections on articles such as this? My thinking is that we can at least nip in the bud the constant reporting of this as fact. By my calculations there will be dozens and dozens of stories between now and then that continue to repeat this lie.

And should we do the same with the News Corp factual errors on this score? I have seen exactly the same allegation regularly repeated. Particularly early on. And let's face it, anyone doing an update on me and the trial will just go back to the early stories to get their "facts" around the Logies speech.

They probably need to know they are being watched at a legal/defamatory level.

Love your thoughts.

Cheers,

Lisa.

Sent from my iPad

On 28 Oct 2022, at 10:10 am, Catherine Donovan <[REDACTED]> wrote:

Morning Lisa and Nick

Yes, no worries at all.

Tasha is across and we had also picked this up via our media monitoring. We have added it to the list.

Thank you.

Cat

Catherine Donovan
VP Publicity & Communications



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Sent: Friday, 28 October 2022 3:48 AM
To: Lisa Wilkinson External <[REDACTED]>
Cc: Catherine Donovan <[REDACTED]>
Subject: Re: Crisis Comms

Thanks Lisa.

Cat, should we share with Tasha?

Regards,

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 27 Oct 2022, at 3:55 pm, Lisa Wilkinson <[REDACTED]> wrote:

Dear Cat, Nick,

Just passing on this piece today from today's Daily Mail - where these two journalists, Jade Hobman and Eliza McPhee clearly say that I discussed the trial in my Logies speech.

This is a completely false accusation.

Hoping it can be passed on to the Crisis Comms team to address once we are in a position to make a statement and correct the record at the completion of the trial.

<https://www.dailymail.co.uk/news/article-11360337/Lisa-Wilkinson-sits-SILENCE-Project-Brittany-Higgins-rape-trial-ends.html>

With thanks,

Lisa.

Sent from my iPad

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[REDACTED]

From: Nick Fordham [REDACTED]
Sent: Monday, October 31, 2022 6:35 AM
To: Chris Bendall [REDACTED]
Cc: Tasha Smithies [REDACTED]; Lisa Wilkinson External [REDACTED] Catherine Donovan [REDACTED] Tamara Simoneau [REDACTED] Myles Farley [REDACTED] Alix Hill [REDACTED]
Subject: Re: Crisis Comms

Thanks Chris. I will work around everyone else's schedules.

Regards,

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 31 Oct 2022, at 5:24 am, Chris Bendall <[REDACTED]> wrote:

Thanks Tasha - Tamara is away today so should we line something up for Tuesday?

Chris Bendall
Executive Producer



Como Centre, Level 4, 620 Chapel Street South Yarra Melbourne VIC 3141

tenplay.com.au

From: Tasha Smithies <[REDACTED]>
Sent: Sunday, 30 October 2022 7:56 PM
To: Nick Fordham <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Cc: Catherine Donovan <[REDACTED]>; Tamara Simoneau <[REDACTED]>; Chris Bendall <[REDACTED]>; Myles Farley <[REDACTED]>
Subject: RE: Crisis Comms

Hi Nick and Lisa,
 Looping in Tamara and Chris given the issues extend beyond legal (the legal position remains the same). Happy to discuss on Monday or Tuesday.
 Kind regards,
 Tasha

Tasha Smithies
 Senior Litigation Counsel
 [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Sent: Friday, 28 October 2022 10:11 PM
To: Lisa Wilkinson External <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Catherine Donovan <[REDACTED]>
Subject: Re: Crisis Comms

Agreed Lisa.

It would be great to reconnect on this on Monday and discuss a revised strategy.

Have we found the leak yet? Have they been warned not to talk to the Australian?

Regards

Nick

NICK FORDHAM
 CHIEF EXECUTIVE OFFICER
 THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 28 Oct 2022, at 2:02 pm, Lisa Wilkinson <[REDACTED]> wrote:

Thanks Tasha.

Unfortunately that was before we knew we were going to have to survive this from a PR perspective for yet another five months before we would be able to correct it.

I understand the constraints around Drumgold, and any possible correction there, but when they say that I talked about the allegations in my Logies speech, that is a complete lie, and shouldn't be allowed to be continually reported as fact.

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 Senior Litigation Counsel
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 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Catherine Donovan <[REDACTED]>
Sent: Friday, 28 October 2022 3:07 PM
To: Lisa Wilkinson External <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; Tasha Smithies <[REDACTED]>
Subject: RE: Crisis Comms

Hi Lisa

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Tasha, let me know if you think we should send a (legal) note to any of these publications as well (put them on notice).

Thank you
 Cat

Catherine Donovan
 VP Publicity & Communications
 [REDACTED]
 [REDACTED]



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From: Lisa Wilkinson <[REDACTED]>
Sent: Friday, 28 October 2022 9:45 AM
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Cc: Nick Fordham <[REDACTED]>
Subject: Re: Crisis Comms

Thanks so much to you both.

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Lisa.

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Cat

Catherine Donovan
 VP Publicity & Communications
 [REDACTED]



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Sent: Friday, 28 October 2022 3:48 AM
To: Lisa Wilkinson External <[REDACTED]>
Cc: Catherine Donovan <[REDACTED]>
Subject: Re: Crisis Comms

Thanks Lisa.

Cat, should we share with Tasha?

Regards,

Nick

NICK FORDHAM
 CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

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This is a completely false accusation.

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<https://www.dailymail.co.uk/news/article-11360337/Lisa-Wilkinson-sits-SILENCE-Project-Brittany-Higgins-rape-trial-ends.html>

With thanks,

Lisa.

Sent from my iPad

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R v Lehrmann - Emails with ACT DPP [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Date: Fri, 04 Nov 2022 16:53:54 +1100

Hi Tasha

Please see below my correspondence with the ACT DPP today.

You will see that I specifically asked for confirmation that they do not have any concern about Lisa contacting Brittany and they did not respond to that, but did confirm they do not intend to call Lisa as a witness at the retrial.

I think we can safely assume that it's fine for Lisa to reach out to Brittany.

Have a great weekend!

Marlia

Marlia Saunders | Partner

THOMSON GEER

[REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tg@law.com.au

[Advice](#) | [Transactions](#) | [Disputes](#)

From: Greig, Mitchell <[REDACTED]>
Sent: Friday, 4 November 2022 2:21 PM
To: Saunders, Marlia <[REDACTED]>
Cc: SVC_DPPCases <[REDACTED]>; Jerome, Skye <[REDACTED]>; Pitney, Sarah <[REDACTED]>
Subject: RE: New Trial Date - R v Lehrmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

OFFICIAL

Dear Ms Saunders,

The DPP does not intend on calling Ms Wilkinson as a witness in the trial of R v Lehrmann.

Kind regards,



Mitchell Greig

Prosecutor Associate

Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

T: [REDACTED]

W: www.dpp.act.gov.au

For a full range of victims rights, please go to www.dpp.act.gov.au and go to the Witnesses and Victims link.

Please consider the environment before printing this e-mail

From: Saunders, Marlia <[REDACTED]>
Sent: Friday, 4 November 2022 11:32 AM
To: Greig, Mitchell <[REDACTED]>; Jerome, Skye <[REDACTED]>
Cc: SVC_DPPCases <[REDACTED]>
Subject: RE: New Trial Date - R v Lehrmann - Formal Letter (DPP Ref: 202113941) [TGLAW-Legal.FID3680211]

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Dear Mr Greig and Ms Jerome

We note that the Lehrmann proceedings have been listed for a retrial in February 2023.

We assume that Ms Wilkinson will not be required to give evidence at the retrial.

She would like to reach out to Ms Higgins, but wanted to confirm that the DPP is comfortable with that before she does so. Can you please let me know if you have any concern about her doing this?

Kind regards

Marlia Saunders | Partner

THOMSON GEER

[REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

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e-mail. We cannot accept liability for any loss or damage caused by software viruses.
#####

Subject: Re: Follow up from this morning
Date: Thursday, 17 November 2022 at 2:00:11 pm Australian Eastern Daylight Time
From: Nick Fordham
To: Beverley McGarvey
CC: Giorgia Taylor, Alix Hill
Attachments: image005.png, image006.jpg, image007.png, image008.png, image009.png, image001.jpg, image002.png

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Regards

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THE
FORDHAM
COMPANY

NICK FORDHAM
CEO
13-15 Little Burton Street
DARLINGHURST NSW 2010
AUSTRALIA



From: Beverley McGarvey <[REDACTED]>
Date: Wednesday, 16 November 2022 at 3:37 pm
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Cc: Giorgia Taylor <[REDACTED]>
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From: Beverley McGarvey <[REDACTED]>
To: Stuart Thomas <[REDACTED]>; Toni Skaife <[REDACTED]>; Tasha Smithies <[REDACTED]>; Catherine Donovan <[REDACTED]>
Date: Wed, 16 Nov 2022 16:38:03 +1100

For your records.
 Thanks
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As you have acknowledged, everything Lisa has done, at every stage, was signed off and encouraged by The Project, Network Ten and Network Ten's legal team.

And right now, Lisa is the only one who is publicly paying the price.

It remains extraordinary, and deeply unfair, that this whole imbroglio began because of the sheer excellence of her ground-breaking interview with Ms Higgins, which won this peer-voted Logie in the first place.

Since that time, you and Network Ten have indeed been wonderfully supportive internally, for which she is grateful. But, beyond a press-release saying Network Ten continued to support Lisa, there has been little done by Network Ten to proactively rectify the situation publicly – despite many meetings and a lot of talk. Damaging lies have been endlessly repeated about her in the press, often by the same commentators, with no known attempts from Network Ten to background those journalists in order to limit that damage. Lisa has simply had to wear it all, and has continued to perform her role for the Network to the highest standards of professionalism.

We have heard a lot about a "crisis comms team" working behind the scenes on the situation, but as yet, despite repeated requests, neither Lisa nor I have been introduced to them, let alone been able to engage with them. Nor have we seen any evidence of any effect they have had on limiting the damage to Lisa's reputation, which she has suffered while in Network Ten's employment.

But, here we are.

In respect of the proposed interview series, I must say I am not overly confident Network Ten will be able to adequately deliver on this. We were promised five years ago a dedicated Executive Producer for the Sunday Project whose sole purpose, would be to drive the success of what is the most keenly-contested timeslot in free-to-air tv – something which never eventuated. With that in mind we would only agree to this proposed interview series with firm commitments: a high level of production, a dedicated and qualified Senior Executive Producer and a clear understanding of what is involved and the level of promotion it would receive.

Regarding the proposed talent for the interview series, again as you suggested, the calibre of interviewees would need to be the likes of Michelle Obama, world leaders and A + list celebrities. Lisa's contract is for work on The Project, and to soften the very real blow this change will have on Lisa's standing and

reputation in the industry, we insist that Lisa's future celebrity interviews, stories and coverage of international events appear on The Project.

We would also require Lisa to be guaranteed major world-event postings for The Project covering things as next year's Coronation of King Charles. As you have mentioned, Lisa shines on the road and no one does it better. Similarly, Lisa currently has a number of incredibly strong feel-good stories for The Project in the works – all of which are exclusives – that she would love to see to fruition on The Project.

As to this proposed change in Lisa's situation, we will require all of this to be covered in a joint statement – to be released only after Lisa has announced the change in her role at The Project on air, herself.

The timing of this is crucial Bev, and we believe the announcement, and Network Ten's subsequent press release should happen within the next fortnight – ahead of the publicity shoot on Monday 28 November – and be filled with the same supportive quotes from you in public that you have told me in private.

We cannot overstate the importance of the strictest confidentiality being observed during this time. As agreed, this will be handled by your external PR team in conjunction with me of course.

Outside of the above, Lisa would not be required to provide any other services to Network Ten.

In view of this proposed change to Lisa's employment, moving forward Lisa may not be based in Australia full time so any travel, (as per her contract,) will need to be taken into account and covered from where she is located at that point in time.

Once agreed, we would need all of this to be clearly covered in a variation to her current contract.

I look forward to hearing back from you.

Regards

Nick

THE
FORDHAM
C O M P A N Y

NICK FORDHAM
CEO
13-15 Little Burton Street
DARLINGHURST NSW 2010 AUSTRALIA
[REDACTED]
www.thefordhamcompany.com.au
[REDACTED] [REDACTED] [REDACTED]

From: Beverley McGarvey <[REDACTED]>
Date: Friday, 11 November 2022 at 3:58 pm

To: Nick Fordham <[REDACTED]>
Subject: Follow up from this morning

Dear Nick,

Thanks for your time this morning.

As discussed, with the personnel changes that are already in train for the Project next year, we are keen to use this opportunity to take the Project in a new direction in 2023 with a refreshed talent line-up to reposition the show and hopefully improve its audience performance, especially in our key younger demographics. We are considering a program with a lighter tone and a more consistent line-up across the week.

As part of the realignment, we plan to relieve Lisa of her duties on the Project and would like to discuss with you alternative opportunities that would be more consistent with her personal brand than the likely evolution of the program.

As mentioned, we would like her to focus over the coming year on premium event interviews which could air on one of our premium platforms. Ideally about 3 per year with blue-chip contributors either as an event series or to coincide with particular timing, ie elections, international women's day etc.

So as to avoid any possible concern, I confirm that we are not seeking to re-negotiate Lisa's fee arrangements with the network.

I understand that due to the unprecedented interest the press has in both Lisa and The Project this transition would have to be handled very carefully, including to protect Lisa's brand, and we would be willing to engage some external expertise to help us navigate that.

Look forward to hearing your thoughts early next week.

Kind regards,
Bev

Beverley McGarvey

EVP & Chief Content Officer, Paramount ANZ
[REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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LW

From: Beverley McGarvey <[REDACTED]>
To: "Nick Fordham ([REDACTED])" <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>
Date: Fri, 18 Nov 2022 12:01:45 +1100

Hi Nick,

Here are our amendments for your review.

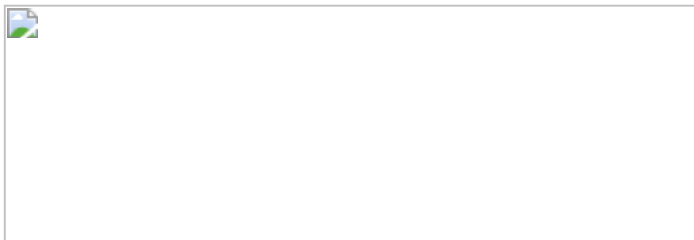
Kind regards,

Bev

VARIATION TO EMPLOYMENT AGREEMENT

1. Other than the Interview Programs referred to below, the Employee will not be required to carry out the duties or otherwise provide the Services set out in Schedule 1.
2. The Employee will only be required to present and provide associated services for up to three (3) interview special programs (*Interview Programs*) per annum for the remainder of the Term of the Employment Agreement.
3. For each Interview Program, the selection of the interview subject and topic, producer and other production elements will be subject to agreement between TEN and the Employee.
4. The provisions relating to Travel and Accommodation (clause 8) will cease to apply, but TEN agrees to arrange, book and pay for all return Business Class travel for the Employee from any location internationally to the production location of each Interview Program.
5. The provisions relating to Wardrobe (clause 7) will no longer apply, but TEN will supply hair and make-up and wardrobe for the production of each Interview Program.
6. Apart from the agreed variations set out above, all other provisions of the Employment Agreement remain the same and in force until 31 December 2024.
7. TEN agrees to release a joint statement which will be approved by both TEN and the Employee. The Employee will have the right to announce her exit from The Project and new role on Network TEN on The Project.

Beverley McGarvey
 EVP & Chief Content Officer, Paramount ANZ
 [REDACTED]
 1 Saunders Street Pymont, Sydney, NSW 2009



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Re: LW

From: Stuart Thomas <[REDACTED]>
To: Nick Fordham <[REDACTED]>; Beverley McGarvey <[REDACTED]>
Cc: Giorgia Taylor <[REDACTED]>
Date: Fri, 18 Nov 2022 17:01:33 +1100

Thanks Nick

Both parties can rely on this email exchange to confirm that agreement has been reached on the following terms effective on and from Monday 21st November 2022 (noting that the last day for provision of services on The Project is Sunday 20th February 2022).

VARIATION TO EMPLOYMENT AGREEMENT

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In the interests of good housekeeping, I will drop this text onto N10's letterhead on Monday and we can then arrange signatures by Beverley and Lisa.

Cheers

Stuart Thomas
 VP Legal & Corporate Affairs
 [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



From: Nick Fordham <[REDACTED]>
Date: Friday, 18 November 2022 at 4:53 pm
To: Beverley McGarvey <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>, Giorgia Taylor
 <[REDACTED]>
Subject: Re: LW

Hi Bev,

Many thanks for sending this through and being so supportive in getting all of this done.

All good from our end. We are in agreement.

Stuart, do we need to sign anything or is this correspondence sufficient? Guided by you.

I believe Lisa is going to connect with Chris tomorrow and catch up Sunday morning. Lisa is also going to email you tomorrow, so you are across what she is planning to say. I have read a draft and it is very straight forward.

Have a lovely weekend and chat if needed.

Regards,

Nick

NICK FORDHAM
 CHIEF EXECUTIVE OFFICER
 THE FORDHAM COMPANY
www.thefordhamcompany.com.au

From: Beverley McGarvey <[REDACTED]>
Sent: Friday, November 18, 2022 3:47 pm
To: Nick Fordham <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>
Subject: LW

Hi Nick,

Here you go, amendment as discussed.

Can you let me know when she wants to tell Chris, she is with him now, can she tell him and Tamara only so they can prepare for Sunday - I presume she will do it at the end of the show?

Also, we presume Lisa will want to tell her co-hosts on Sunday afternoon?

We can tell Tamara and Chris if she prefers and her co-hosts, but we think she would want to do that herself?

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Beverley McGarvey
EVP & Chief Content Officer, Paramount ANZ
[REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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Re: LW

From: Stuart Thomas <[REDACTED]>
To: Nick Fordham <[REDACTED]>
Cc: Beverley McGarvey <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Date: Mon, 21 Nov 2022 16:06:29 +1100
Attachments: N10 LW Employment Agt Variation 2022.pdf (217.48 kB)

Afternoon Nick

As anticipated last week, I have formalised the agreement that was reached last week in the attached letter agreement signed by Beverley on behalf of N10.

Would you please arrange for Lisa to sign and date a copy of the letter, and then return a copy to me (pdf only is fine)?

Thanks

Stuart Thomas
VP Legal & Corporate Affairs
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Date: Friday, 18 November 2022 at 5:40 pm
To: Stuart Thomas <[REDACTED]>
Cc: Beverley McGarvey <[REDACTED]>, Giorgia Taylor <[REDACTED]>
Subject: Re: LW

Thank you Stuart.

Regards,

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 18 Nov 2022, at 5:01 pm, Stuart Thomas <[REDACTED]> wrote:

Thanks Nick

Both parties can rely on this email exchange to confirm that agreement has been reached on the following terms effective on and from Monday 21st November 2022 (noting that the last day for provision of services on The Project is Sunday 20th February 2022).

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In the interests of good housekeeping, I will drop this text onto N10's letterhead on Monday and we can then arrange signatures by Beverley and Lisa.

Cheers

Stuart Thomas

VP Legal & Corporate Affairs

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>

Date: Friday, 18 November 2022 at 4:53 pm

To: Beverley McGarvey <[REDACTED]>

Cc: Stuart Thomas <[REDACTED]>, Giorgia Taylor

<[REDACTED]>

Subject: Re: LW

Hi Bev,

Many thanks for sending this through and being so supportive in getting all of this done.

All good from our end. We are in agreement.

Stuart, do we need to sign anything or is this correspondence sufficient? Guided by you.

I believe Lisa is going to connect with Chris tomorrow and catch up Sunday morning. Lisa is also going to email you tomorrow, so you are across what she is planning to say. I have read a draft and it is very straight forward.

Have a lovely weekend and chat if needed.

Regards,

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

From: Beverley McGarvey <[REDACTED]>
Sent: Friday, November 18, 2022 3:47 pm
To: Nick Fordham <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>
Subject: LW

Hi Nick,

Here you go, amendment as discussed.

Can you let me know when she wants to tell Chris, she is with him now, can she tell him and Tamara only so they can prepare for Sunday - I presume she will do it at the end of the show?

Also, we presume Lisa will want to tell her co-hosts on Sunday afternoon?

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Beverley McGarvey
EVP & Chief Content Officer, Paramount ANZ
O [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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21 November 2022

PRIVATE AND CONFIDENTIAL

Lisa Wilkinson



Dear Lisa

EMPLOYMENT AGREEMENT – VARIATION 2022

I refer to your employment agreement with Network Ten Pty Limited (**TEN**) dated 12 July 2021 (**Employment Agreement**).

I confirm that agreement has been reached to vary the terms of the Employment Agreement as set out below effective on and from Monday 21st November 2022. Capitalised terms used below that are defined in the Employment Agreement have the same meanings below.

VARIATION TO EMPLOYMENT AGREEMENT

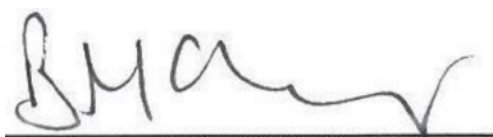
1. Other than the Interview Programs referred to below, the Employee will not be required to carry out the duties or otherwise provide the Services set out in Schedule 1 of the Employment Agreement.
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6. Apart from the agreed variations set out above, all other provisions of the Employment Agreement remain the same and in force until 31 December 2024.




7. TEN agrees to release a joint statement which will be approved by both TEN and the Employee. The Employee will have the right to announce her exit from The Project and new role on Network TEN on The Project.

Would you please confirm that this letter sets out all of the agreed terms of variation to your Employment Agreement by signing and dating in the place indicated below.

Best regards



Beverley McGarvey
EVP & Chief Content Officer, Paramount ANZ

Agreement confirmed:

Lisa Wilkinson

Date:

Re: LW

From: Nick Fordham <[REDACTED]>
To: Stuart Thomas <[REDACTED]>
Cc: Georgia Taylor <[REDACTED]>
Date: Fri, 02 Dec 2022 17:14:52 +1100

Hi Stuart,

If it remains the same structure, let's just leave it as it is. Lisa will obviously be mindful of her reduced television appearances so will certainly not abuse the privilege.

We will execute the current version and return it on Monday.

Regards,

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 2 Dec 2022, at 2:50 pm, Stuart Thomas <sthomas@networkten.com.au> wrote:

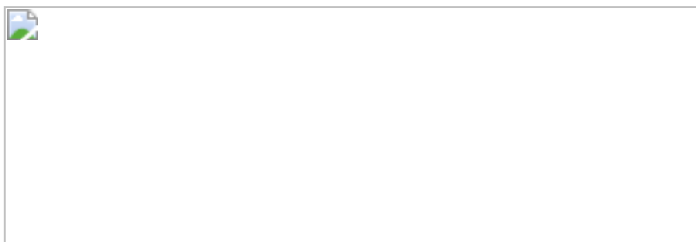
Hi Nick

I can confirm that the proposed reduction of the wardrobe allowance from \$100k to \$40k per annum is uncontroversial.

I note that, as provided in clause 7(i), clothing and/or accessories purchased remain the property of N10 and will need to remain on N10 premises. You will appreciate that this requirement is to ensure that neither N10 nor Lisa is in breach of applicable taxation law requirements. Accordingly, this requirement will continue to apply prospectively such that, practically, reimbursement for clothing and accessories will occur following delivery of those purchases to N10's wardrobe department for custodianship (and, as required, internal and external audit).

Cheers

Stuart Thomas
VP Legal & Corporate Affairs
[REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Date: Monday, 28 November 2022 at 5:06 pm
To: Stuart Thomas <[REDACTED]>
Cc: Beverley McGarvey <[REDACTED]>, Giorgia Taylor <[REDACTED]>
Subject: Re: LW

Hi Stuart,

Apologies for the delay.

I have been thinking the best way to approach this and was going to suggest just reducing the amount from 100K to 40K per annum. Lisa of course still wants to utilise the benefits under her contract but in view of the reduced role, could you please confirm you and Bev are comfortable with this? I can then amend and send back to you for final approval.

Regards

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 23 Nov 2022, at 2:34 pm, Stuart Thomas <[REDACTED]> wrote:

Thanks Nick

Would you like to suggest amendments to the section on Wardrobe (copied below) so that it reflects Lisa's request, and I can then confirm internally ?

5. The provisions relating to Wardrobe (clause 7) will continue to apply, noting that the Employee will arrange her own clothing and accessories for the production of any Interview Program using the clothing allowance contemplated in clause 7(f).

Regards

Stuart Thomas

On 22 Nov 2022, at 1:02 pm, Nick Fordham <[REDACTED]> wrote:

Hi Stuart,

This all looks fine although we would like to further clarify the wardrobe component moving forward. There is obviously a requirement for this clothing to be used on air and as that has been reduced, Lisa doesn't want to lose the benefit.

Lisa certainly doesn't want to be difficult but would like to see how we can come to an agreement on how to handle this moving forward.

Can we please connect on this or maybe have Lisa's accountant chat to your finance department.

Everything else is fine.

Regards,

Nick

NICK FORDHAM

CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY

www.thefordhamcompany.com.au

From: Stuart Thomas <[REDACTED]>

Sent: Monday, November 21, 2022 4:06 pm

To: Nick Fordham <[REDACTED]>

Cc: Beverley McGarvey <[REDACTED]>; Georgia Taylor <[REDACTED]>

Subject: Re: LW

Afternoon Nick

As anticipated last week, I have formalised the agreement that was reached last week in the attached letter agreement signed by Beverley on behalf of N10.

Would you please arrange for Lisa to sign and date a copy of the letter, and then return a copy to me (pdf only is fine)?

Thanks

Stuart Thomas

VP Legal & Corporate Affairs

1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Date: Friday, 18 November 2022 at 5:40 pm
To: Stuart Thomas <[REDACTED]>
Cc: Beverley McGarvey <[REDACTED]>, Georgia Taylor <[REDACTED]>
Subject: Re: LW

Thank you Stuart.

Regards,

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 18 Nov 2022, at 5:01 pm, Stuart Thomas <[REDACTED]> wrote:

Thanks Nick

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In the interests of good housekeeping, I will drop this text onto N10's letterhead on Monday and we can then arrange signatures by Beverley and Lisa.

Cheers

Stuart Thomas
VP Legal & Corporate Affairs
[REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Date: Friday, 18 November 2022 at 4:53 pm
To: Beverley McGarvey <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>, Giorgia Taylor
<[REDACTED]>
Subject: Re: LW

Hi Bev,

Many thanks for sending this through and being so supportive in getting all of this done.

All good from our end. We are in agreement.

Stuart, do we need to sign anything or is this correspondence sufficient? Guided by you.

I believe Lisa is going to connect with Chris tomorrow and catch up Sunday morning. Lisa is also going to email you tomorrow, so you are across what she is planning to say. I have read a draft and it is very straight forward.

Have a lovely weekend and chat if needed.

Regards,

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

From: Beverley McGarvey <[REDACTED]>
Sent: Friday, November 18, 2022 3:47 pm
To: Nick Fordham <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>
Subject: LW

Hi Nick,

Here you go, amendment as discussed.

Can you let me know when she wants to tell Chris, she is with him now, can she tell him and Tamara only so they can prepare for Sunday - I presume she will do it at the end of the show?

Also, we presume Lisa will want to tell her co-hosts on Sunday afternoon?

We can tell Tamara and Chris if she prefers and her co-hosts, but we think she would want to do that herself?

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6. Apart from the agreed variations set out above, all other provisions of the Employment Agreement remain the same and in force until 31 December 2024.
7. TEN agrees to release a joint statement which will be approved by both TEN and the Employee. The Employee will have the right to announce her exit from The Project and new role on Network TEN on The Project.

Beverley McGarvey

EVP & Chief Content Officer, Paramount ANZ

1 Saunders Street Pyrmont, Sydney, NSW 2009



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Re: LW

From: Giorgia Taylor <[REDACTED]>
To: Stuart Thomas <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Date: Thu, 15 Dec 2022 11:46:45 +1100
Attachments: N10 LW Employment Agt Variation 2022[9].pdf (454.69 kB)

Hi Stuart,

Sincere apologies for the delay getting this through to you.

Please find attached a signed copy of the addendum to Lisa's employment agreement.

Please note, we have made one change to clause 4 which now includes domestic travel.

Could you please return a fully executed version of the agreement at your earliest convenience?

Look forward to hearing from you.

Kind regards,

Giorgia



GIORGIA TAYLOR (nee. Watts)
 Agent
 13-15 Little Burton Street
 DARLINGHURST NSW 2010 AUSTRALIA

[REDACTED]

www.thefordhamcompany.com.au



From: Nick Fordham <[REDACTED]>
Date: Friday, 2 December 2022 at 5:14 pm
To: Stuart Thomas <[REDACTED]>
Cc: Giorgia Taylor <[REDACTED]>
Subject: Re: LW

Hi Stuart,

If it remains the same structure, let's just leave it as it is. Lisa will obviously be mindful of her reduced television appearances so will certainly not abuse the privilege.

We will execute the current version and return it on Monday.

Regards,

Nick

NICK FORDHAM
 CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 2 Dec 2022, at 2:50 pm, Stuart Thomas <[REDACTED]> wrote:

Hi Nick

I can confirm that the proposed reduction of the wardrobe allowance from \$100k to \$40k per annum is uncontroversial.

I note that, as provided in clause 7(i), clothing and/or accessories purchased remain the property of N10 and will need to remain on N10 premises. You will appreciate that this requirement is to ensure that neither N10 nor Lisa is in breach of applicable taxation law requirements. Accordingly, this requirement will continue to apply prospectively such that, practically, reimbursement for clothing and accessories will occur following delivery of those purchases to N10's wardrobe department for custodianship (and, as required, internal and external audit).

Cheers

Stuart Thomas

VP Legal & Corporate Affairs

1 Saunders Street Pyrmont, Sydney, NSW 2009

 Image removed by sender.

Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Date: Monday, 28 November 2022 at 5:06 pm
To: Stuart Thomas <[REDACTED]>
Cc: Beverley McGarvey <[REDACTED]>, Georgia Taylor <[REDACTED]>
Subject: Re: LW

Hi Stuart,

Apologies for the delay.

I have been thinking the best way to approach this and was going to suggest just reducing the amount from 100K to 40K per annum. Lisa of course still wants to utilise the benefits under her contract but in view of the reduced role, could you please confirm you and Bev are comfortable with this? I can then amend and send back to you for final approval.

Regards

Nick

NICK FORDHAM
 CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY

www.thefordhamcompany.com.au

On 23 Nov 2022, at 2:34 pm, Stuart Thomas <[REDACTED]> wrote:

Thanks Nick

Would you like to suggest amendments to the section on Wardrobe (copied below) so that it reflects Lisa's request, and I can then confirm internally ?

5. The provisions relating to Wardrobe (clause 7) will continue to apply, noting that the Employee will arrange her own clothing and accessories for the production of any Interview Program using the clothing allowance contemplated in clause 7(f).

Regards

Stuart Thomas

On 22 Nov 2022, at 1:02 pm, Nick Fordham <[REDACTED]> wrote:

Hi Stuart,

This all looks fine although we would like to further clarify the wardrobe component moving forward. There is obviously a requirement for this clothing to be used on air and as that has been reduced, Lisa doesn't want to lose the benefit.

Lisa certainly doesn't want to be difficult but would like to see how we can come to an agreement on how to handle this moving forward.

Can we please connect on this or maybe have Lisa's accountant chat to your finance department.

Everything else is fine.

Regards,

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

From: Stuart Thomas <[REDACTED]>
Sent: Monday, November 21, 2022 4:06 pm
To: Nick Fordham <[REDACTED]>
Cc: Beverley McGarvey <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Subject: Re: LW

Afternoon Nick


As anticipated last week, I have formalised the agreement that was reached last week in the attached letter agreement signed by Beverley on behalf of N10.

Would you please arrange for Lisa to sign and date a copy of the letter, and then return a copy to me (pdf only is fine)?

Thanks

Stuart Thomas
VP Legal & Corporate Affairs
[REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009

 Image removed by sender.

Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Date: Friday, 18 November 2022 at 5:40 pm
To: Stuart Thomas <[REDACTED]>
Cc: Beverley McGarvey <[REDACTED]>, Giorgia Taylor <[REDACTED]>
Subject: Re: LW

Thank you Stuart.

Regards,

Nick

NICK FORDHAM
 CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY

www.thefordhamcompany.com.au

On 18 Nov 2022, at 5:01 pm, Stuart Thomas <[REDACTED]> wrote:

Thanks Nick

Both parties can rely on this email exchange to confirm that agreement has been reached on the following terms effective on and from Monday 21st November 2022 (noting that the last day for provision of services on The Project is Sunday 20th February 2022).

VARIATION TO EMPLOYMENT AGREEMENT

1. Other than the Interview Programs referred to below, the Employee will not be required to carry out the duties or otherwise provide the Services set out in Schedule 1.
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6. Apart from the agreed variations set out above, all other provisions of the Employment Agreement remain the same and in force until 31 December 2024.
7. TEN agrees to release a joint statement which will be approved by both TEN and the Employee. The Employee will have the right to announce her exit from The Project and new role on Network TEN on The Project.

In the interests of good housekeeping, I will drop this text onto N10's letterhead on Monday and we can then arrange signatures by Beverley and Lisa.

Cheers

Stuart Thomas

VP Legal & Corporate Affairs

1 Saunders Street Pyrmont, Sydney, NSW 2009

 Image removed by sender.

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||

From: Nick Fordham <[REDACTED]>
Date: Friday, 18 November 2022 at 4:53 pm
To: Beverley McGarvey <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>, Giorgia Taylor
 <[REDACTED]>
Subject: Re: LW

Hi Bev,

Many thanks for sending this through and being so supportive in getting all of this done.

All good from our end. We are in agreement.

Stuart, do we need to sign anything or is this correspondence sufficient? Guided by you.

I believe Lisa is going to connect with Chris tomorrow and catch up Sunday morning. Lisa is also going to email you tomorrow, so you are across what she is planning to say. I have read a draft and it is very straight forward.

Have a lovely weekend and chat if needed.

Regards,

Nick

NICK FORDHAM
 CHIEF EXECUTIVE OFFICER

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From: Beverley McGarvey <[REDACTED]>
Sent: Friday, November 18, 2022 3:47 pm
To: Nick Fordham <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>
Subject: LW

Hi Nick,

Here you go, amendment as discussed.

Can you let me know when she wants to tell Chris, she is with him now, can she tell him and Tamara only so they can prepare for Sunday - I presume she will do it at the end of the show?

Also, we presume Lisa will want to tell her co-hosts on Sunday afternoon?

We can tell Tamara and Chris if she prefers and her co-hosts, but we think she would want to do that herself?

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Beverley McGarvey
 EVP & Chief Content Officer, Paramount ANZ
 [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009

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21 November 2022

PRIVATE AND CONFIDENTIAL

Lisa Wilkinson



Dear Lisa

EMPLOYMENT AGREEMENT – VARIATION 2022

I refer to your employment agreement with Network Ten Pty Limited (**TEN**) dated 12 July 2021 (**Employment Agreement**).

I confirm that agreement has been reached to vary the terms of the Employment Agreement as set out below effective on and from Monday 21st November 2022. Capitalised terms used below that are defined in the Employment Agreement have the same meanings below.

VARIATION TO EMPLOYMENT AGREEMENT

1. Other than the Interview Programs referred to below, the Employee will not be required to carry out the duties or otherwise provide the Services set out in Schedule 1 of the Employment Agreement.
2. The Employee will only be required to present and provide associated services for up to three (3) interview special programs (**Interview Programs**) per annum for the remainder of the Term of the Employment Agreement.
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6. Apart from the agreed variations set out above, all other provisions of the Employment Agreement remain the same and in force until 31 December 2024.






7. TEN agrees to release a joint statement which will be approved by both TEN and the Employee. The Employee will have the right to announce her exit from The Project and new role on Network TEN on The Project.

Would you please confirm that this letter sets out all of the agreed terms of variation to your Employment Agreement by signing and dating in the place indicated below.

Best regards

Beverley McGarvey

EVP & Chief Content Officer, Paramount ANZ

Agreement confirmed:

Lisa Wilkinson

Lisa Wilkinson

Date: 14/12/2022



LW Employment Variation letter - re-execution

From: Stuart Thomas <[REDACTED]>
To: Beverley McGarvey <[REDACTED]>
Cc: Ruby Taylor <[REDACTED]>
Date: Thu, 02 Feb 2023 16:09:26 +1100
Attachments: N10 LW Employment Agt Variation 2022[9][23].pdf (454.69 kB)

Hi Beverley

You may recall that, last year, you signed the letter of variation that confirms LW's new employment arrangements post-Project.

Since signing that letter, LW's agent has made a (relatively) minor amendment to the variation letter by extending the requirement that N10 will arrange and pay for business class international travel so that the requirement also applies to domestic travel. The amendment is shown below:

- * The provisions relating to Travel and Accommodation (clause 8) will cease to apply, but TEN agrees to arrange, book and pay for all return Business Class travel for the Employee from any location internationally and/or domestically to the production location of each Interview Program.

Attached is the amended letter, signed by Lisa.

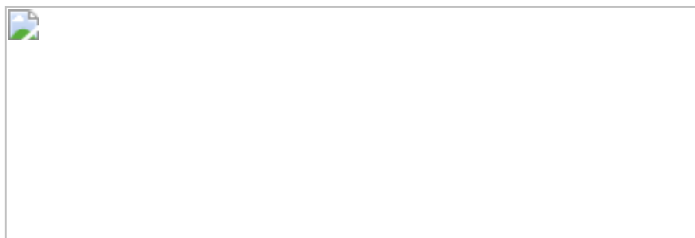
If you are happy with this amendment, would you please counter-sign the amended letter?

Thanks

Stuart Thomas

VP Legal & Corporate Affairs

[REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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21 November 2022

PRIVATE AND CONFIDENTIAL

Lisa Wilkinson



Dear Lisa

EMPLOYMENT AGREEMENT – VARIATION 2022

I refer to your employment agreement with Network Ten Pty Limited (**TEN**) dated 12 July 2021 (**Employment Agreement**).

I confirm that agreement has been reached to vary the terms of the Employment Agreement as set out below effective on and from Monday 21st November 2022. Capitalised terms used below that are defined in the Employment Agreement have the same meanings below.

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7. TEN agrees to release a joint statement which will be approved by both TEN and the Employee. The Employee will have the right to announce her exit from The Project and new role on Network TEN on The Project.

Would you please confirm that this letter sets out all of the agreed terms of variation to your Employment Agreement by signing and dating in the place indicated below.

Best regards

Beverley McGarvey

EVP & Chief Content Officer, Paramount ANZ

Agreement confirmed:

Lisa Wilkinson

Lisa Wilkinson

Date: 14/12/2022



Re: LW

From: Stuart Thomas <[REDACTED]>
To: Giorgia Taylor <[REDACTED]>
Date: Fri, 03 Feb 2023 12:12:10 +1100
Attachments: N10 LW Employment Agt Variation 2022923.pdf (478.43 kB)

Thanks for the follow-up, Giorgia

Attached, as requested, is the variation letter now signed by Beverley for N10.

Regards

Stuart Thomas
VP Legal & Corporate Affairs
[REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Giorgia Taylor <[REDACTED]>
Date: Thursday, 2 February 2023 at 11:47 am
To: Stuart Thomas <[REDACTED]>
Subject: Re: LW

Hi Stuart,

Trust this email finds you well. Hope you had a wonderful holiday period and you've had a nice return to the NY.

Following on from the below, I was wondering if you could please send through the signed copy of Lisa's addendum now?

Look forward to hearing from you.

Kind regards,

Giorgia

THE
FORDHAM
COMPANY

GIORGIA TAYLOR
Agent
13-15 Little Burton Street
DARLINGHURST NSW 2010 AUSTRALIA
[REDACTED]

www.thefordhamcompany.com.au



From: Giorgia Taylor <[REDACTED]>
Date: Tuesday, 20 December 2022 at 6:25 pm
To: Stuart Thomas <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Subject: Re: LW

Thanks Stuart,

Wishing you a wonderful holiday break.

Look forward to connecting in the New Year.

Kind regards,

Giorgia



GIORGIA TAYLOR (nee. Watts)
Agent
13-15 Little Burton Street
DARLINGHURST NSW 2010 AUSTRALIA
[REDACTED]

www.thefordhamcompany.com.au



From: Stuart Thomas <[REDACTED]>
Date: Tuesday, 20 December 2022 at 8:58 am
To: Giorgia Taylor <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Subject: Re: LW

Hi Georgia

Just to let you know that Beverley left the office last week on annual leave, returning in the new year.

We can pick up her signature then.

Cheers

Stuart Thomas
VP Legal & Corporate Affairs
[REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009

 Image removed by sender.

*Paramount acknowledges the Australian Aboriginal and Torres Strait
Islander peoples as the first people of the nation and the traditional
custodians of the lands where we live, learn and work.*

||

From: Giorgia Taylor <[REDACTED]>
Date: Thursday, 15 December 2022 at 11:47 am
To: Stuart Thomas <[REDACTED]>

Cc: Nick Fordham <[REDACTED]>
Subject: Re: LW

Hi Stuart,

Sincere apologies for the delay getting this through to you.

Please find attached a signed copy of the addendum to Lisa's employment agreement.

Please note, we have made one change to clause 4 which now includes domestic travel.

Could you please return a fully executed version of the agreement at your earliest convenience?

Look forward to hearing from you.

Kind regards,

Georgia



GIORGIA TAYLOR (nee. Watts)
 Agent
 13-15 Little Burton Street
 DARLINGHURST NSW 2010 AUSTRALIA

www.thefordhamcompany.com.au



From: Nick Fordham <[REDACTED]>
Date: Friday, 2 December 2022 at 5:14 pm
To: Stuart Thomas <[REDACTED]>
Cc: Georgia Taylor <[REDACTED]>
Subject: Re: LW

Hi Stuart,

If it remains the same structure, let's just leave it as it is. Lisa will obviously be mindful of her reduced television appearances so will certainly not abuse the privilege.

We will execute the current version and return it on Monday.

Regards,

Nick

NICK FORDHAM
 CHIEF EXECUTIVE OFFICER
 THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 2 Dec 2022, at 2:50 pm, Stuart Thomas <[REDACTED]> wrote:

Hi Nick

I can confirm that the proposed reduction of the wardrobe allowance from \$100k to \$40k per annum is uncontroversial.


I note that, as provided in clause 7(i), clothing and/or accessories purchased remain the property of N10 and will need to remain on N10 premises. You will appreciate that this requirement is to ensure that neither N10 nor Lisa is in breach of applicable taxation law requirements. Accordingly, this requirement will continue to apply prospectively such that, practically, reimbursement for clothing and accessories will occur following delivery of those purchases to N10's wardrobe department for custodianship (and, as required, internal and external audit).

Cheers

Stuart Thomas

VP Legal & Corporate Affairs

1 Saunders Street Pyrmont, Sydney, NSW 2009

 Image removed by sender.

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From: Nick Fordham <[REDACTED]>
Date: Monday, 28 November 2022 at 5:06 pm
To: Stuart Thomas <[REDACTED]>
Cc: Beverley McGarvey <[REDACTED]>, Gorgia Taylor <[REDACTED]>
Subject: Re: LW

Hi Stuart,

Apologies for the delay.

I have been thinking the best way to approach this and was going to suggest just reducing the amount from 100K to 40K per annum. Lisa of course still wants to utilise the benefits under her contract but in view of the reduced role, could you please confirm you and Bev are comfortable with this? I can then amend and send back to you for final approval.

Regards

Nick

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 CHIEF EXECUTIVE OFFICER

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On 23 Nov 2022, at 2:34 pm, Stuart Thomas <[REDACTED]> wrote:

Thanks Nick

Would you like to suggest amendments to the section on Wardrobe (copied below) so that it reflects Lisa's request, and I can then confirm internally ?

5. The provisions relating to Wardrobe (clause 7) will continue to apply, noting that the Employee will arrange her own clothing and accessories for the production of any Interview Program using the clothing allowance contemplated in clause 7(f).

Regards

Stuart Thomas

On 22 Nov 2022, at 1:02 pm, Nick Fordham <[REDACTED]> wrote:

Hi Stuart,

This all looks fine although we would like to further clarify the wardrobe component moving forward. There is obviously a requirement for this clothing to be used on air and as that has been reduced, Lisa doesn't want to lose the benefit.

Lisa certainly doesn't want to be difficult but would like to see how we can come to an agreement on how to handle this moving forward.

Can we please connect on this or maybe have Lisa's accountant chat to your finance department.

Everything else is fine.

Regards,

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

From: Stuart Thomas <[REDACTED]>
Sent: Monday, November 21, 2022 4:06 pm
To: Nick Fordham <[REDACTED]>
Cc: Beverley McGarvey <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Subject: Re: LW

Afternoon Nick

As anticipated last week, I have formalised the agreement that was reached last week in the attached letter agreement signed by Beverley on behalf of N10.

Would you please arrange for Lisa to sign and date a copy of the letter, and then return a copy to me (pdf only is fine)?

Thanks

Stuart Thomas
VP Legal & Corporate Affairs
[REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

 Image removed by sender.

Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Date: Friday, 18 November 2022 at 5:40 pm
To: Stuart Thomas <[REDACTED]>
Cc: Beverley McGarvey <[REDACTED]>, Georgia Taylor <[REDACTED]>
Subject: Re: LW

Thank you Stuart.

Regards,

Nick

NICK FORDHAM
 CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY

www.thefordhamcompany.com.au

On 18 Nov 2022, at 5:01 pm, Stuart Thomas <[REDACTED]> wrote:

Thanks Nick

Both parties can rely on this email exchange to confirm that agreement has been reached on the following terms effective on and from Monday 21st November 2022 (noting that the last day for provision of services on The Project is Sunday 20th February 2022).

VARIATION TO EMPLOYMENT AGREEMENT

1. Other than the Interview Programs referred to below, the Employee will not be required to carry out the duties or otherwise provide the Services set out in Schedule 1.
2. The Employee will only be required to present and provide associated services for up to three (3) interview special programs (***Interview Programs***) per annum for the remainder of the Term of the Employment Agreement.
3. For each Interview Program, the selection of the interview subject and topic, producer and other production elements will be subject to agreement between TEN and the Employee.
4. The provisions relating to Travel and Accommodation (clause 8) will cease to apply, but TEN agrees to arrange, book and pay for all return Business Class travel for the Employee from any location internationally to the production location of each Interview Program.
5. The provisions relating to Wardrobe (clause 7) will continue to apply, noting that the Employee will arrange her own clothing and accessories for the production of any Interview Program using the clothing allowance contemplated in clause 7(f).
6. Apart from the agreed variations set out above, all other provisions of the Employment Agreement remain the same and in force until 31 December 2024.

7. TEN agrees to release a joint statement which will be approved by both TEN and the Employee. The Employee will have the right to announce her exit from The Project and new role on Network TEN on The Project.

In the interests of good housekeeping, I will drop this text onto N10's letterhead on Monday and we can then arrange signatures by Beverley and Lisa.

Cheers

Stuart Thomas

VP Legal & Corporate Affairs

1 Saunders Street Pyrmont, Sydney, NSW 2009

 Image removed by sender.

Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

||

From: Nick Fordham <[REDACTED]>
Date: Friday, 18 November 2022 at 4:53 pm
To: Beverley McGarvey <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>, Giorgia Taylor <[REDACTED]>
Subject: Re: LW

Hi Bev,

Many thanks for sending this through and being so supportive in getting all of this done.

All good from our end. We are in agreement.

Stuart, do we need to sign anything or is this correspondence sufficient? Guided by you.

I believe Lisa is going to connect with Chris tomorrow and catch up Sunday morning. Lisa is also going to email you tomorrow, so you are across what she is planning to say. I have read a draft and it is very straight forward.

Have a lovely weekend and chat if needed.

Regards,

Nick

NICK FORDHAM
 CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY

www.thefordhamcompany.com.au

From: Beverley McGarvey <[REDACTED]>
Sent: Friday, November 18, 2022 3:47 pm
To: Nick Fordham <[REDACTED]>

Cc: Stuart Thomas <[REDACTED]>
Subject: LW

Hi Nick,

Here you go, amendment as discussed.

Can you let me know when she wants to tell Chris, she is with him now, can she tell him and Tamara only so they can prepare for Sunday - I presume she will do it at the end of the show?


Also, we presume Lisa will want to tell her co-hosts on Sunday afternoon?

We can tell Tamara and Chris if she prefers and her co-hosts, but we think she would want to do that herself?

VARIATION TO EMPLOYMENT AGREEMENT

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Beverley McGarvey
 EVP & Chief Content Officer, Paramount ANZ
 [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009

 Image removed by sender.

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21 November 2022

PRIVATE AND CONFIDENTIAL

Lisa Wilkinson



Dear Lisa

EMPLOYMENT AGREEMENT – VARIATION 2022

I refer to your employment agreement with Network Ten Pty Limited (**TEN**) dated 12 July 2021 (**Employment Agreement**).

I confirm that agreement has been reached to vary the terms of the Employment Agreement as set out below effective on and from Monday 21st November 2022. Capitalised terms used below that are defined in the Employment Agreement have the same meanings below.

VARIATION TO EMPLOYMENT AGREEMENT

1. Other than the Interview Programs referred to below, the Employee will not be required to carry out the duties or otherwise provide the Services set out in Schedule 1 of the Employment Agreement.
2. The Employee will only be required to present and provide associated services for up to three (3) interview special programs (**Interview Programs**) per annum for the remainder of the Term of the Employment Agreement.
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6. Apart from the agreed variations set out above, all other provisions of the Employment Agreement remain the same and in force until 31 December 2024.



The Paramount logo, featuring the word "Paramount" in a white, stylized script font on a dark blue background.

7. TEN agrees to release a joint statement which will be approved by both TEN and the Employee. The Employee will have the right to announce her exit from The Project and new role on Network TEN on The Project.

Would you please confirm that this letter sets out all of the agreed terms of variation to your Employment Agreement by signing and dating in the place indicated below.

Best regards

A handwritten signature in black ink, appearing to read "B McGarvey", written over a horizontal line.

Beverley McGarvey

EVP & Chief Content Officer, Paramount ANZ

Agreement confirmed:

A handwritten signature in black ink, appearing to read "Lisa Wilkinson", written over a horizontal line.

Lisa Wilkinson

Date: 14/12/2022

RE: LW Employment Variation letter - re-execution

From: Ruby Taylor <[REDACTED]>
To: Stuart Thomas <[REDACTED]>; Beverley McGarvey <[REDACTED]>
Date: Thu, 02 Feb 2023 17:45:47 +1100
Attachments: N10 LW Employment Agt Variation 2022923.pdf (478.43 kB)

Hi Stuart,

Please find the signed document attached on Bev's behalf.

Thanks,
 Ruby

Ruby Taylor

Executive Assistant to Co-Leads Paramount ANZ

[REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Stuart Thomas <[REDACTED]>
Sent: Thursday, 2 February 2023 4:09 PM
To: Beverley McGarvey <[REDACTED]>
Cc: Ruby Taylor <[REDACTED]>
Subject: LW Employment Variation letter - re-execution

Hi Beverley

You may recall that, last year, you signed the letter of variation that confirms LW's new employment arrangements post-Project.

Since signing that letter, LW's agent has made a (relatively) minor amendment to the variation letter by extending the requirement that N10 will arrange and pay for business class international travel so that the requirement also applies to domestic travel. The amendment is shown below:

- * The provisions relating to Travel and Accommodation (clause 8) will cease to apply, but TEN agrees to arrange, book and pay for all return Business Class travel for the Employee from any location internationally and/or domestically to the production location of each Interview Program.

Attached is the amended letter, signed by Lisa.

If you are happy with this amendment, would you please counter-sign the amended letter?

Thanks

Stuart Thomas

VP Legal & Corporate Affairs

[REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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21 November 2022

PRIVATE AND CONFIDENTIAL

Lisa Wilkinson



Dear Lisa

EMPLOYMENT AGREEMENT – VARIATION 2022

I refer to your employment agreement with Network Ten Pty Limited (**TEN**) dated 12 July 2021 (**Employment Agreement**).

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Would you please confirm that this letter sets out all of the agreed terms of variation to your Employment Agreement by signing and dating in the place indicated below.

Best regards



Beverley McGarvey
EVP & Chief Content Officer, Paramount ANZ

Agreement confirmed:



Lisa Wilkinson
Date: 14/12/2022

Re: CONFIDENTIAL: LW Counselling Sessions

From: [REDACTED]
To: Kathy Fernandez <[REDACTED]>
Cc: Anthony McDonald <[REDACTED]>
Date: Thu, 14 Dec 2023 12:44:33 +1100

Thanks Kathy

You may also want to confirm with Beverley/ Jarrod.

From a legal perspective, my view is that we should approach the question of paid counselling in the same way that we would with any other employee. IE - in the ordinary course.

Regards

Stuart Thomas

On 14 Dec 2023, at 12:41 pm, Kathy Fernandez <[REDACTED]> wrote:

Hi Stuart

Generally for EAP type services we provide an initial 6 sessions, then depending on the circumstances we may extend to 12 sessions.

We don't assess as it's a confidential services to support wellbeing/mental health and there is no issues (I'm assuming) with ability to work.

Thanks

Kathy

Kathy Fernandez
National Health & Wellbeing Manager
[REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

<image001.png>

<image002.png>

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From: Stuart Thomas <[REDACTED]>
Sent: Thursday, December 14, 2023 12:31 PM
To: Kathy Fernandez <[REDACTED]>

Cc: Anthony McDonald <[REDACTED]>
Subject: Re: CONFIDENTIAL: LW Counselling Sessions

Hi Kathy

What would be the approach in the ordinary course?

Presumably, she would be assessed by N10's appointed practitioner (similar to AN) who would then advise whether further counselling sessions are needed ?

Regards

Stuart Thomas

On 14 Dec 2023, at 10:48 am, Kathy Fernandez <[REDACTED]> wrote:

Hi Stuart

N10 has funded counselling sessions for Lisa Wilkison (15 sessions at a cost of \$5,500).

The clinician has asked if N10 will fund additional sessions or if she should ask Lisa to self-fund.

From a legal perspective is there any issues with asking Lisa to self-fund, or do you suggest funding additional sessions during this time due to the current legal cases/media coverage?

Thanks

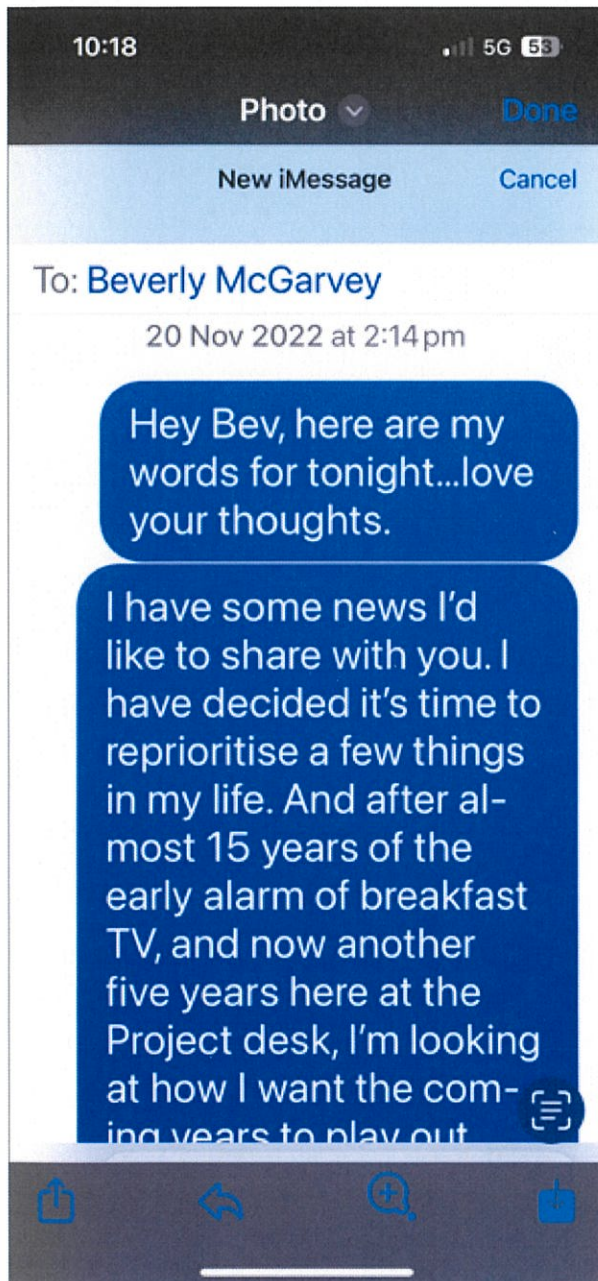
Kathy

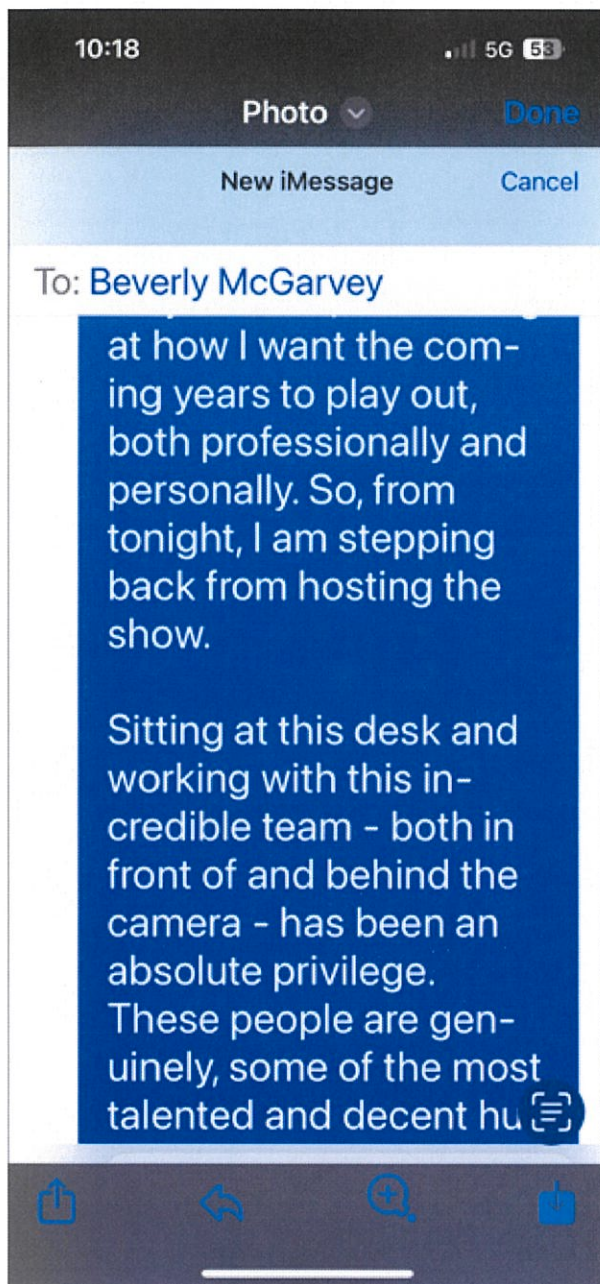
Kathy Fernandez
National Health & Wellbeing Manager
[REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

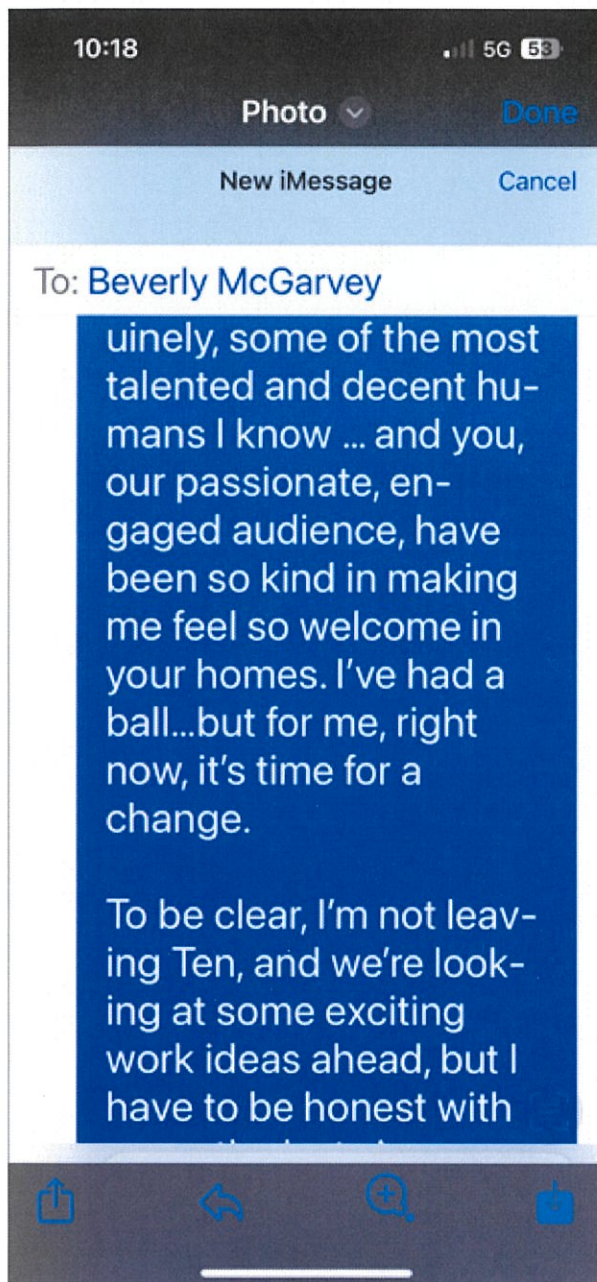
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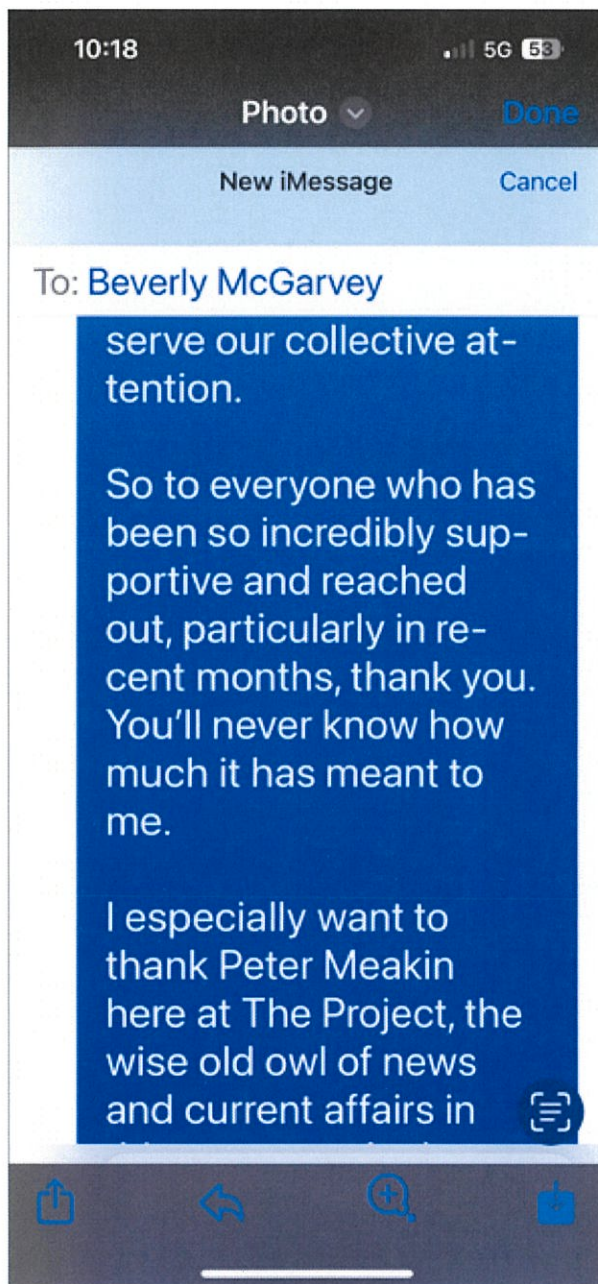
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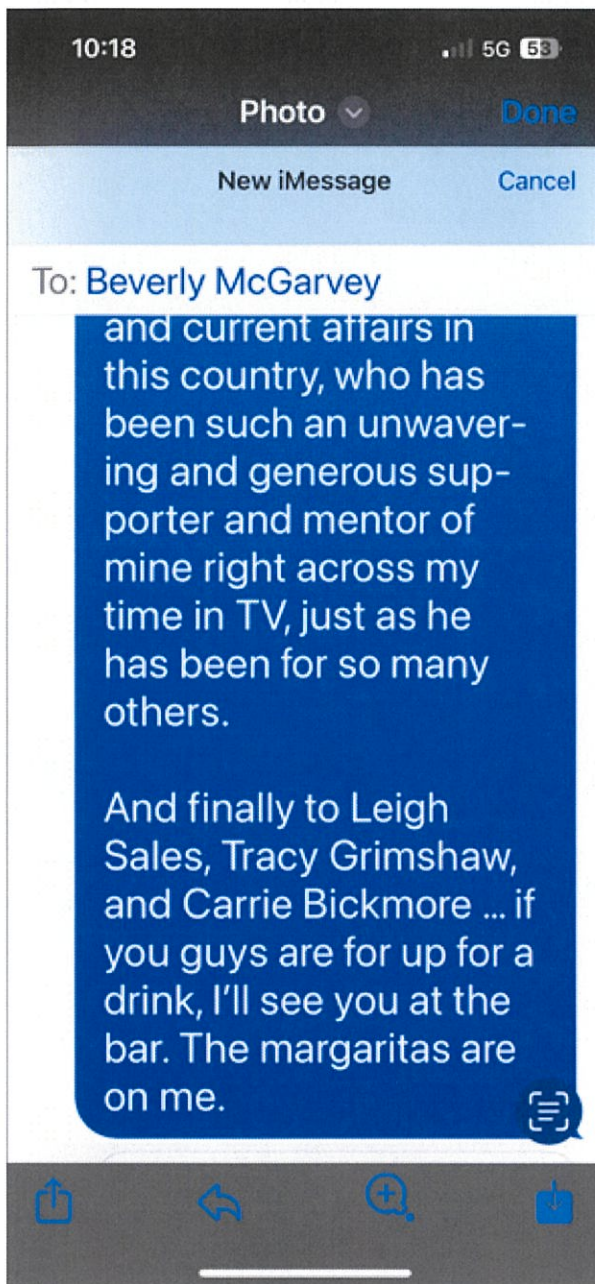




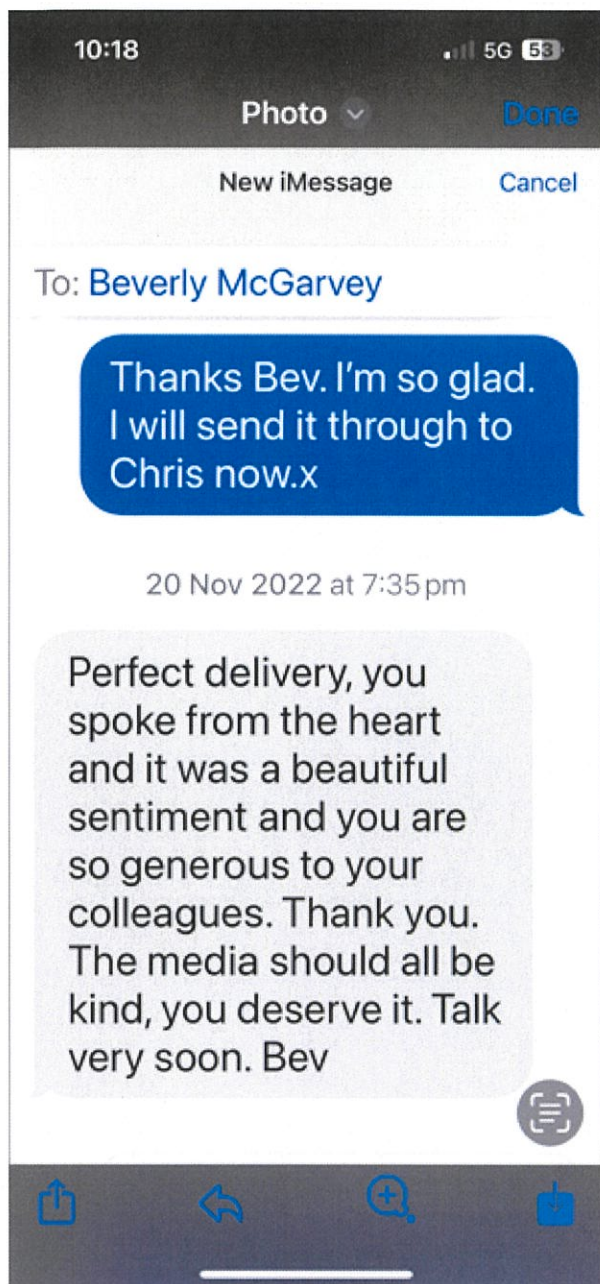


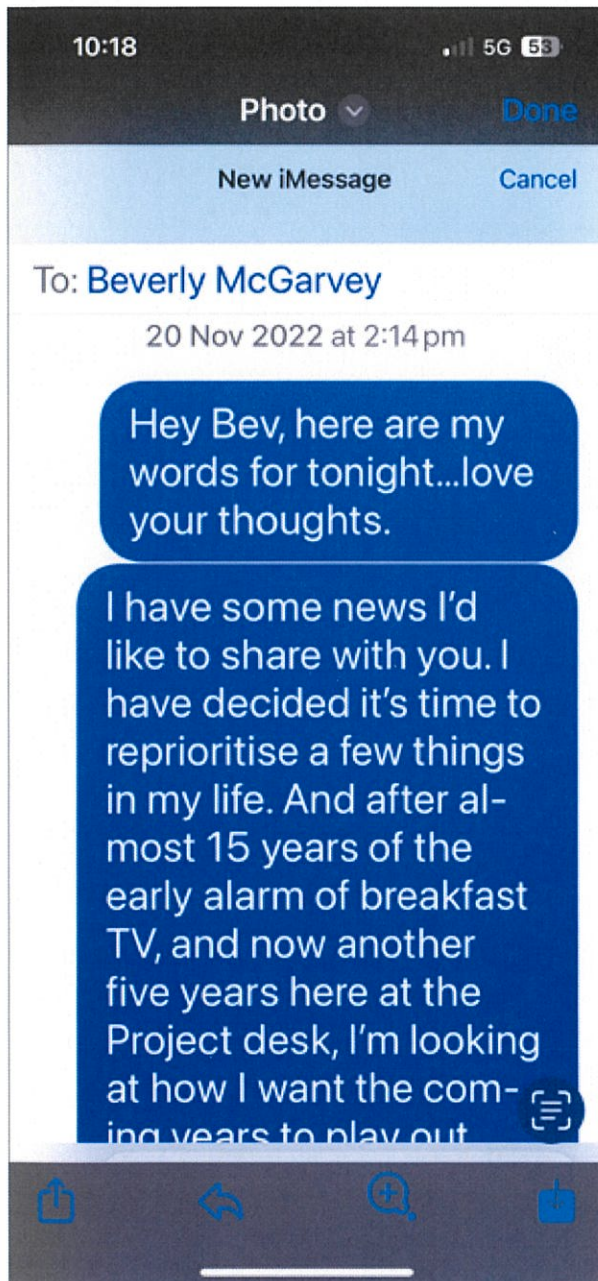


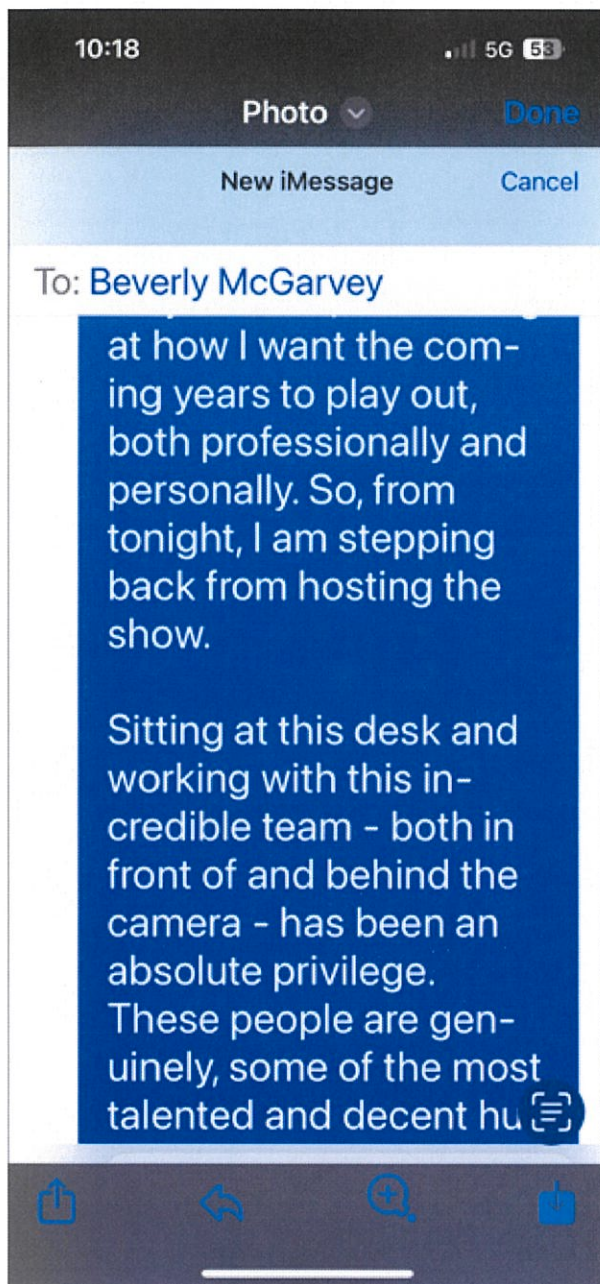


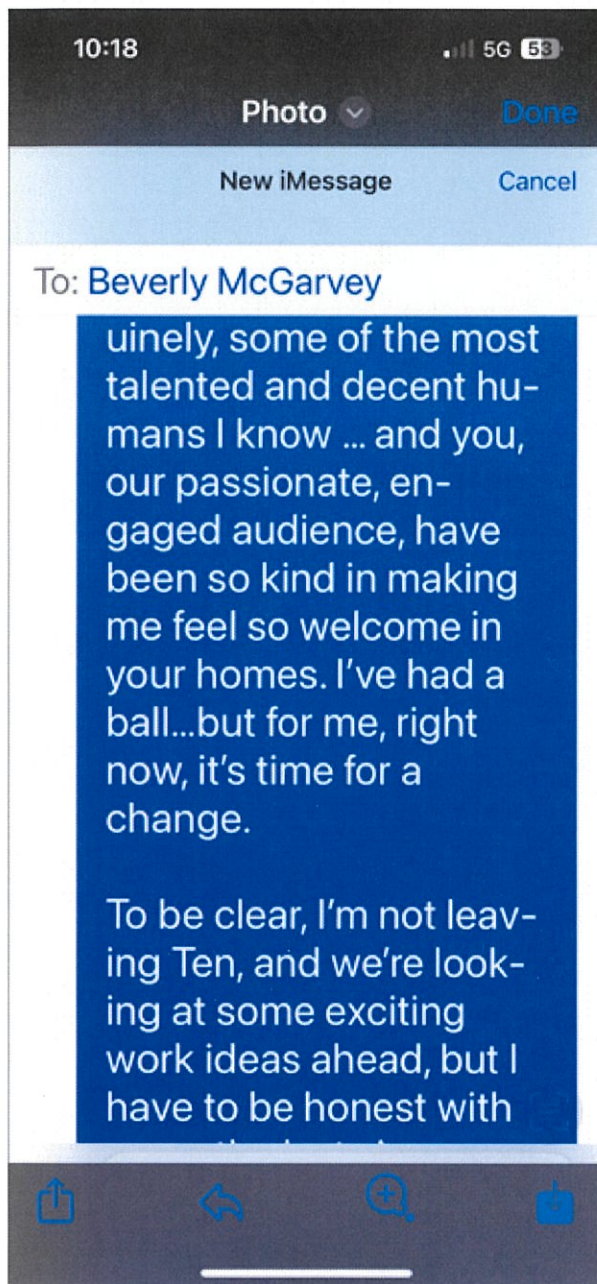


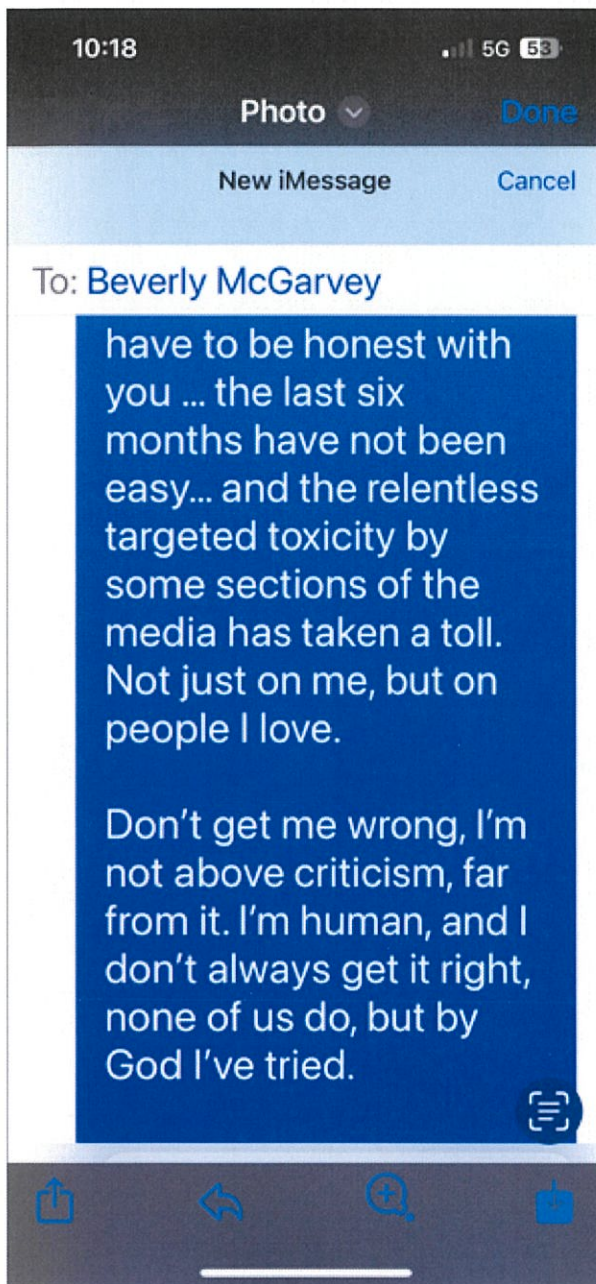


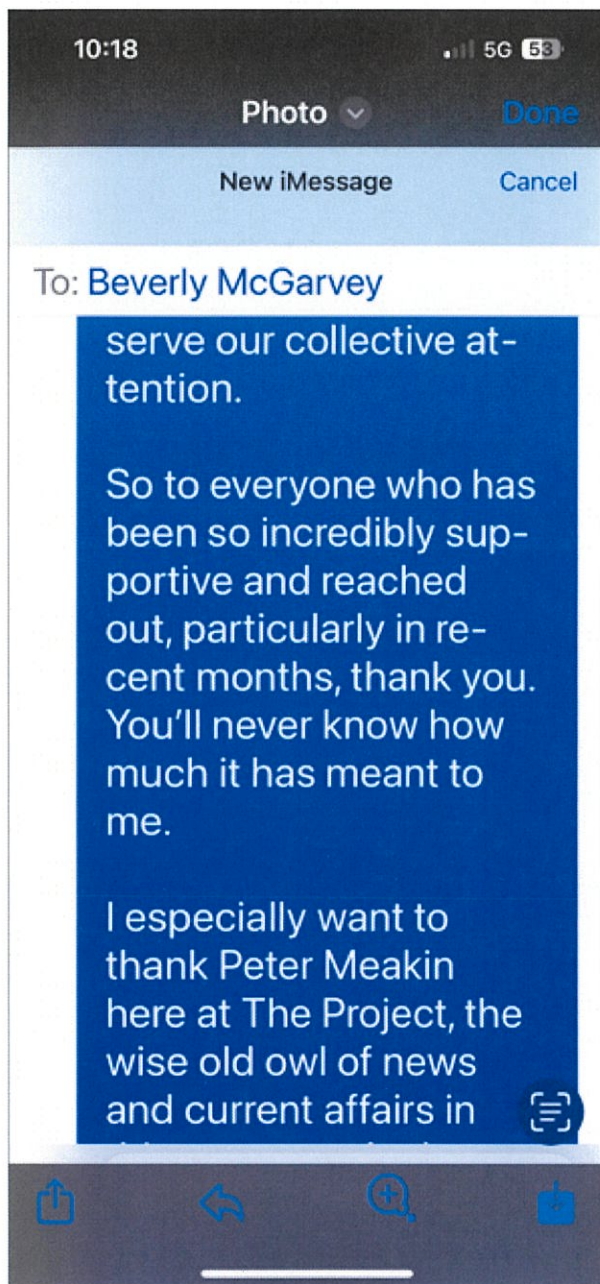


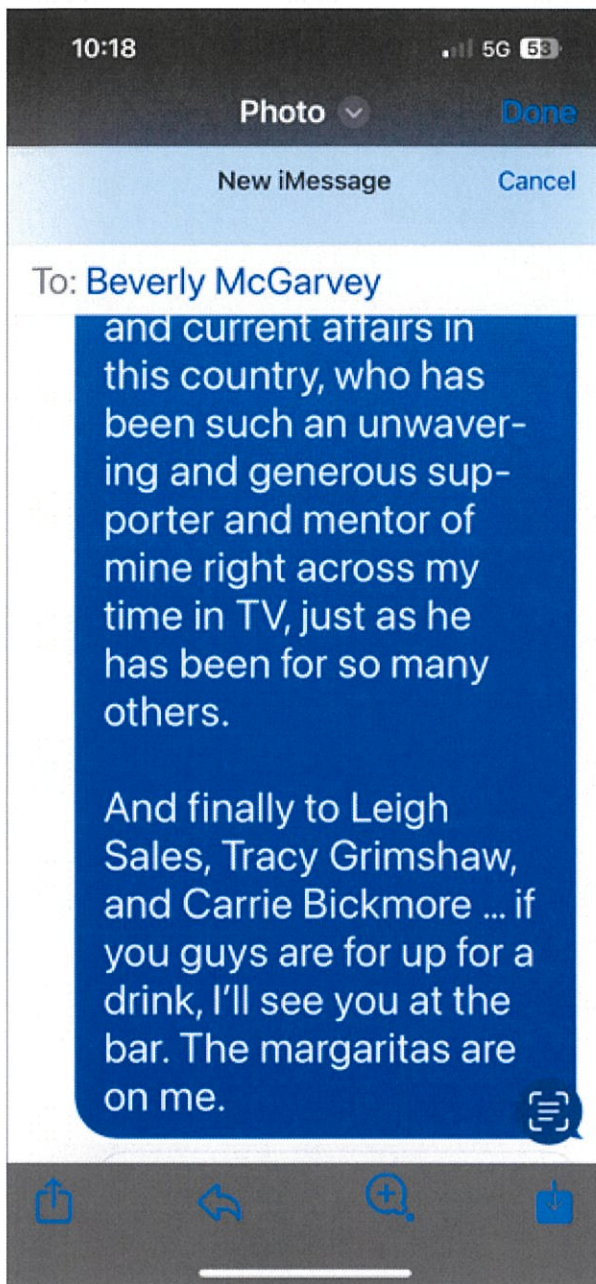


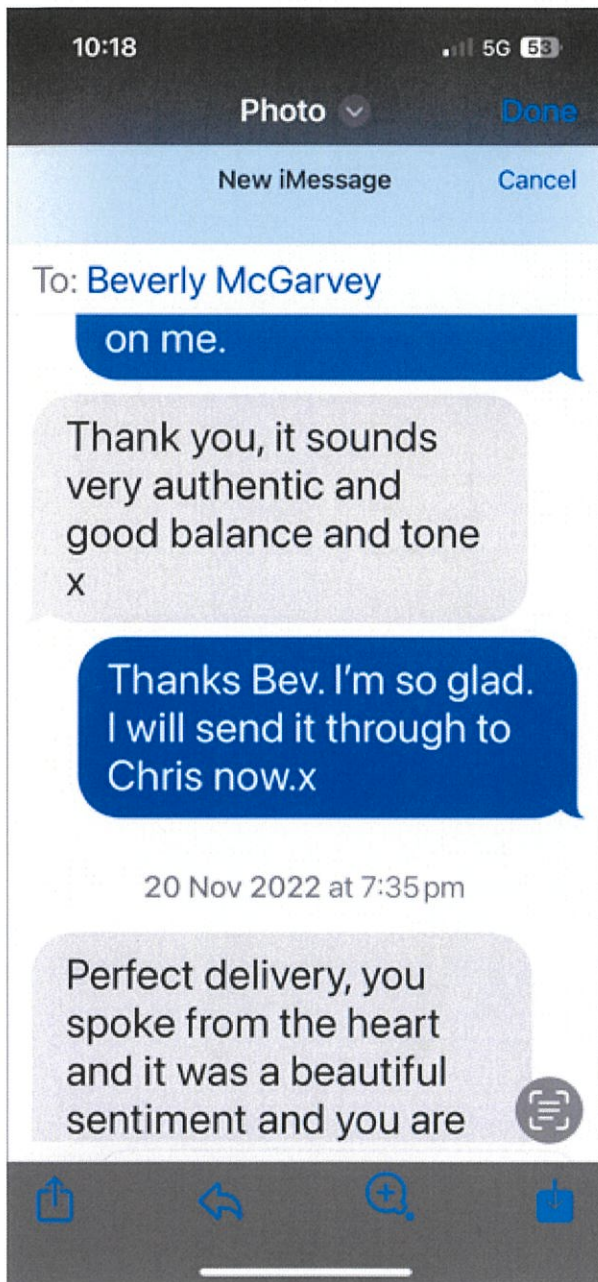


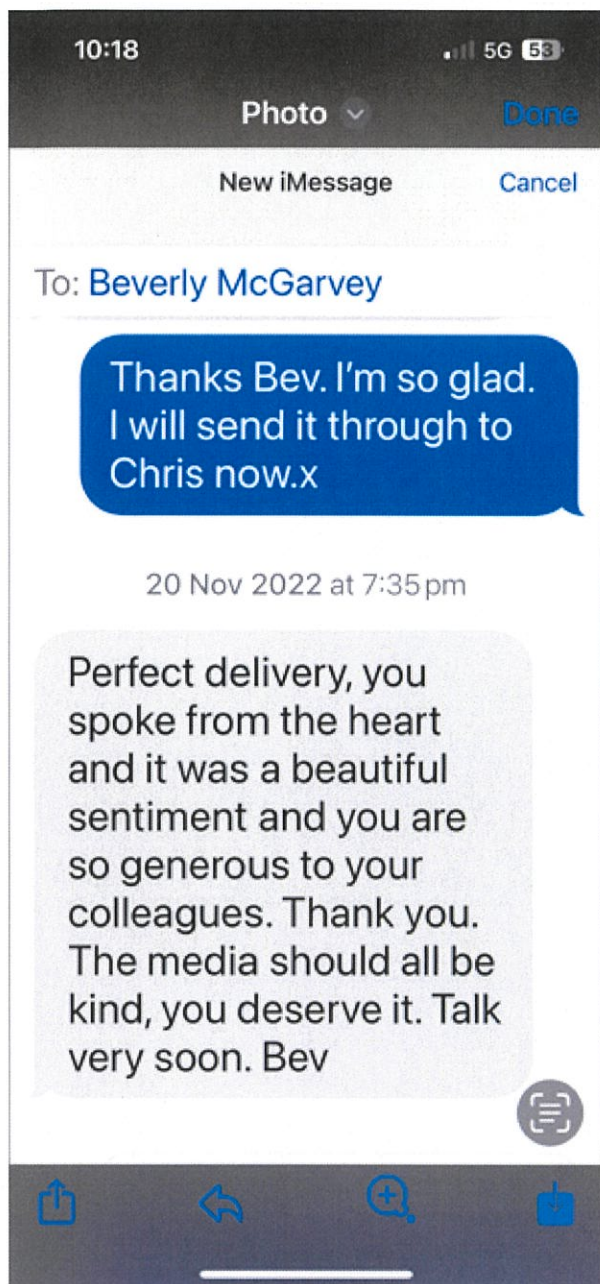














21 November 2022

PRIVATE AND CONFIDENTIAL

Lisa Wilkinson



Dear Lisa

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Would you please confirm that this letter sets out all of the agreed terms of variation to your Employment Agreement by signing and dating in the place indicated below.

Best regards

Beverley McGarvey

EVP & Chief Content Officer, Paramount ANZ

Agreement confirmed:

Lisa Wilkinson

Date:

Brittany Higgins PRIVILEGED AND CONFIDENTIAL

From: Lisa Wilkinson <[REDACTED]>
To: Tasha Smithies - Ten Legal [REDACTED]; Beverly McGarvey [REDACTED];
Nick Fordham <[REDACTED]>; "Saunders, Marlia" [REDACTED]
Date: Thu, 01 Dec 2022 11:06:47 +1100

\~

Dear Tasha,

\~

I have just heard, confidentially, from Brittany Higgins' partner, David Sharaz, that the DPP is making a statement at 10am tomorrow \~ declaring that he has "had advice from two independent medical experts that the life of the complainant in the Bruce Lehrmann case is at serious risk. Whilst the pursuit of justice is vital, the safety of a complainant in a sexual assault matter must be paramount. And so in balancing all factors, it is no longer in the public interest to pursue prosecution at the risk of a complainant's life and I have filed a notice declining to proceed further. That brings this prosecution to an end."

\~

David told me that Brittany is going into hospital today to keep her safe and to escape the media storm this will create.

\~

Can we please have an urgent zoom meeting today at your earliest convenience with invitees restricted to just those in this email, in order to strategise our own situation in regards to the DPP's responsibility to now set the record straight about the fact no warning was given for me not to give that fully-approved and legally-cleared Logies speech.

\~

My thinking is that any statement he makes will no longer put at risk or bring into question any judicial outcome.

\~

Kind regards,

\~

Lisa.

Sent from my iPad

Brittany Higgins PRIVILEGED AND CONFIDENTIAL

From: Lisa Wilkinson <[REDACTED]>
To: Tasha Smithies - Ten Legal <[REDACTED]>; Beverly McGarvey <[REDACTED]>;
Nick Fordham <[REDACTED]>; "Saunders, Marlia" <[REDACTED]>
Date: Thu, 01 Dec 2022 11:06:47 +1100

\~

Dear Tasha,

\~

I have just heard, confidentially, from Brittany Higgins' partner, David Sharaz, that the DPP is making a statement at 10am tomorrow \~ declaring that he has "had advice from two independent medical experts that the life of the complainant in the Bruce Lehrmann case is at serious risk. Whilst the pursuit of justice is vital, the safety of a complainant in a sexual assault matter must be paramount. And so in balancing all factors, it is no longer in the public interest to pursue prosecution at the risk of a complainant's life and I have filed a notice declining to proceed further. That brings this prosecution to an end."

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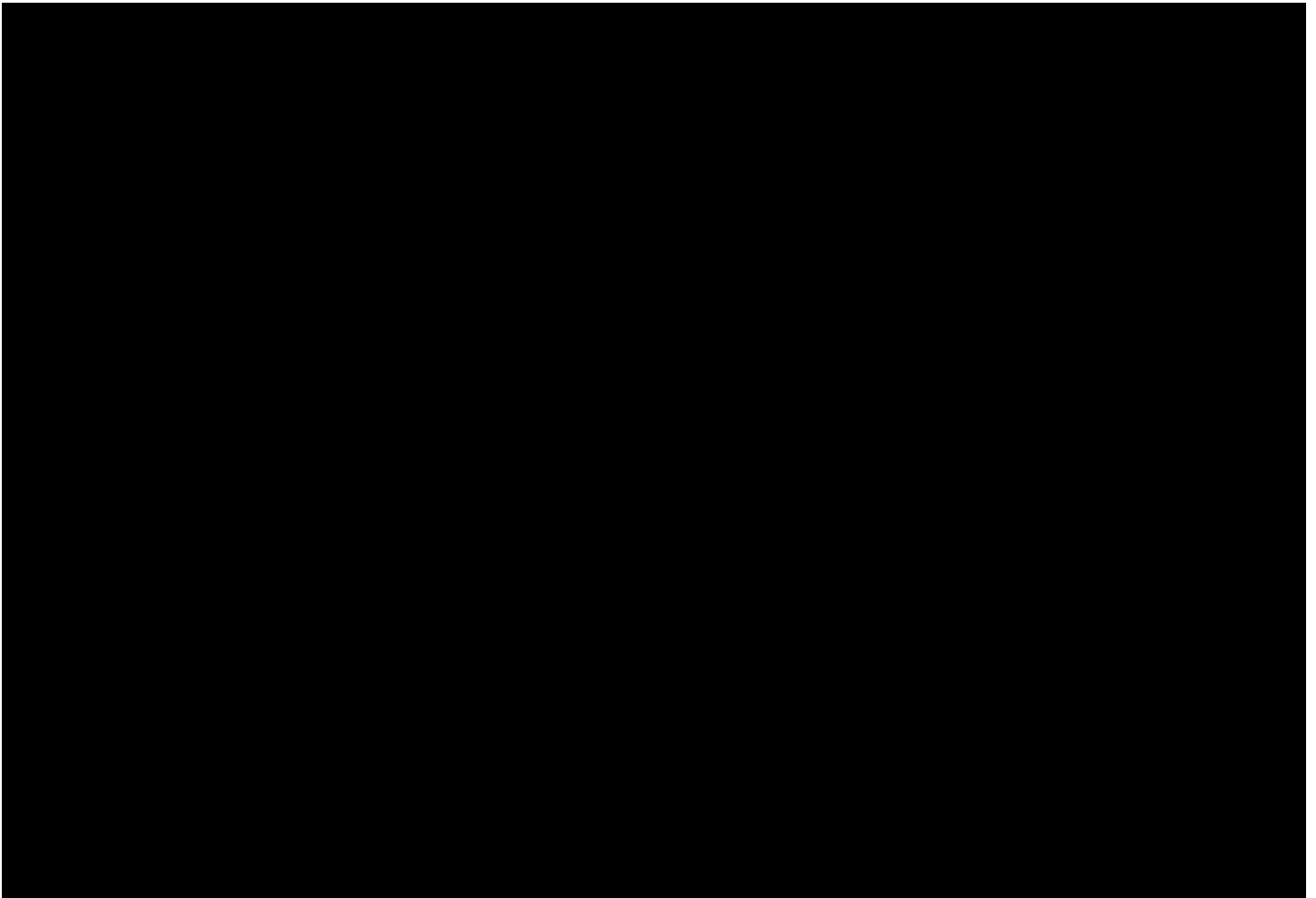
Kind regards,

\~

Lisa.

Sent from my iPad

[EXTERNAL] FW: Brittany Higgins PRIVILEGED AND CONFIDENTIAL



From: Tasha Smithies
Sent: Thursday, December 1, 2022 11:24 AM
To: Marlia Saunders <[REDACTED]>
Subject: FW: Brittany Higgins PRIVILEGED AND CONFIDENTIAL

Hi Marlia,
 When you have a moment, let me know your thoughts on contacting the DPP by phone or email as it would be good to see if he is willing to say something tomorrow or shortly after.
 I will manage internally as we will need a internal PR person and doubt Bev will participate on a call.
 Kind regards,
 Tasha

Tasha Smithies
 Sr Litigation Counsel
 [REDACTED] M + [REDACTED]
 1 Saunders Street Pymont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>
Sent: Thursday, 1 December 2022 11:07 AM
To: Tasha Smithies <[REDACTED]>; Beverley McGarvey <[REDACTED]>; Nick Fordham

<[REDACTED]>; Marlia Saunders <[REDACTED]>
Subject: Brittany Higgins PRIVILEGED AND CONFIDENTIAL

Dear Tasha,

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Kind regards,

Lisa.

Sent from my iPad

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RE: Brittany Higgins PRIVILEGED AND CONFIDENTIAL

From: Tasha Smithies <[REDACTED]>
To: Lisa Wilkinson External <[REDACTED]>; Nick Fordham <[REDACTED]>;
 "Saunders, Marlia" <[REDACTED]>
Cc: Beverley McGarvey <[REDACTED]>
Date: Thu, 01 Dec 2022 12:13:39 +1100
Attachments: Unnamed Attachment (68 bytes)

Hi Lisa,

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Tasha Smithies
 Sr Litigation Counsel

[REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>
Sent: Thursday, 1 December 2022 11:07 AM
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Subject: Brittany Higgins PRIVILEGED AND CONFIDENTIAL

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1 / 12 / 22

Lisa Williamson

T/A Tasha Smithies

Call Leon Zimer 1st

Then call DPP to confirm info is correct
 - affects Tomkinson's application

Would there be opportunity tomorrow to
 refer to LW and the fact no contempt
 proceedings will be pursued?

//

Call Dunninggold

Note press conference has been announced

LW has left job due to media storm that
 has ~~start~~ occurred

Hoping he can address the injustice done.

//

7/12/22

T/A Tasha

Mounting pressure at the moment

FF facing other issues, may not want to do
 anything

* Tim Senior available for
 brief

Mob looking for witnesses
 funded by Bettina Pratt
 & Gina Rinehart
 Sue/Rebekah have
 conflict.

RE: R v Lehrmann - Lisa Wilkinson [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: "Drumgold, Shane" <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}. [REDACTED]>
Date: Tue, 06 Dec 2022 13:58:40 +1100

Dear Mr Drumgold

\~
 Can you please let me know when is a convenient time for a brief discussion regarding my email below?

\~
 Kind regards

\~
Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

[Advice](#) | [Transactions](#) | [Disputes](#)

\~
Please note that our offices will be closed from COB Friday 23 December 2022 and will reopen on Monday 9 January 2023. However, if you require urgent prepublication advice or urgent advice generally, please email prepub@tglaw.com.au. The prepub email address is being constantly monitored. If you need to speak with me, please call my mobile as set out above.

\~
From: Saunders, Marlia
Sent: Thursday, 1 December 2022 6:24 PM
To: 'Drumgold, Shane' <[REDACTED]>
Subject: R v Lehrmann - Lisa Wilkinson [TGLAW-Legal.FID3626446]

\~
 Dear Mr Drumgold

\~
 I refer to our telephone discussion on 24 October 2022 regarding my client, Lisa Wilkinson. On that occasion, we discussed your intention to make a public statement following the resolution of the Lehrmann proceedings to the effect that no contempt of court was committed by Ms Wilkinson and the ODPP has no intention of pursuing contempt charges against her.

\~
 You may be aware that, since that conversation, Ms Wilkinson has left her role on *The Project* due to the unwarranted media attention she has received in connection with these proceedings.

\~
 I note that you will be making a media statement tomorrow at 10am. Without speculating as to what will be said by you during that conference, I request that consideration be given to you also making a statement in relation to Ms Wilkinson during the conference. Ms Wilkinson is very concerned that the injustice she has experienced be addressed at the earliest opportunity.

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 Thank you in advance for your consideration of this request. If you would like to discuss this further, please let me know.

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 Kind regards

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Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

[Advice](#) | [Transactions](#) | [Disputes](#)

\~

R v Lehrmann - Lisa Wilkinson [TGLAW-Legal.FID3626446]

From: "Saunders, Marlia" <[REDACTED]>
To: "Drumgold, Shane" <[REDACTED]>
Bcc: Bruce Lehrmann _General_ _5075953 _ E_Mail <{f3626446}.[REDACTED]>
Date: Thu, 01 Dec 2022 18:23:31 +1100

Dear Mr Drumgold

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Advice | Transactions | Disputes

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From: Lisa Wilkinson <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; "Saunders, Marlia" <[REDACTED]>; Beverley McGarvey <[REDACTED]>; Giorgia - Fordham Watts <[REDACTED]>
Date: Thu, 01 Dec 2022 18:40:36 +1100
Attachments: Unnamed Attachment (68 bytes)

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From: Lisa Wilkinson <[REDACTED]>

Sent: Thursday, 1 December 2022 11:07 AM

To: Tasha Smithies <[REDACTED]>; Beverley McGarvey <[REDACTED]>; Nick Fordham <[REDACTED]>; Marlia Saunders <[REDACTED]>

Subject: Brittany Higgins PRIVILEGED AND CONFIDENTIAL

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To: Lisa Wilkinson <[REDACTED]>; Tasha Smithies <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; Beverley McGarvey <[REDACTED]>; Giorgia - Fordham Watts <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}[REDACTED]>
Date: Thu, 01 Dec 2022 19:28:11 +1100

Hi Lisa

As anticipated, Shane Drumgold didn't answer my call, so I emailed him with the request.
 I had already emailed him prior to receiving your email but confirm that I covered the points you raised.
 I'll let you know if I hear anything back. Fingers crossed!

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

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From: Nick Fordham <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: Lisa Wilkinson <[REDACTED]>; Tasha Smithies <[REDACTED]>; Beverley McGarvey <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Date: Thu, 01 Dec 2022 19:51:45 +1100

Hi Marlia,

Thank you for the update. Could you please share the email you sent Shane?

Many thanks

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 1 Dec 2022, at 7:29 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

\~

As anticipated, Shane Drumgold didn't answer my call, so I emailed him with the request.

\~

I had already emailed him prior to receiving your email but confirm that I covered the points you raised.

\~

I'll let you know if I hear anything back. Fingers crossed!

\~

Kind regards

\~

Marlia

\~

Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

\~

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to speak with me, please call my mobile as set out above.

\~

From: Lisa Wilkinson <[REDACTED]>
Sent: Thursday, 1 December 2022 6:41 PM
To: Tasha Smithies <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; Saunders, Marlia <[REDACTED]>; Beverley McGarvey <[REDACTED]>; Georgia - Fordham Watts <[REDACTED]>
Subject: Re: Brittany Higgins PRIVILEGED AND CONFIDENTIAL

\~

Dear Marlia,

\~

Thanks so much for your time this evening re tomorrow's 10AM announcement from Shane Drumgold regarding the Lehrmann case ending.

\~

As agreed Marlia, if you don't manage to get on to the DPP this evening, could you please ensure the following points are made clear in your follow-up email to Mr Drumgold.

\~

*Our earnest request that he honours his previous two offers to you to correct the public record, making it clear that Lisa Wilkinson was never "warned" not to give that speech, and in so doing right the complete injustice done to Lisa Wilkinson's good name and reputation.

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*That he understands that even since your last communication with him, because of the unprecedented and unrelenting damage done to Lisa Wilkinson's reputation in the six months since the Logies, she has had to resign her role as co-host of The Project.

\~

Many thanks,

\~

Lisa.

Sent from my iPad

On 1 Dec 2022, at 12:13 pm, Tasha Smithies <[REDACTED]> wrote:

Hi Lisa,

The matter is listed for 1.30pm tomorrow – the media (collectively) were informed that it would be a closed Court session and have sought to be heard on that point prior to the listing so they could report on the matter, subject to any suppression orders.

I understood that the plan post trial (or arguably in the event prosecution was discontinued) was for Marlia to call the DPP and remind them of their willingness to correct the record most likely via a statement although Shane Drumgold wanted to think on how he did so. You may also recall from our discussions that whilst we could agitate for this, the exact form or delivery of any such correction may not be in our control, as the DPP will have other considerations to take into account.

Given your discussion with David is confidential, we have no basis to approach the DPP now ie: how do we 'officially' know what is going to happen in Court tomorrow, so we would need to wait until after the hearing for Marlia to call.

I am free until 3.00pm today but have limited availability after until after 6pm. We could also chat tomorrow, I am free from 10.30am. I would also suggest a N10 publicity person participate on the call (in Cat's absence I can see if Anthony is available).

Kind regards,

Tasha

Tasha Smithies

Sr Litigation Counsel

██████████ M ██████████
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Lisa Wilkinson <██████████>

Sent: Thursday, 1 December 2022 11:07 AM

To: Tasha Smithies <██████████>; Beverley McGarvey <██████████>; Nick Fordham <██████████>; Marlia Saunders <██████████>

Subject: Brittany Higgins PRIVILEGED AND CONFIDENTIAL

~

~

~

Dear Tasha,

~

I have just heard, confidentially, from Brittany Higgins' partner, David Sharaz, that the DPP is making a statement at 10am tomorrow~declaring that he has "had advice from two independent medical experts that the life of the complainant in the Bruce Lehrmann case is at serious risk. Whilst the pursuit of justice is vital, the safety of a complainant in a sexual assault matter must be paramount. And so in balancing all factors, it is no longer in the public interest to pursue prosecution at the risk of a complainant's life and I have filed a notice declining to proceed further. That brings this prosecution to an end."

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David told me that Brittany is going into hospital today to keep her safe and to escape the media storm this will create.

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Can we please have an urgent zoom meeting today at your earliest convenience with invitees restricted to just those in this email, in order to strategise our own situation in regards to the DPP's responsibility to now set the record straight about the fact no warning was given for me not to give that fully-approved and legally-cleared Logies speech.

~

My thinking is that any statement he makes will no now longer put at risk or bring into question any judicial outcome.

~

Kind regards,

~

Lisa.

~

Sent from my iPad

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 #####

From: Tasha Smithies
Sent: Friday, December 2, 2022 8:28 AM
To: Lisa Wilkinson External [REDACTED]
Subject: R v Lehmann - Lisa Wilkinson PRIVILEGED & CONFIDENTIAL

Dear Lisa,

Please find a copy below of the email sent my Marlia.

I have spoken to Marlia and we are concerned about ensuring limited dissemination of this email when Marlia is still trying to speak to Shane. I may be mistaken, however, Nick's email seems to imply that this was an option. The basis of our concerns are as follows:

- * Provision of the email will waive privilege over it and possibly other communications with the DPP;
- * At the moment there is an open line of communication with Shane which puts Marlia in a good position to speak to him;
- * He has previously indicated he would consider addressing the matter and wanted to think about how to best to do so;
- * If it was to leak, he and the office of the DPP will feel pressured and undermined and more likely not to do anything;
- * If they feel undermined or pressured they may again consider contempt charges; and
- * It would also likely increase press back lash.

We also hold the view that even if the DPP don't deal with this today, it doesn't close the window for taking action, the DPP can still address it later. Given the announcement today is huge and would be occupying his time, he may want to wait and think about it further. We would be able to follow him up after today.

For the reasons outlined above, it is also neither in Network 10's or your best interest to issue a statement.

Lets see what happens at 10am.

Kind regards,
Tasha

Tasha Smithies
Sr Litigation Counsel
[REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Saunders, Marlia
Sent: Thursday, 1 December 2022 6:24 PM
To: 'Drumgold, Shane' <[REDACTED]>
Subject: R v Lehmann - Lisa Wilkinson [TGLAW-Legal.FID3626446]

Dear Mr Drumgold

I refer to our telephone discussion on 24 October 2022 regarding my client, Lisa Wilkinson. On that occasion, we discussed your intention to make a public statement following the resolution of the Lehmann proceedings to the effect that no contempt of court was committed by Ms Wilkinson and the ODPP has no intention of pursuing contempt charges against her.

You may be aware that, since that conversation, Ms Wilkinson has left her role on *The Project* due to the unwarranted media attention she has received in connection with these proceedings.

I note that you will be making a media statement tomorrow at 10am. Without speculating as to what will be said by you during that conference, I request that consideration be given to you also making a statement in relation to Ms Wilkinson during the conference. Ms Wilkinson is very concerned that the injustice she has experienced be addressed at the earliest opportunity.

Thank you in advance for your consideration of this request. If you would like to discuss this further, please let me know.

Kind regards

Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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 #####

[EXTERNAL] FW: Sms from Lisa

From: Tasha Smithies
Sent: Friday, December 2, 2022 10:03 AM
To: [REDACTED]
Subject: Sms from Lisa

Just tried to call you Tasha. I am shocked by the email sent by Marlia to the DPP. It does not at all address the one central issue that needs addressing and that is that I was never warned in that meeting in June. The contempt issue has been dealt with in the public mind because I was never previously charged. What they don't know is that I was not warned. I need him to address that much repeated accusation that I acted completely recklessly and against his warnings. In plain English. I do not understand why it has not been worded in the way we agreed on that call. And in my email. I feel really badly let down and feel really confused as to how this steps right back from all of our previous correspondence. Another email needs to be immediately sent to specifically address this.

Tasha Smithies
Sr Litigation Counsel
[REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

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RE: Brittany Higgins PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Nick Fordham [REDACTED]
Cc: Lisa Wilkinson [REDACTED]; Tasha Smithies <[REDACTED]>; Beverley McGarvey [REDACTED]; Giorgia Taylor [REDACTED]
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}> [REDACTED]
Date: Fri, 02 Dec 2022 10:17:57 +1100
Attachments: Lisa Wilkinson - Letter to Mr Shane Drumgold SC - October 2022 [REDACTED] (294.12 kB)

Hi all
 ~
 It's disappointing that Shane Drumgold did not refer to Lisa in his statement this morning, but it's also not surprising. It's clear that he wanted to focus on Brittany this morning, and did not want to engage with the media.
 ~
 In my view, the best course is for me to contact him again on Monday for a more detailed discussion about this. If I am unable to get him on the phone, we can send a letter along the lines of the one we drafted in October but didn't send because I spoke to him instead (draft **attached** for ease of reference).
 ~
 It may be the case that I hear from him in the meantime – I'll let you know if I do. Otherwise, I'll keep you updated with my efforts to contact him next week.

Kind regards

~
 Marlia

Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

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On 1 Dec 2022, at 7:29 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

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 As anticipated, Shane Drumgold didn't answer my call, so I emailed him with the request.

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 I had already emailed him prior to receiving your email but confirm that I covered the points you raised.

~
 I'll let you know if I hear anything back. Fingers crossed!

~
 Kind regards

~
 Marlia

Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
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From: Lisa Wilkinson <[REDACTED]>
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 To: Tasha Smithies <[REDACTED]>
 Cc: Nick Fordham <[REDACTED]>; Saunders, Marlia <[REDACTED]>; Beverley McGarvey <[REDACTED]>; Giorgia - Fordham Watts <[REDACTED]>
 Subject: Re: Brittany Higgins PRIVILEGED AND CONFIDENTIAL

Dear Marlia,

Thanks so much for your time this evening re tomorrow's 10AM announcement from Shane Drumgold regarding the Lehrmann case ending.

As agreed Marlia, if you don't manage to get on to the DPP this evening, could you please ensure the following points are made clear in your follow-up email to Mr Drumgold.

*Our earnest request that he honours his previous two offers to you to correct the public record, making it clear that Lisa Wilkinson was never "warned" not to give that speech, and in so doing right the complete injustice done to Lisa Wilkinson's good name and reputation.

*That he understands that even since your last communication with him, because of the unprecedented and unrelenting damage done to Lisa Wilkinson's reputation in the six months since the Logies, she has had to resign her role as co-host of The Project.

Many thanks,

Lisa.

Sent from my iPad

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Hi Lisa,

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I am free until 3.00pm today but have limited availability after until after 6pm. We could also chat tomorrow, I am free from 10.30am. I would also suggest a N10 publicity person participate on the call (in Cat's absence I can see if Anthony is available).

Kind regards,
 Tasha

Tasha Smithies
 Sr Litigation Counsel

[REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>
Sent: Thursday, 1 December 2022 11:07 AM
To: Tasha Smithies [REDACTED]; Beverley McGarvey [REDACTED]; Nick Fordham <[REDACTED]>; Marlia Saunders <[REDACTED]>
Subject: Brittany Higgins PRIVILEGED AND CONFIDENTIAL

~
 ~
 ~
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Dear Tasha,

~

I have just heard, confidentially, from Brittany Higgins' partner, David Sharaz, that the DPP is making a statement at 10am tomorrow~ declaring that he has "had advice from two independent medical experts that the life of the complainant in the Bruce Lehrmann case is at serious risk. Whilst the pursuit of justice is vital, the safety of a complainant in a sexual assault matter must be paramount. And so in balancing all factors, it is no longer in the public interest to pursue prosecution at the risk of a complainant's life and I have filed a notice declining to proceed further. That brings this prosecution to an end."

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Kind regards,

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Lisa.

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Sent from my iPad

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 e-mail. We cannot accept liability for any loss or damage caused by software viruses.
 #####

Level 14, 60 Martin Place
 Sydney NSW 2000 Australia

GPO Box 3909 Sydney NSW 2001

DRAFT

Our ref MS:5142487

18 October 2022

Mr Shane Drumgold SC
 Office of the Director of Public Prosecutions
 Reserve Bank Building
 20-22 London Circuit
 CANBERRA CITY ACT 2601

Dear Mr Drumgold SC

**R v Bruce Lehrmann, Supreme Court of the Australian Capital Territory
 Proceedings No. SCC 264 of 2021**

As you are aware, we act for Lisa Wilkinson.

Our client continues to be extremely concerned about media reports which have criticised her role in the three month delay of the trial in the above proceedings in connection with the Logie Awards speech she gave on 19 June 2022.

It is the strong view of both Ms Wilkinson and Network Ten Senior Litigation Counsel Tasha Smithies that Ms Wilkinson was never specifically warned by you, during your meeting on 15 June 2022 or otherwise, not to give a Logies speech. Their recollection is that your only advice was that Ms Wilkinson could not mention the trial as that could give rise to a stay. Ms Wilkinson took care to ensure that she did not mention the trial, the accused, the charges or even Parliament House in the speech that she gave.

Ms Wilkinson feels that she has been treated unfairly by the Office of the Director of Public Prosecutions in that:

1. she was not given notice that a note of the 15 June 2022 meeting would be tendered in Court in support of an application for a stay of the proceedings;
2. you did not correct the record when her Honour Chief Justice McCallum found at [22] of her judgment: "Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial". This finding has gone on to be reported as a fact by the media that Ms Wilkinson was warned not to give a speech but that she went ahead and gave the speech anyway. It has provided a basis for our client's ethics as a journalist to be strongly and repeatedly criticised. At the height of the publicity has been calls by influential journalists for Ms Wilkinson to be imprisoned for contempt of court;
3. on the afternoon of 22 June 2022, you said to me in a telephone conversation words to the following effect:

"The media have reported that I told her not to give a speech. I didn't say that. All I said was that it was not my role to provide legal advice and it could give rise to an application for a stay."

You said that you felt the need to correct reports that there had been a positive direction from you not to give a speech and that you felt Ms Wilkinson had been poorly treated in the media. You said you would give some thought as to how he could deal with the issue in open court the following day; and

4. the following day, you said nothing in open court to correct the record in this regard.

For four months now, Ms Wilkinson has honoured her commitment to the Court to remain silent on this issue to avoid prejudicing the trial in these proceedings in any way, while her name and reputation have been repeatedly trashed in the media because the record has not been corrected. Now that the trial has concluded, our client respectfully requests that you release a public statement that clarifies the true situation and corrects the public record so that her name and reputation on this issue can be restored. Our client would like the opportunity to review and approve the statement before it is released.

We would be happy to discuss this request with you further if required. We look forward to hearing from you at your earliest convenience.

Yours faithfully
THOMSON GEER

Marlia Saunders
Partner

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■■■■■■■■■■

Re: Brittany Higgins PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

From: Nick Fordham <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: Lisa Wilkinson <[REDACTED]>; Tasha Smithies <[REDACTED]>; Beverley McGarvey <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Date: Mon, 05 Dec 2022 10:00:19 +1100
Attachments: Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes)

Hi Marlia,
 \~
 Appreciate your work on this and efforts last week, greatly appreciated.
 \~
 Look forward to receiving further updates in due course.
 \~
 Regards,
 \~
 Nick
 \~

\~
 **NICK FORDHAM**
 CEO
 13-15 Little Burton Street
 DARLINGHURST NSW 2010
 AUSTRALIA
 [REDACTED]
www.thefordhamcompany.com.au
 si \~  \~ 

\~
 \~

From: "Saunders, Marlia" <[REDACTED]>
Date: Friday, 2 December 2022 at 10:18 am
To: Nick Fordham <[REDACTED]>
Cc: Lisa Wilkinson <[REDACTED]>, Tasha Smithies <[REDACTED]>, Beverly McGarvey <[REDACTED]>, Giorgia Taylor <[REDACTED]>
Subject: RE: Brittany Higgins PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

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In my view, the best course is for me to contact him again on Monday for a more detailed discussion about this. If I am unable to get him on the phone, we can send a letter along the lines of the one we drafted in October but didn't send because I spoke to him instead (draft **attached** for ease of reference).
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Kind regards
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Marlia
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Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
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Tasha

Tasha Smithies
Sr Litigation Counsel
[REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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Dear Tasha,
\~

I have just heard, confidentially, from Brittany Higgins' partner, David Sharaz, that the DPP is making a statement at 10am tomorrow \~declaring that he has "had advice from two independent medical experts that the life of the complainant in the Bruce Lehrmann case is at serious risk. Whilst the pursuit of justice is vital, the safety of a complainant in a sexual assault matter must be paramount. And so in balancing all factors, it is no longer in the public interest to pursue prosecution at the risk of a complainant's life and I have filed a notice declining to proceed further. That brings this prosecution to an end."

\\~

David told me that Brittany is going into hospital today to keep her safe and to escape the media storm this will create.

\\~

Can we please have an urgent zoom meeting today at your earliest convenience with invitees restricted to just those in this email, in order to strategise our own situation in regards to the DPP's responsibility to now set the record straight about the fact no warning was given for me not to give that fully-approved and legally-cleared Logies speech.

\\~

My thinking is that any statement he makes will no longer put at risk or bring into question any judicial outcome.

\\~

Kind regards,

\\~

Lisa.

\\~

Sent from my iPad

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 #####

RE: Brittany Higgins PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Nick Fordham <[REDACTED]>
Cc: Lisa Wilkinson <[REDACTED]>; Tasha Smithies <[REDACTED]>; Beverley McGarvey <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}. [REDACTED]>
Date: Mon, 05 Dec 2022 15:25:38 +1100

Thanks Nick.

I have tried to call Shane Drumgold again today, but he didn't answer. I've left him a voicemail.

I suggest that I try him again tomorrow, and if there is still no response, I will prepare an updated letter to him and circulate it for review and comments.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

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From: Nick Fordham [REDACTED]
Sent: Monday, 5 December 2022 10:00 AM
To: Saunders, Marlia [REDACTED]
Cc: Lisa Wilkinson [REDACTED]; Tasha Smithies [REDACTED]; Beverley McGarvey [REDACTED]; Giorgia Taylor [REDACTED]
Subject: Re: Brittany Higgins PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Hi Marlia,

Appreciate your work on this and efforts last week, greatly appreciated.

Look forward to receiving further updates in due course.

Regards,

Nick

NICK FORDHAM
 CEO
 13-15 Little Burton Street
 DARLINGHURST NSW 2010 AUSTRALIA
www.thefordhamcompany.com.au



From: "Saunders, Marlia" <[REDACTED]>
Date: Friday, 2 December 2022 at 10:18 am

To: Nick Fordham <[REDACTED]>
 Cc: Lisa Wilkinson <[REDACTED]>, Tasha Smithies <[REDACTED]>, Beverly McGarvey <[REDACTED]>, Georgia Taylor <[REDACTED]>
 Subject: RE: Brittany Higgins PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

\~
 Hi all
 \~
 It's disappointing that Shane Drumgold did not refer to Lisa in his statement this morning, but it's also not surprising. It's clear that he wanted to focus on Brittany this morning, and did not want to engage with the media.
 \~
 In my view, the best course is for me to contact him again on Monday for a more detailed discussion about this. If I am unable to get him on the phone, we can send a letter along the lines of the one we drafted in October but didn't send because I spoke to him instead (draft **attached** for ease of reference).
 \~
 It may be the case that I hear from him in the meantime – I'll let you know if I do. Otherwise, I'll keep you updated with my efforts to contact him next week.

\~
 Kind regards

\~
 Marlia

\~
Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tgld@tglaw.com.au

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\~
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 \~

\~

On 1 Dec 2022, at 7:29 pm, Saunders, Marlia [REDACTED] wrote:

\~
 Hi Lisa
 \~
 As anticipated, Shane Drumgold didn't answer my call, so I emailed him with the request.
 \~
 I had already emailed him prior to receiving your email but confirm that I covered the points you raised.
 \~
 I'll let you know if I hear anything back. Fingers crossed!
 \~
 Kind regards

\~
 Marlia

\~
Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tgld@tglaw.com.au

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 \~

From: Lisa Wilkinson <[REDACTED]>
Sent: Thursday, 1 December 2022 6:41 PM
To: Tasha Smithies <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; Saunders, Marlia <[REDACTED]>; Beverley McGarvey <[REDACTED]>; Georgia - Fordham Watts <[REDACTED]>
Subject: Re: Brittany Higgins PRIVILEGED AND CONFIDENTIAL

\~

Dear Marlia,

Thanks so much for your time this evening re tomorrow's 10AM announcement from Shane Drumgold regarding the Lehrmann case ending.

As agreed Marlia, if you don't manage to get on to the DPP this evening, could you please ensure the following points are made clear in your follow-up email to Mr Drumgold.

*Our earnest request that he honours his previous two offers to you to correct the public record, making it clear that Lisa Wilkinson was never "warned" not to give that speech, and in so doing right the complete injustice done to Lisa Wilkinson's good name and reputation.

*That he understands that even since your last communication with him, because of the unprecedented and unrelenting damage done to Lisa Wilkinson's reputation in the six months since the Logies, she has had to resign her role as co-host of The Project.

Many thanks,

Lisa.

Sent from my iPad

On 1 Dec 2022, at 12:13 pm, Tasha Smithies <[REDACTED]> wrote:

Hi Lisa,

The matter is listed for 1.30pm tomorrow – the media (collectively) were informed that it would be a closed Court session and have sought to be heard on that point prior to the listing so they could report on the matter, subject to any suppression orders.

I understood that the plan post trial (or arguably in the event prosecution was discontinued) was for Marlia to call the DPP and remind them of their willingness to correct the record most likely via a statement although Shane Drumgold wanted to think on how he did so. You may also recall from our discussions that whilst we could agitate for this, the exact form or delivery of any such correction may not be in our control, as the DPP will have other considerations to take into account.

Given your discussion with David is confidential, we have no basis to approach the DPP now ie: how do we 'officially' know what is going to happen in Court tomorrow, so we would need to wait until after the hearing for Marlia to call.

I am free until 3.00pm today but have limited availability after until after 6pm. We could also chat tomorrow, I am free from 10.30am. I would also suggest a N10 publicity person participate on the call (in Cat's absence I can see if Anthony is available).

Kind regards,
Tasha

Tasha Smithies
Sr Litigation Counsel

1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Lisa Wilkinson <[REDACTED]>

Sent: Thursday, 1 December 2022 11:07 AM

To: Tasha Smithies <[REDACTED]>; Beverley McGarvey <[REDACTED]>; Nick Fordham <[REDACTED]>; Marlia Saunders <[REDACTED]>

Subject: Brittany Higgins PRIVILEGED AND CONFIDENTIAL

~
~
~
~

Dear Tasha,

~

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Kind regards,

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Lisa.

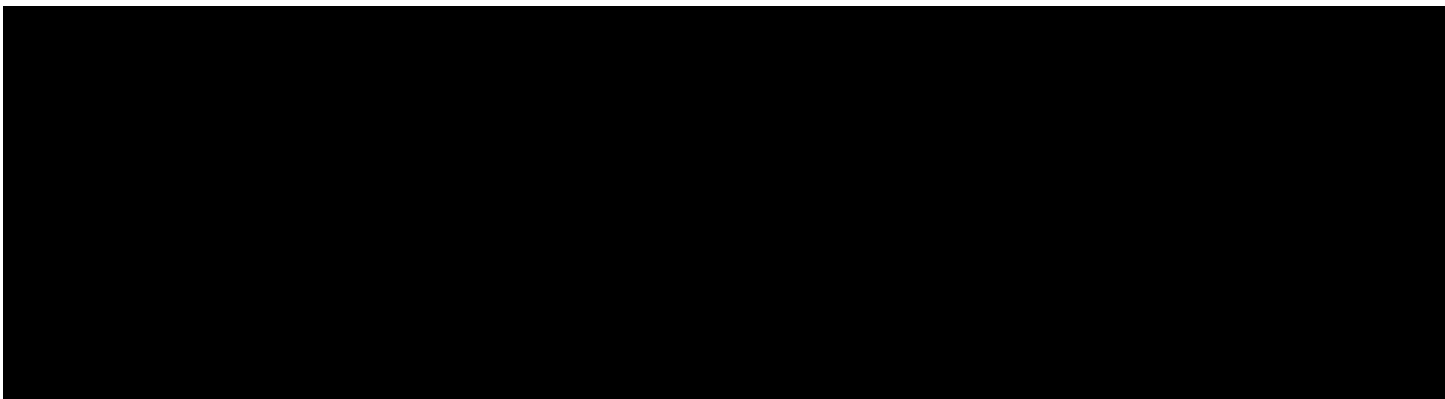
~

Sent from my iPad

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[EXTERNAL] FW: Bruce Lehrmann considers suing Lisa Wilkinson and Channel Ten over Brittany Higgins rape allegations | Daily Mail Online



-----Original Message-----

From: Catherine Donovan <[REDACTED]>

Sent: Tuesday, December 6, 2022 6:12 AM

To: Tasha Smithies <[REDACTED]>; Stuart Thomas <[REDACTED]>; Beverley McGarvey <[REDACTED]>

Subject: Bruce Lehrmann considers suing Lisa Wilkinson and Channel Ten over Brittany Higgins rape allegations | Daily Mail Online

[https://urldefense.com/v3/__https://www.dailymail.co.uk/news/article-11502001/Bruce-Lehrmann-considers-suing-Lisa-Wilkinson-Channel-Ten-Brittany-Higgins-rape-allegations.html__;!!Hj9Y_P0nvg!WJb2EhF70aRcQDwYpHpaCODEOsGoVojYXjJ3V5s7hrwECvizHe-V38FzHDDprw-uZ2b4wDnPYd9DND48W63G1SL5IT37LfZaLMn4\\$](https://urldefense.com/v3/__https://www.dailymail.co.uk/news/article-11502001/Bruce-Lehrmann-considers-suing-Lisa-Wilkinson-Channel-Ten-Brittany-Higgins-rape-allegations.html__;!!Hj9Y_P0nvg!WJb2EhF70aRcQDwYpHpaCODEOsGoVojYXjJ3V5s7hrwECvizHe-V38FzHDDprw-uZ2b4wDnPYd9DND48W63G1SL5IT37LfZaLMn4$)

Sent from my iPhone

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RE: R v Lehrmann - Lisa Wilkinson [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: "Drumgold, Shane" <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}. [REDACTED]>
Date: Tue, 06 Dec 2022 13:58:40 +1100

Dear Mr Drumgold

Can you please let me know when is a convenient time for a brief discussion regarding my email below?

Kind regards

Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

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From: Saunders, Marlia
Sent: Thursday, 1 December 2022 6:24 PM
To: 'Drumgold, Shane' <[REDACTED]>
Subject: R v Lehrmann - Lisa Wilkinson [TGLAW-Legal.FID3626446]

Dear Mr Drumgold

I refer to our telephone discussion on 24 October 2022 regarding my client, Lisa Wilkinson. On that occasion, we discussed your intention to make a public statement following the resolution of the Lehrmann proceedings to the effect that no contempt of court was committed by Ms Wilkinson and the ODPP has no intention of pursuing contempt charges against her.

You may be aware that, since that conversation, Ms Wilkinson has left her role on *The Project* due to the unwarranted media attention she has received in connection with these proceedings.

I note that you will be making a media statement tomorrow at 10am. Without speculating as to what will be said by you during that conference, I request that consideration be given to you also making a statement in relation to Ms Wilkinson during the conference. Ms Wilkinson is very concerned that the injustice she has experienced be addressed at the earliest opportunity.

Thank you in advance for your consideration of this request. If you would like to discuss this further, please let me know.

Kind regards

Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

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Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>
Cc: "Smithies Tasha [REDACTED]" <[REDACTED]>; Nick Fordham
 <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}. [REDACTED]>
Date: Wed, 07 Dec 2022 15:13:46 +1100
Attachments: Bruce Lehrmann's sights on potential targets for defamation action _ The Australian.pdf (2.16 MB)

Hi Lisa

~

You may have seen the article in *The Australian* today (a copy of which is **attached**) which reports on the letter sent to the court on your behalf in July, including the fact you disputed that Shane Drumgold warned you against giving the Logies speech. In the final paragraph, it directly quotes from the letter: "Neither Ms Wilkinson nor the Network Ten Senior Legal Counsel present at the conference with the DPP on 15 June 2022 understood they had been cautioned that Ms Wilkinson giving an acceptance speech at the Logie Awards could result in an application being made to the court to vacate the trial date."

~

This has also been picked up by news.com.au (<https://www.news.com.au/national/nsw-act/courts-law/bruce-lehrmann-hires-top-defamation-lawyer-mark-obrien-amid-potential-legal-action-against-media/news-story/55c591bbf2bdca01a23ac346a2b34f21>).

~

It's great that the messaging is now in the public domain that you were not warned by Mr Drumgold about giving the Logies speech.

~

You will have also seen that Mr Drumgold has been the subject of a lot of scrutiny and criticism since Friday's announcement, including calls for him to resign and speculation that Lehrmann may sue him personally for defamation. It's likely he's under a lot of pressure at the moment, which might explain why he hasn't responded to my voicemail on Monday or my follow up email yesterday.

~

It may be best for us to take a slow and steady approach rather than rushing him given the other issues at play. I suggest that we leave it for a couple of days and I try calling him again at the end of the week. Please let me know if you're happy to take that approach, or if you'd prefer me to draft a formal letter to him now.

~

Let me know if you'd like to discuss.

~

Kind regards

~

Marlia

~

Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

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\~

Kind regards

\~

Marlia

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Marlia Saunders | Partner
THOMSON GEER

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Fwd: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

From: Tasha Smithies <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Date: Thu, 08 Dec 2022 14:07:17 +1100
Attachments: Bruce Lehrmann's sights on potential targets for defamation action _ The Australian.pdf (2.16 MB)

Hi Marlia,

I had a long chat to Lisa yesterday and she is comfortable with a steady approach as you have suggested ie: to wait until later this week to call, then circulate a letter and send it next week. She understands that backing him into a corner will mean a no and that if the press is to be believed he may be unwilling to assist.

She also understands that N10 won't issue a statement as it won't want to antagonise the Office of the DPP, which means we need to take a careful approach to see if we can make this work.

Kind regards,
 Tasha

Tasha Smithies
 Sr Litigation Counsel
 [REDACTED] M~[REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009

Begin forwarded message:

From: Nick Fordham <[REDACTED]>
Date: 8 December 2022 at 1:54:37 pm AEDT
To: "Saunders, Marlia" <[REDACTED]>
Cc: Lisa Wilkinson External <[REDACTED]>, Tasha Smithies <[REDACTED]>
Subject: Re: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

Thank you Marlia.

Hopefully he gets the drift that we will not be backing off until this is done. The sooner he can do it, the better for everyone.

Regards

Nick

NICK FORDHAM
 CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 6 Dec 2022, at 11:14 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

\~

You may have seen the article in *The Australian* today (a copy of which is **attached**) which reports on the letter sent to the court on your behalf in July, including the fact you disputed that Shane Drumgold warned you against giving the Logies speech. In the final paragraph, it directly quotes from the letter: "Neither Ms Wilkinson nor the Network Ten Senior Legal Counsel present at the

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 [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009

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Nick

NICK FORDHAM
 CHIEF EXECUTIVE OFFICER

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\~

Let me know if you'd like to discuss.

\~

Kind regards

\~

Marlia

\~

Marlia Saunders | Partner
THOMSON GEER

Level 14, 60 Martin Place, Sydney NSW 2000 Australia
tglaw.com.au

Advice | Transactions | Disputes

\~

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RE: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Nick Fordham <[REDACTED]>
Cc: Lisa Wilkinson <[REDACTED]>; "Smithies Tasha ([REDACTED])" <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}; [REDACTED]>
Date: Fri, 09 Dec 2022 21:10:15 +1100
Attachments: Lisa Wilkinson - Letter to Mr Shane Drumgold SC - December 2022 (80638607v1).DOCX (293.77 kB)

Privileged & confidential

Dear Lisa
 Please find **attached** a draft letter to Shane Drumgold for your review.
 Please let me know if you have any comments, or would like to have a call to discuss this on Monday.
 Kind regards
 Marlia

Marlia Saunders | Partner
THOMSON GEER

Level 14, 60 Martin Place, Sydney NSW 2000 Australia
tglaw.com.au

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From: Nick Fordham <[REDACTED]>
Sent: Friday, 9 December 2022 6:01 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Lisa Wilkinson <[REDACTED]>; Smithies Tasha ([REDACTED]) <[REDACTED]>
Subject: Re: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

Hi Marlia,
 Just after an update in regards to contacting Drumgold.
 As per the strategy, could you please share the draft letter with us to review this weekend prior to dispatching.
 Look forward to hearing from you.
 Regards,
 Nick

THE
FORDHAM
 COMPANY

NICK FORDHAM
 CEO
 13-15 Little Burton Street
 DARLINGHURST NSW 2010 AUSTRALIA

www.thefordhamcompany.com.au



From: Nick Fordham <[REDACTED]>
Date: Thursday, 8 December 2022 at 1:49 pm
To: "Saunders, Marlia" <[REDACTED]>
Cc: Lisa Wilkinson <[REDACTED]>, Tasha Smithies <[REDACTED]>
Subject: Re: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

~
 Thank you Marlia.

~
 Hopefully he gets the drift that we will not be backing off until this is done. The sooner he can do it, the better for everyone.

~
 Regards

~
 Nick

~
 NICK FORDHAM
 CHIEF EXECUTIVE OFFICER

~
 THE FORDHAM COMPANY

~
www.thefordhamcompany.com.au

~
 ~
 ~

On 6 Dec 2022, at 11:14 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

~
 You may have seen the article in *The Australian* today (a copy of which is **attached**) which reports on the letter sent to the court on your behalf in July, including the fact you disputed that Shane Drumgold warned you against giving the Logies speech. In the final paragraph, it directly quotes from the letter: "Neither Ms Wilkinson nor the Network Ten Senior Legal Counsel present at the conference with the DPP on 15 June 2022 understood they had been cautioned that Ms Wilkinson giving an acceptance speech at the Logie Awards could result in an application being made to the court to vacate the trial date."

~
 This has also been picked up by [news.com.au](https://www.news.com.au/national/nsw-act/courts-law/bruce-lehrmann-hires-top-defamation-lawyer-mark-obrien-amid-potential-legal-action-against-media/news-story/55c591bbf2bdca01a23ac346a2b34f21) (<https://www.news.com.au/national/nsw-act/courts-law/bruce-lehrmann-hires-top-defamation-lawyer-mark-obrien-amid-potential-legal-action-against-media/news-story/55c591bbf2bdca01a23ac346a2b34f21>).

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~
 You will have also seen that Mr Drumgold has been the subject of a lot of scrutiny and criticism since Friday's announcement, including calls for him to resign and speculation that Lehrmann may sue him personally for defamation. It's likely he's under a lot of pressure at the moment, which might explain why he hasn't responded to my voicemail on Monday or my follow up email yesterday.

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 It may be best for us to take a slow and steady approach rather than rushing him given the other issues at play. I suggest that we leave it for a couple of days and I try calling him again at the end of the week. Please let me know if you're happy to take that approach, or if you'd prefer me to draft a formal letter to him now.

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 Let me know if you'd like to discuss.

~
 Kind regards

~
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~
Marlia Saunders | Partner
THOMSON GEER

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 Level 14, 60 Martin Place, Sydney NSW 2000 Australia

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 [REDACTED] | tglaw.com.au

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or distribute this e-mail without the author's permission. We have taken precautions to minimise the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this e-mail. We cannot accept liability for any loss or damage caused by software viruses.

#####

Level 14, 60 Martin Place
 Sydney NSW 2000 Australia

GPO Box 3909 Sydney NSW 2001

DRAFT

Our ref MS:5142487

12 December 2022

Mr Shane Drumgold SC
 Office of the Director of Public Prosecutions
 Reserve Bank Building
 20-22 London Circuit
 CANBERRA CITY ACT 2601

Dear Mr Drumgold SC

**R v Bruce Lehrmann, Supreme Court of the Australian Capital Territory
 Proceedings No. SCC 264 of 2021**

As you are aware, we act for Lisa Wilkinson.

As we have previously conveyed to you on a number of occasions, our client continues to be extremely concerned about media reports which have criticised her role in the three month delay of the trial in the above proceedings in connection with the Logie Awards speech she gave on 19 June 2022.

It is the strong view of both Ms Wilkinson and Network Ten Senior Litigation Counsel Tasha Smithies that Ms Wilkinson was never specifically warned by you, during your meeting on 15 June 2022 or otherwise, not to give a Logies speech. Their recollection is that your only advice was that Ms Wilkinson could not mention the trial as that could give rise to a stay. Ms Wilkinson took care to ensure that she did not mention the trial, the accused, the charges or even Parliament House in the speech that she gave.

Despite this, her Honour Chief Justice McCallum found on the basis of a note of the 15 June 2022 meeting (which was tendered in Court without notice to Ms Wilkinson): "*Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial*". This finding has gone on to be reported as a fact by the media that Ms Wilkinson was warned not to give a speech but that she went ahead and gave the speech anyway. It has provided a basis for our client's ethics as a journalist to be strongly and repeatedly criticised. At the height of the publicity has been calls by influential journalists for Ms Wilkinson to be imprisoned for contempt of court.

Ms Wilkinson feels that she has been treated unfairly by the Office of the Director of Public Prosecutions in that:

1. you have not corrected the record in relation to what occurred during the 15 June 2022 meeting by clarifying that there was no positive direction from you to Ms Wilkinson not to give a speech; and
2. you have not publicly confirmed that you do not consider Ms Wilkinson's conduct amounted to contempt and that you will not be pursuing any contempt charges against her.

Now that the prosecution has been withdrawn concluded, there is no reason to prevent these matters being addressed by you. It is imperative that this occurs given the media reports about Ms Wilkinson have not subsided.

Our client respectfully requests that you release a public statement that clarifies the true situation and corrects the public record so that her name and reputation on this issue can be restored. Ms Wilkinson would like the opportunity to review and approve the statement before it is released.

We would be happy to discuss this request with you further if required. We look forward to hearing from you at your earliest convenience.

Yours faithfully
THOMSON GEER

Marlia Saunders
Partner

[Redacted signature block]

DRAFT

RE: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Nick Fordham <[REDACTED]>
Cc: Lisa Wilkinson <[REDACTED]>; "Smithies Tasha ([REDACTED])" <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}; [REDACTED]>
Date: Fri, 09 Dec 2022 21:10:15 +1100
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FORDHAM
 COMPANY

NICK FORDHAM
 CEO
 13-15 Little Burton Street
 DARLINGHURST NSW 2010 AUSTRALIA
 [REDACTED]

www.thefordhamcompany.com.au



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GPO Box 3909 Sydney NSW 2001

DRAFT

Our ref MS:5142487

12 December 2022

Mr Shane Drumgold SC
 Office of the Director of Public Prosecutions
 Reserve Bank Building
 20-22 London Circuit
 CANBERRA CITY ACT 2601

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 Proceedings No. SCC 264 of 2021**

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THOMSON GEER

2

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Yours faithfully
THOMSON GEER

Marlia Saunders
Partner

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■■■■■■■■■■

DRAFT

From: Nick Fordham <[REDACTED]>
Date: Tuesday, 20 December 2022 at 7:42 pm
To: Tasha Smithies <[REDACTED]>
Cc: Giorgia Taylor <[REDACTED]>, Beverley McGarvey
<[REDACTED]>, Lisa Wilkinson External <[REDACTED]>, Saunders, Marlia
<[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

Hi Tasha,

It would seem from your email that you are suggesting that you have now exhausted all avenues and consider we all have to just move on from this. Unfortunately, we are still collectively going to have to continue pursuing this until these matters are properly addressed and dealt with to all of our satisfaction. As a proud journalist with an impeccable track record, this ongoing, blatantly incorrect coverage with its false and often defamatory narratives have cut Lisa to the bone and resulted in incredible damage to her professional and personal reputation. With the likes of Ch 9 and Ch 7 now producing documentaries for Spotlight and Under Investigation, this will no doubt continue until proper action is taken.

The fact is, Lisa was simply performing her duties under her Network Ten contract and was provided clear and unequivocal advice that the Logies speech was legally vetted and approved, and similarly approved by the highest levels of the network's management.

I appreciate that there could be a perception that it may not be in Ten's interest to release a public statement (at this time), but I would still like to continue discussing this as it may be our last resort. All of this can be solved in one statement. Otherwise, the fallout from this will only cause more damage to Lisa's professional reputation and potentially cause future harm to her employment opportunities beyond this current term with Network Ten.

As you would be aware, Ten has a responsibility and also a duty of care to do everything in its power to correct this and continue to support Lisa from an ongoing legal representation perspective.

In respect of Drumgold's conduct and responsibility as a legal professional, I reiterate he has a legal duty to respond to Marlia according to the Legal Profession Conduct Rules and cannot continue to ignore her correspondence. His decision to ignore Marlia's recent communications has left Ten and Lisa with no other option but for Lisa to write to him personally (or Ten potentially releasing a statement). Lisa will highlight this in the correspondence to Drumgold and I confirm that we will run the draft letter past you and Ms Saunders prior to it being dispatched this week.

We are fully cognisant that this is a very difficult and emotional matter that must be addressed, and as such we are most grateful for Ten's support to date and look forward to this continuing until this is all resolved.

Regards,

Nick



NICK FORDHAM
CEO
13-15 Little Burton Street
DARLINGHURST NSW 2010 AUSTRALIA
[REDACTED]
www.thefordhamcompany.com.au

From: Tasha Smithies <[REDACTED]>
Date: Friday, 16 December 2022 at 9:31 am
To: Nick Fordham <[REDACTED]>, Lisa Wilkinson <[REDACTED]>, "Saunders, Marlia" <[REDACTED]>
Cc: Giorgia Taylor <[REDACTED]>, Beverly McGarvey <[REDACTED]>
Subject: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

Thanks Lisa and Nick,

I agree with Marlia that unfortunately there is not much more we can do from a legal perspective and appreciate this is a disappointing outcome for you. Marlia and I don't see any downside to a personal email from Lisa which re-attaches the letter as sent. I suggest you run a draft passed Marlia. My thoughts from a legal perspective on some of the issues raised by you both are below.

Kind regards,
Tasha

- I may have seen the recent Media Watch story through a different lense, however, I thought it was okay (much better than the previous coverage) and didn't have a go at Lisa rather the media reporting of the trial. I also didn't think it attributed to Lisa the National Press Club speech, but properly attributed it to the ABC/Higgins/Tame. It was more of a digest of coverage and views. It also canvassed the difficulties Lehrmann would face if he sued noting that he was not named in The Project Story, the potential defamation issues some that broadcast the speech by Brittany after the jury was discharged and the allegations made by the AFP against the DPP and the DPP against the AFP.
- From a legal perspective Lehrmann doing a sit down interview is preferable to a defamation claim as although he will deny the allegations and have a go at The Project story, that would be what we/public would expect he would do and avoids a lengthy and costly set of court proceedings that would also bring with it more publicity.
- Any attempt to complain about Drumgold or the Office of the DPP (eg a complaint to an Ombudsman) is highly risky from a legal perspective as Drumgold/the Office of the DPP is likely to see it as a personal attack and Drumgold/the Office of the DPP has the power to revisit contempt charges – whilst Drumgold has indicated he wouldn't pursue contempt charges, he (or the Office of the DPP independently of Drumgold) can change their mind and its possible he has received pressure from other sources around why Lisa hasn't been charged with contempt. I don't think this is a course of action we would advise Lisa or N10 to take.

- We would not recommend that N10 make any public statement that challenges or criticises the Office of the DPP as we consider such approach to be inflammatory and viewed publicly as self-serving, with ultimately a counterproductive effect.
- For the reasons outlined above, we also wouldn't recommend Lisa making a statement.
- In relation to a breach of the Professional Conduct Rules, I think the section Nick refers to relates to the conduct of a solicitor in their duty to a client. In any event, I understand the point you are making, however, I don't think we are anywhere near being able to level those type of serious allegations against Drumgold for a number of reasons, the main one being, not enough time has passed, particularly in circumstances where the DPP would say any delay was due to the fact that they have had a number of matters to deal with since announcing not to proceed with a trial (some of which have been canvassed in the press recently), many of which have arguably had a greater urgency than this. Further, such approach has the same legal and PR risks as outlined above.

Tasha Smithies

Sr Litigation Counsel

██████████ M ██████████
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham ██████████
Sent: Thursday, 15 December 2022 7:02 PM
To: Lisa Wilkinson External ██████████; Saunders, Marlia ██████████
Cc: Tasha Smithies ██████████; Giorgia Taylor ██████████; Beverley McGarvey ██████████
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Hi Marlia,

This is most disappointing.

Isn't Drumgold obliged to formally respond to you under 4.1. 3 of the Legal Professionals Conduct Rules? I imagine him continually ignoring you places him in breach of his legal obligations. Are you able to formally remind him of his legal obligations or can we make a formal complaint? Trust he understands we are not going to let this go until it's corrected.

<https://www.legislation.act.gov.au/View/sl/2015-37/current/html/2015-37.html>

Bev, could you please introduce me to Ten's crisis comms company? Unfortunately, it would seem they have been completely non-existent throughout this entire process. We would like to discuss with them the strategy of backgrounding media on this.

In view of Drumgold's breach of the Legal Professionals Conduct Rules, would Ten issue a formal public statement?

I look forward to hearing back and working through this until we get the result we are after.

Regards

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

From: Lisa Wilkinson <[REDACTED]>
Sent: Thursday, December 15, 2022 7:03 am
To: Saunders, Marlia <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; Tasha Smithies <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks Marlia.

That is incredibly disappointing. Are there any suggestions you have on how we move forward and correct the public record on this?

With Lehrmann threatening to sue for defamation, and his much-reported sit-down interview with Channel Seven likely to be filmed in the coming weeks, my name will continue to be dragged unfairly through the mud in all the retelling of this whole saga, as it was, once again on Media Watch just three days ago, which included the allegation that my journalism around the Brittany story was disgraceful, and that I had given a speech at the National Press Club. That is 100% untrue. And again, no-one is doing anything to correct the factual record behind the scenes on any element of the ongoing trashing of my name.

Meantime, would it be possible for me to email Mr Drumgold personally, attaching our letter once again, letting him know how deeply disappointed I am in his actions, the effect it has had on me, and requesting a face to face meeting. Further, is there an Ombudsman we can go to, or a formal complaint we can make to whomever or whichever authority sits above Mr Drumgold?

Kind regards,

Lisa.

Sent from my iPad

On 15 Dec 2022, at 4:11 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

I called Shane Drumgold three times today, once from my mobile and twice from a landline – both times they were quickly diverted to voicemail.

It might be that he's avoiding my calls, either because he is still considering how to respond to our letter or because he doesn't want to take any action at this time given everything else that is going on.

We have sent the letter, but we can't compel him to respond. Unfortunately, there's not much more we can do from a legal perspective at this time.

I'm sorry that this hasn't had a better outcome for you.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

Level 14, 60 Martin Place, Sydney NSW 2000 Australia
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To: Saunders, Marlia <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; Tasha Smithies <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks for the update Marlia.

I am very aware how close we now are to Christmas, so can I request that we get an update on your situation with Drumgold by 4pm today. If there has been no response, I think we need to have a teams meeting at a time convenient to everyone, so we can decide our next steps.

With thanks,

Lisa.

Sent from my iPad

On 15 Dec 2022, at 9:44 am, Saunders, Marlia <[REDACTED]> wrote:

Hi Nick

Unfortunately not.

I will try calling him today.

Cheers

Marlia

Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | [REDACTED]

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From: Nick Fordham <[REDACTED]>

Sent: Thursday, 15 December 2022 9:43 AM

To: Saunders, Marlia <[REDACTED]>

Cc: Tasha Smithies <[REDACTED]>; Lisa Wilkinson

<[REDACTED]>; Georgia Taylor

<[REDACTED]>

Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Hi Marlia,

Just wondering if you have heard Drumgold?

Look forward to hearing from you.

Regards,

Nick

THE
FORDHAM
C O M P A N Y

NICK FORDHAM

CEO

13-15 Little Burton Street

DARLINGHURST NSW 2010 AUSTRALIA

[REDACTED]

www.thefordhamcompany.com.au



From: "Saunders, Marlia" <[REDACTED]>

Date: Tuesday, 13 December 2022 at 11:29 am

To: Nick Fordham <[REDACTED]>, Lisa Wilkinson

<[REDACTED]>

Cc: Tasha Smithies <[REDACTED]>

Subject: RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks all.

I confirm the letter has been sent both by email and post this morning.

Please find the final version **attached**.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

Level 14, 60 Martin Place, Sydney NSW 2000 Australia
| tglaw.com.au

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From: Nick Fordham <[REDACTED]>
Sent: Monday, 12 December 2022 6:20 PM
To: Lisa Wilkinson <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Saunders, Marlia <[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thank you Lisa. Fine by me. Fingers crossed this is sorted in the next week.

NF

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 12 Dec 2022, at 7:05 am, Lisa Wilkinson
<[REDACTED]> wrote:

Dear Marlia,

I am in your hands for the best possible outcome, so please go ahead and send. I am happy with the changes.

With thanks,

Lisa.

Sent from my iPad

On 12 Dec 2022, at 5:14 pm, Tasha Smithies
<[REDACTED]> wrote:

Thanks Marlia,
I agree with your advice, no further comments from me.
Kind regards,
Tasha

Tasha Smithies

Sr Litigation Counsel

1 Saunders Street Pyrmont, Sydney, NSW
2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Saunders, Marlia

<[REDACTED]>

Sent: Monday, 12 December 2022 4:44 PM

To: Lisa Wilkinson External

<[REDACTED]>; Tasha Smithies

<[REDACTED]>; Nick Fordham

<[REDACTED]>

Subject: RE: Drumgold letter - PRIVILEGED AND
CONFIDENTIAL [TGLAW-Legal.FID3680207]

Hi Lisa

Thanks for this. I'm happy with most of your changes, but there are a few I'd recommend against including. In particular, you don't want to waive privilege over the legal advice that was given to you in relation to the Logies speech and we also want to be careful with how we frame the references to the judge. My recollection is also that the note of the 15 June meeting that was tendered was prepared by one of the other DPP lawyers, not Drumgold.

If you are happy with this version, I'll wait to hear whether Tasha has any final comments, then can send it out tomorrow.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

[REDACTED] | [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

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you need to speak with me, please call my mobile as set out above.

From: Lisa Wilkinson <[REDACTED]>
Sent: Monday, 12 December 2022 4:24 PM
To: Saunders, Marlia <[REDACTED]>;
Tasha Smithies - Ten Legal
<[REDACTED]>; Nick Fordham
<[REDACTED]>
Subject: Drumgold letter - PRIVILEGED AND
CONFIDENTIAL

Thanks for that redraft Marlia.

I take on board your points, but I have done some more tweaking and would appreciate your comments.

With thanks,

Lisa.

Sent from my iPad

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defects and may not be successfully replicated on other systems. We give no warranties in relation to these matters. If you have any doubts about the authenticity of an e-mail purportedly sent by us, please contact us immediately.

RE: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

From: Tasha Smithies <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: Lisa Wilkinson External <[REDACTED]>; Nick Fordham <[REDACTED]>
Date: Mon, 12 Dec 2022 09:20:12 +1100
Attachments: Unnamed Attachment (68 bytes)

Thanks Marlia,

~

I think this is good, it sets out what we need without being too pushy given our concerns around him feeling backed into a corner and the current media speculation around him and his office.

~

It might be worth referring to the times you have attempted to call him so it gives context to why a letter is now being sent.

~

Lisa, I am on leave today (covid is back in our house) but please feel free to contact Marlia directly.

~

Kind regards,
Tasha

~

Tasha Smithies

Sr Litigation Counsel

[REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Saunders, Marlia <[REDACTED]>
Sent: Friday, 9 December 2022 9:10 PM
To: Nick Fordham <[REDACTED]>
Cc: Lisa Wilkinson External <[REDACTED]>; Tasha Smithies <[REDACTED]>
Subject: RE: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

~

Privileged & confidential

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Dear Lisa

~

Please find **attached** a draft letter to Shane Drumgold for your review.

~

Please let me know if you have any comments, or would like to have a call to discuss this on Monday.

~

Kind regards

~

Marlia

~

Marlia Saunders | Partner
THOMSON GEER

[REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
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~

From: Nick Fordham <[REDACTED]>
Sent: Friday, 9 December 2022 6:01 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Lisa Wilkinson <[REDACTED]>; Smithies Tasha ([REDACTED])
 <[REDACTED]>
Subject: Re: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

~

Hi Marlia,

~

Just after an update in regards to contacting Drumgold.

~

As per the strategy, could you please share the draft letter with us to review this weekend prior to dispatching.

~

Look forward to hearing from you.

~

Regards,

~

Nick

~

~

T H E

FORDHAM
 COMPANY

NICK FORDHAM

CEO

13-15 Little Burton Street
 DARLINGHURST NSW 2010
 AUSTRALIA

[REDACTED]

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~

~

From: Nick Fordham <[REDACTED]>
Date: Thursday, 8 December 2022 at 1:49 pm
To: "Saunders, Marlia" <[REDACTED]>
Cc: Lisa Wilkinson <[REDACTED]>, Tasha Smithies <[REDACTED]>
Subject: Re: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

~

Thank you Marlia.

~

Hopefully he gets the drift that we will not be backing off until this is done. The sooner he can do it, the better for everyone.

~

Regards

~

Nick

~

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~

~

~

On 6 Dec 2022, at 11:14 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

~

You may have seen the article in *The Australian* today (a copy of which is **attached**) which reports on the letter sent to the court on your behalf in July, including the fact you disputed that Shane Drumgold warned you against giving the Logies speech. In the final paragraph, it directly quotes from the letter: "Neither Ms Wilkinson nor the Network Ten Senior Legal Counsel present at the conference with the DPP on 15 June 2022 understood they had been cautioned that Ms Wilkinson giving an acceptance speech at the Logie Awards could result in an application being made to the court to vacate the trial date."

~

This has also been picked up by [news.com.au](https://www.news.com.au/national/nsw-act/courts-law/bruce-lehrmann-hires-top-defamation-lawyer-mark-obrien-amid-potential-legal-action-against-media/news-story/55c591bbf2bdca01a23ac346a2b34f21) (<https://www.news.com.au/national/nsw-act/courts-law/bruce-lehrmann-hires-top-defamation-lawyer-mark-obrien-amid-potential-legal-action-against-media/news-story/55c591bbf2bdca01a23ac346a2b34f21>).

It's great that the messaging is now in the public domain that you were not warned by Mr Drumgold about giving the Logies speech.

You will have also seen that Mr Drumgold has been the subject of a lot of scrutiny and criticism since Friday's announcement, including calls for him to resign and speculation that Lehrmann may sue him personally for defamation. It's likely he's under a lot of pressure at the moment, which might explain why he hasn't responded to my voicemail on Monday or my follow up email yesterday.

It may be best for us to take a slow and steady approach rather than rushing him given the other issues at play. I suggest that we leave it for a couple of days and I try calling him again at the end of the week. Please let me know if you're happy to take that approach, or if you'd prefer me to draft a formal letter to him now.

Let me know if you'd like to discuss.

Kind regards

Marlia

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Shane Drumgold: PRIVILEGED AND CONFIDENTIAL

From: Lisa Wilkinson <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Cc: "Saunders, Marlia" <[REDACTED]>; Nick Fordham <[REDACTED]>
Date: Mon, 12 Dec 2022 11:17:28 +1100
Attachments: Unnamed Attachment (68 bytes)

Thanks very much for this Marlia, (and sorry to hear about the COVID diagnosis Tasha).

I am happy to amend the document myself, but below are my thoughts. Let me know if there is anything here you have any concerns with, otherwise I will send back with the included amendments...

*I agree with Tasha that it is crucial we make on-the-record mention of the two phone calls (including specific dates) when he admitted that I had not been warned, and that the judge had "misconstrued" his words.

*In Justice McCallum's very public dressing down of me and my journalistic ethics she said I had been given a "clear and appropriate warning" by the DPP not to give a speech because it would give rise to publicity...which is a ridiculous version of events for a number of reasons, and reasons I would have raised during the meeting had any such warning by Mr Drumgold been given:

1. Simply winning the award would give rise to publicity.

2. Not giving a speech would give rise to publicity.

*I would like to add in the second par the words "...extremely concerned about targeted, ongoing media reports which have bitterly, unfairly, and unjustly criticised her role...etc"

*We need to remind Mr Drumgold that it was me who raised the issue of the possible need for me to make a speech at the Logies regarding my interview with Ms Higgins, and that I had specifically sought his learned counsel during that meeting because I was deeply aware of how careful I had to be, given its proximity to the trial. When I attempted to read the speech out to him, he stopped me after one sentence because he said he was "not a speechwriter". I did not need a speechwriter at that point. I needed a DPP who would tell me if my words were legally appropriate so close to the trial. He chose to completely deny me that right.

* Could you also include the following lines where appropriate:

"You will note that as a result of the fallout from this injustice, and the six months of relentlessly targeted attacks from significant and influential sections of the mainstream (and social) media, Ms Wilkinson has chosen to permanently stand down from her role hosting The Project."

"Ms Wilkinson too, has continued to honour her commitment to the court not to speak publicly about the trial, nor about the complete injustice done to her, but with the trial now closed, the time has come for the public record to be corrected, and her reputation to be publicly restored. Mr Drumgold, I, along with Ms Wilkinson and Ms Smithies took heart when you personally acknowledged during our conversations, the need for this to happen, and we believe that now is the time for you to do this."

Sent from my iPad

On 12 Dec 2022, at 9:20 am, Tasha Smithies <[REDACTED]> wrote:

Thanks Marlia,

~

I think this is good, it sets out what we need without being too pushy given our concerns around him feeling backed into a corner and the current media speculation around him and his office.

\~

It might be worth referring to the times you have attempted to call him so it gives context to why a letter is now being sent.

\~

Lisa, I am on leave today (covid is back in our house) but please feel free to contact Marlia directly.

\~

Kind regards,

Tasha

\~

Tasha Smithies

Sr Litigation Counsel

1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Saunders, Marlia <[REDACTED]@u>

Sent: Friday, 9 December 2022 9:10 PM

To: Nick Fordham <[REDACTED]>

Cc: Lisa Wilkinson External <[REDACTED]>; Tasha Smithies <[REDACTED]>

Subject: RE: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

\~

Privileged & confidential

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Dear Lisa

\~

Please find **attached** a draft letter to Shane Drumgold for your review.

\~

Please let me know if you have any comments, or would like to have a call to discuss this on Monday.

\~

Kind regards

\~

Marlia

\~

Marlia Saunders | Partner

THOMSON GEER

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[\[REDACTED\]@tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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Hi Marlia,

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As per the strategy, could you please share the draft letter with us to review this weekend prior to dispatching.

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Look forward to hearing from you.

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Regards,

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Nick

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Date: Thursday, 8 December 2022 at 1:49 pm
To: "Saunders, Marlia" <[REDACTED]>
Cc: Lisa Wilkinson <[REDACTED]>, Tasha Smithies <[REDACTED]>
Subject: Re: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

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Regards

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Nick

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Hi Lisa

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Sent from my iPad

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Thanks Marlia,

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Lisa, I am on leave today (covid is back in our house) but please feel free to contact Marlia directly.

Kind regards,
Tasha

Tasha Smithies
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1 Saunders Street Pyrmont, Sydney, NSW 2009



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 Kind regards

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 Marlia

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[REDACTED] | [REDACTED]
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Sent: Friday, 9 December 2022 6:01 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Lisa Wilkinson <[REDACTED]>; Smithies Tasha ([REDACTED])
Subject: Re: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

\~
 Hi Marlia,

\~
 Just after an update in regards to contacting Drumgold.

\~
 As per the strategy, could you please share the draft letter with us to review this weekend prior to dispatching.

\~
 Look forward to hearing from you.

Regards,

\~
 Nick

\~

\~
 THE
FORDHAM
 COMPANY

NICK FORDHAM
 CEO
 13-15 Little Burton Street
 DARLINGHURST NSW 2010 AUSTRALIA
 [REDACTED]
www.thefordhamcompany.com.au


\~

From: Nick Fordham <[REDACTED]>
Date: Thursday, 8 December 2022 at 1:49 pm
To: "Saunders, Marlia" <[REDACTED]>
Cc: Lisa Wilkinson <[REDACTED]>, Tasha Smithies <[REDACTED]>
Subject: Re: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

\~

Thank you Marlia.

Hopefully he gets the drift that we will not be backing off until this is done. The sooner he can do it, the better for everyone.

Regards

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY

www.thefordhamcompany.com.au

On 6 Dec 2022, at 11:14 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

You may have seen the article in *The Australian* today (a copy of which is **attached**) which reports on the letter sent to the court on your behalf in July, including the fact you disputed that Shane Drumgold warned you against giving the Logies speech. In the final paragraph, it directly quotes from the letter: "Neither Ms Wilkinson nor the Network Ten Senior Legal Counsel present at the conference with the DPP on 15 June 2022 understood they had been cautioned that Ms Wilkinson giving an acceptance speech at the Logie Awards could result in an application being made to the court to vacate the trial date."

This has also been picked up by [news.com.au](https://www.news.com.au/national/nsw-act/courts-law/bruce-lehrmann-hires-top-defamation-lawyer-mark-obrien-amid-potential-legal-action-against-media/news-story/55c591bbf2bdca01a23ac346a2b34f21) (<https://www.news.com.au/national/nsw-act/courts-law/bruce-lehrmann-hires-top-defamation-lawyer-mark-obrien-amid-potential-legal-action-against-media/news-story/55c591bbf2bdca01a23ac346a2b34f21>).

It's great that the messaging is now in the public domain that you were not warned by Mr Drumgold about giving the Logies speech.

You will have also seen that Mr Drumgold has been the subject of a lot of scrutiny and criticism since Friday's announcement, including calls for him to resign and speculation that Lehrmann may sue him personally for defamation. It's likely he's under a lot of pressure at the moment, which might explain why he hasn't responded to my voicemail on Monday or my follow up email yesterday.

It may be best for us to take a slow and steady approach rather than rushing him given the other issues at play. I suggest that we leave it for a couple of days and I try calling him again at the end of the week. Please let me know if you're happy to take that approach, or if you'd prefer me to draft a formal letter to him now.

Let me know if you'd like to discuss.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

Please note that our offices will be closed from COB Friday 23 December 2022 and will reopen on Monday 9 January 2023. However, if you require urgent prepublication advice or urgent advice generally, please email prepub@tglaw.com.au. The prepub email address is being constantly monitored. If you need to speak with me, please call my mobile as set out above.

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#####

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Level 14, 60 Martin Place
 Sydney NSW 2000 Australia

GPO Box 3909 Sydney NSW 2001

DRAFT

Our ref MS:5142487

12 December 2022

Mr Shane Drumgold SC
 Office of the Director of Public Prosecutions
 Reserve Bank Building
 20-22 London Circuit
 CANBERRA CITY ACT 2601

Dear Mr Drumgold SC

**R v Bruce Lehrmann, Supreme Court of the Australian Capital Territory
 Proceedings No. SCC 264 of 2021**

As you are aware, we act for Lisa Wilkinson.

As we have previously conveyed to you on a number of occasions, our client continues to be extremely concerned about targeted and ongoing media reports which have criticised her role in the three month delay of the trial in the above proceedings in connection with the Logie Awards speech she gave on 19 June 2022. In this regard, we refer to our phone calls with you on 22 June 2022 and 24 October 2022 and our emails to you on 2 December 2022 and 6 December 2022.

It is the strong view of both Ms Wilkinson and Network Ten Senior Litigation Counsel Tasha Smithies that Ms Wilkinson was never specifically warned by you, during your meeting on 15 June 2022 or otherwise, not to give a Logies speech. Their recollection is that your only advice was that Ms Wilkinson could not mention the trial as that could give rise to a stay. We note that you have agreed this was the case during our two phone calls referred to above.

The reason why Ms Wilkinson raised this issue during your meeting was because she was concerned to ensure that she did not do anything that may jeopardise the trial. Following the meeting, Ms Wilkinson took care to ensure that she did not mention the trial, the accused, the charges or even Parliament House in the speech that she gave.

Despite this, her Honour Chief Justice McCallum found on the basis of a note of the 15 June 2022 meeting (which was tendered in Court without notice to Ms Wilkinson): *"Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial"*. This finding has gone on to be reported as a fact by the media that Ms Wilkinson was warned not to give a speech but that she went ahead and gave the speech anyway. In our phone call on 22 June 2022, you said that you felt the need to correct reports that there was a positive direction not to give a speech and that you felt Ms Wilkinson had been poorly treated. You said you would give some thought as to how you could deal with it in open court the following day.

However, you did not say anything in Court that next day, and the record has not been corrected since that time. This omission has provided a basis for our client's ethics as a journalist to be strongly and repeatedly criticised. At the height of the publicity has been calls by influential journalists for Ms

Wilkinson to be imprisoned for contempt of court. As a result of the ongoing criticisms both in mainstream media and on social media, Ms Wilkinson has chosen to permanently stand down from her role hosting *The Project*.

Ms Wilkinson feels that she has been treated unfairly by the Office of the Director of Public Prosecutions in that:

1. you have not corrected the record in relation to what occurred during the 15 June 2022 meeting by clarifying that there was no positive direction from you to Ms Wilkinson not to give a speech; and
2. you have not publicly confirmed that you do not consider Ms Wilkinson's conduct amounted to contempt and that you will not be pursuing any contempt charges against her.

Ms Wilkinson has continued to honour her commitment to the Court not to speak publicly about the trial, nor about this issue. Now that the prosecution has been withdrawn, there is no reason to prevent these matters being addressed by you. It is imperative that this occurs given the media reports about Ms Wilkinson have not subsided.

Our client respectfully requests that you release a public statement that clarifies the true situation and corrects the public record so that her name and reputation on this issue can be restored. Ms Wilkinson would like the opportunity to review and approve the statement before it is released.

We would be happy to discuss this request with you further if required. We look forward to hearing from you at your earliest convenience.

Yours faithfully
THOMSON GEER

Marlia Saunders
Partner

[REDACTED]
[REDACTED]
[REDACTED]

Drumgold letter - PRIVILEGED AND CONFIDENTIAL

From: Lisa Wilkinson <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>;
Nick Fordham <[REDACTED]>
Date: Mon, 12 Dec 2022 16:23:42 +1100
Attachments: Drumgold letter. 3. 121222.docx (23.61 kB)

Thanks for that redraft Marlia.

I take on board your points, but I have done some more tweaking and would appreciate your comments.

With thanks,

Lisa.

Sent from my iPad

DRAFT

Our MS:5142487
ref

12 December 2022

Mr Shane Drumgold SC
Office of the Director of Public Prosecutions
Reserve Bank Building
20-22 London Circuit
CANBERRA CITY ACT 2601

Dear Mr Drumgold SC

**R v Bruce Lehrmann, Supreme Court of the Australian Capital
Territory
Proceedings No. SCC 264 of 2021**

As you are aware, we act for Lisa Wilkinson.

As we have previously conveyed to you on a number of occasions, our client continues to be extremely concerned about **the** targeted, **widespread** and ongoing media reports which have criticised her role in the three-month delay of the trial in the above proceedings in connection with the Logie Awards speech she gave on 19 June 2022. In this regard, we refer to our phone calls with you on 22 June 2022 and 24 October 2022 and our emails to you on 2 December 2022 and 6 December 2022.

As you have been kind enough to previously acknowledge during our two phone calls referred to above, Ms Wilkinson and Network Ten Senior Litigation Counsel Tasha Smithies that Ms Wilkinson was never specifically warned by you, during your meeting on 15 June 2022 or otherwise, not to give a Logies speech. **As also confirmed by Network Ten Senior Litigation Counsel Tasha Smithies, who was in that meeting, your only advice was** that Ms Wilkinson could not mention the trial as that could give rise to a

stay. ~~We note that you have agreed this was the case during our two phone calls referred to above.~~

The reason ~~why~~ Ms Wilkinson voluntarily raised ~~this the~~ issue of the Logies speech with you during your meeting was because she was concerned to ensure that she did not do anything that may jeopardise the approaching trial. Following the meeting, and your advice, Ms Wilkinson then took care to ensure that she did not mention the trial, the accused, the charges or even Parliament House where the alleged crime was said to have taken place, in the speech that she gave, and which had been fully approved by Ten's Legal Counsel.

Despite this, her Honour Chief Justice McCallum found, on the basis of a your note of the 15 June 2022 meeting (which was tendered in Court without notice to Ms Wilkinson): *"Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial"*. This finding has gone on to be reported as a fact by the media that Ms Wilkinson was specifically warned by you not to give a speech but that she went ahead and gave the speech anyway.

In our phone call on 22 June 2022, you said that you felt the need to correct reports that there was a positive direction given by you during that meeting for Ms Wilkinson not to give a speech and that you felt Ms Wilkinson had been poorly treated. You said you would give some thought as to how you could deal with it in open court the following day.

However, you did not say anything in Court that next day, and the record has still not been corrected since that time. This omission has provided a basis for our client's ethics as a journalist to be strongly and repeatedly criticised.

At the height of the publicity in the weeks immediately after the Logies, and more recently during the trial itself, there have ~~has~~ been calls by influential journalists for Ms Wilkinson to be imprisoned for contempt of court. As a direct result of the ongoing criticisms both in mainstream media and on social media, Ms Wilkinson has chosen to permanently stand down from her role hosting *The Project*.

Ms Wilkinson feels that she has been treated unfairly by the Office of the Director of Public Prosecutions in that:

1. you have not corrected the record in relation to what occurred during the 15 June 2022 meeting by clarifying that there was no positive direction from you to Ms Wilkinson not to give a speech; and

2. you have not publicly confirmed that you do not consider Ms Wilkinson's conduct amounted to contempt and that you will not be pursuing any contempt charges against her.

Ms Wilkinson has continued to honour her commitment to the Court not to speak publicly about the trial, nor about this issue. Now that the prosecution has been withdrawn, there is no reason to prevent these matters being addressed by you. It is imperative that this occurs given **that the media reports about Ms Wilkinson have not subsided and Justice McCallum's criticism of her personal and professional conduct remains as fact on the public record.**

Mr Drumgold, as you know, a gross injustice has been visited upon our client. You are a person who has devoted his life to justice and right now are the only one who can help restore justice in this case.

Ms Wilkinson ~~Our client~~ respectfully requests that you release a public statement that clarifies the true situation and corrects the public record so that ~~her~~ **our client's** name and reputation on this issue can be restored.

Ms Wilkinson would like the opportunity to review and approve the statement before it is released.

We would be happy to discuss this request with you further if required. We look forward to hearing from you at your earliest convenience.

Yours faithfully
THOMSON GEER

Marlia Saunders
Partner

[REDACTED]
[REDACTED]
[REDACTED]

RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}; [REDACTED]>
Date: Mon, 12 Dec 2022 16:43:48 +1100
Attachments: Lisa Wilkinson - Letter to Mr Shane Drumgold SC - December 2022 [REDACTED]

Hi Lisa

~
 Thanks for this. I'm happy with most of your changes, but there are a few I'd recommend against including. In particular, you don't want to waive privilege over the legal advice that was given to you in relation to the Logies speech and we also want to be careful with how we frame the references to the judge. My recollection is also that the note of the 15 June meeting that was tendered was prepared by one of the other DPP lawyers, not Drumgold.

~
 If you are happy with this version, I'll wait to hear whether Tasha has any final comments, then can send it out tomorrow.

~
 Kind regards

~
 Marlia

~
Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

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~
Please note that our offices will be closed from COB Friday 23 December 2022 and will reopen on Monday 9 January 2023. However, if you require urgent prepublication advice or urgent advice generally, please email prepub@tglaw.com.au. The prepub email address is being constantly monitored. If you need to speak with me, please call my mobile as set out above.

From: Lisa Wilkinson <[REDACTED]>
Sent: Monday, 12 December 2022 4:24 PM
To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

~
 Thanks for that redraft Marlia.

I take on board your points, but I have done some more tweaking and would appreciate your comments.

With thanks,

Lisa.

Sent from my iPad

Level 14, 60 Martin Place
 Sydney NSW 2000 Australia

GPO Box 3909 Sydney NSW 2001

DRAFT

Our ref MS:5142487

12 December 2022

Mr Shane Drumgold SC
 Office of the Director of Public Prosecutions
 Reserve Bank Building
 20-22 London Circuit
 CANBERRA CITY ACT 2601

Dear Mr Drumgold SC

**R v Bruce Lehrmann, Supreme Court of the Australian Capital Territory
 Proceedings No. SCC 264 of 2021**

As you are aware, we act for Lisa Wilkinson.

As we have previously conveyed to you on a number of occasions, our client continues to be extremely concerned about the targeted, widespread and ongoing media reports which have criticised her role in the three month delay of the trial in the above proceedings in connection with the Logie Awards speech she gave on 19 June 2022. In this regard, we refer to our phone calls with you on 22 June 2022 and 24 October 2022 and our emails to you on 2 December 2022 and 6 December 2022.

As you have acknowledged during our two phone calls referred to above, Ms Wilkinson was never warned by you, during your meeting on 15 June 2022 or otherwise, not to give a Logies speech. As also confirmed by Network Ten Senior Litigation Counsel Tasha Smithies, who was in that meeting, your only advice was that Ms Wilkinson could not mention the trial as that could give rise to a stay.

The reason Ms Wilkinson voluntarily raised the issue of the Logies speech with you during your meeting was because she was concerned to ensure that she did not do anything that may jeopardise the approaching trial. Following the meeting, Ms Wilkinson took care to ensure that she did not mention the trial, the accused, the charges or even Parliament House in the speech that she gave.

The reason Ms Wilkinson voluntarily raised this the issue of the Logies speech with you during your meeting was because she was concerned to ensure that she did not do anything that may jeopardise the approaching trial. Following the meeting, Ms Wilkinson took care to ensure that she did not mention the trial, the accused, the charges or even Parliament House in the speech that she gave.

Despite this, her Honour Chief Justice McCallum found on the basis of a note of the 15 June 2022 meeting (which was tendered in Court without notice to Ms Wilkinson): "*Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial*". This finding has gone on to be reported as fact by the media that Ms Wilkinson was specifically warned by you not to give a speech but that she went ahead and gave the speech anyway.

In our phone call on 22 June 2022, you said that you felt the need to correct reports that there was a positive direction by you not to give a speech and that you felt Ms Wilkinson had been poorly treated. You said you would give some thought as to how you could deal with it in open court the following day.

However, you did not say anything in Court that next day, and the record has still not been corrected since that time. This omission has provided a basis for our client's ethics as a journalist to be strongly and repeatedly criticised.

At the height of the publicity in the weeks immediately after the Logies, and more recently during the trial itself, there have been calls by influential journalists for Ms Wilkinson to be imprisoned for contempt of court. As a direct result of the ongoing criticism both in mainstream media and on social media, Ms Wilkinson has chosen to permanently stand down from her role hosting *The Project*.

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Ms Wilkinson has continued to honour her commitment to the Court not to speak publicly about the trial, nor about this issue. Now that the prosecution has been withdrawn, there is no reason to prevent these matters being addressed by you. It is imperative that this occurs given that the media reports about Ms Wilkinson have not subsided.

Ms Wilkinson respectfully requests that you release a public statement that clarifies the true situation and corrects the public record so that our client's name and reputation on this issue can be restored. Ms Wilkinson would like the opportunity to review and approve the statement before it is released.

We would be happy to discuss this request with you further if required. We look forward to hearing from you at your earliest convenience.

Yours faithfully
THOMSON GEER

Marlia Saunders
Partner

[Redacted signature block]

From: "Saunders, Marlia" [REDACTED] >
Date: 21 December 2022 at 9:52:43 am AEDT
To: Nick Fordham [REDACTED] >, Tasha Smithies
[REDACTED] >
Cc: Giorgia Taylor [REDACTED] >, Beverley McGarvey
[REDACTED] >, Lisa Wilkinson External
[REDACTED] >
Subject: RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Hi Nick

Thanks for your email last night.

You may have seen that the ACT Government has this morning announced it will establish a Board of Inquiry which will review the Lehrmann trial, including the decision to lay charges, the decision to proceed to trial and the decision not to proceed to a retrial and the conduct of police investigators and the DPP.

It's likely that Shane Drumgold would have known for some time that this was in the works, and it explains why he has not responded to our correspondence in the last few weeks. He will not be in a position to say anything publicly while the inquiry is pending. The Board of Inquiry is due to report to the Government in the first half of 2023.

Tasha is now on annual leave, but we'll come back to Lisa about this further in the New Year.

Wishing you all the best for the Christmas break.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | [tglaw.com.au](mailto:prepub@tglaw.com.au)

Advice | Transactions | Disputes

Please note that our offices will be closed from COB Friday 23 December 2022 and will reopen on Monday 9 January 2023. However, if you require urgent prepublication advice or urgent advice generally, please email prepub@tglaw.com.au. The prepub email address is being constantly monitored. If you need to speak with me, please call my mobile as set out above.

From: Nick Fordham [REDACTED] >
Sent: Tuesday, 20 December 2022 7:42 PM
To: Tasha Smithies [REDACTED] >
Cc: Georgia Taylor [REDACTED] >; Beverley McGarvey [REDACTED] >; Lisa Wilkinson External [REDACTED] >; Saunders, Marlia [REDACTED] >
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

Hi Tasha,

It would seem from your email that you are suggesting that you have now exhausted all avenues and consider we all have to just move on from this. Unfortunately, we are still collectively going to have to continue pursuing this until these matters are properly addressed and dealt with to all of our satisfaction. As a proud journalist with an impeccable track record, this ongoing, blatantly incorrect coverage with its false and often defamatory narratives have cut Lisa to the bone and resulted in incredible damage to her professional and personal reputation. With the likes of Ch 9 and Ch 7 now producing documentaries for Spotlight and Under Investigation, this will no doubt continue until proper action is taken.

The fact is, Lisa was simply performing her duties under her Network Ten contract and was provided clear and unequivocal advice that the Logies speech was legally

vett ed and approved, and similarly approved by the highest levels of the network's management.

I appreciate that there could be a perception that it may not be in Ten's interest to release a public statement (at this time), but I would still like to continue discussing this as it may be our last resort. All of this can be solved in one statement. Otherwise, the fallout from this will only cause more damage to Lisa's professional reputation and potentially cause future harm to her employment opportunities beyond this current term with Network Ten.

As you would be aware, Ten has a responsibility and also a duty of care to do everything in its power to correct this and continue to support Lisa from an ongoing legal representation perspective.

In respect of Drumgold's conduct and responsibility as a legal professional, I reiterate he has a legal duty to respond to Marlia according to the Legal Profession Conduct Rules and cannot continue to ignore her correspondence. His decision to ignore Marlia's recent communications has left Ten and Lisa with no other option but for Lisa to write to him personally (or Ten potentially releasing a statement). Lisa will highlight this in the correspondence to Drumgold and I confirm that we will run the draft letter past you and Ms Saunders prior to it being dispatched this week.

We are fully cognisant that this is a very difficult and emotional matter that must be addressed, and as such we are most grateful for Ten's support to date and look forward to this continuing until this is all resolved.

Regards,

Nick



NICK FORDHAM

CEO

13-15 Little Burton Street

DARLINGHURST NSW 2010 AUSTRALIA



www.thefordhamcompany.com.au



From: Tasha Smithie [REDACTED] >
Date: Friday, 16 December 2022 at 9:31 am
To: Nick Fordham [REDACTED], Lisa Wilkinson
[REDACTED] >, "Saunders, Marlia"
[REDACTED] >
Cc: Giorgia Taylor [REDACTED] >, Beverly McGarvey [REDACTED] >
Subject: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

Thanks Lisa and Nick,

I agree with Marlia that unfortunately there is not much more we can do from a legal perspective and appreciate this is a disappointing outcome for you. Marlia and I don't see any downside to a personal email from Lisa which re-attaches the letter

as sent. I suggest you run a draft passed Marlia. My thoughts from a legal perspective on some of the issues raised by you both are below.

Kind regards,

Tasha

1. I may have seen the recent Media Watch story through a different lense, however, I thought it was okay (much better than the previous coverage) and didn't have a go at Lisa rather the media reporting of the trial. I also didn't think it attributed to Lisa the National Press Club speech, but properly attributed it to the ABC/Higgins/Tame. It was more of a digest of coverage and views. It also canvassed the difficulties Lehrmann would face if he sued noting that he was not named in The Project Story, the potential defamation issues some that broadcast the speech by Brittany after the jury was discharged and the allegations made by the AFP against the DPP and the DPP against the AFP.
2. From a legal perspective Lehrmann doing a sit down interview is preferable to a defamation claim as although he will deny the allegations and have a go at The Project story, that would be what we/public would expect he would do and avoids a lengthy and costly set of court proceedings that would also bring with it more publicity.
3. Any attempt to complain about Drumgold or the Office of the DPP (eg a complaint to an Ombudsman) is highly risky from a legal perspective as Drumgold/the Office of the DPP is likely to see it as a personal attack and Drumgold/the Office of the DPP has the power to revisit contempt charges – whilst Drumgold has indicated he wouldn't pursue contempt charges, he (or the Office of the DPP independently of Drumgold) can change their mind and its possible he has received pressure from other sources around why Lisa hasn't been charged with contempt. I don't think this is a course of action we would advise Lisa or N10 to take.
4. We would not recommend that N10 make any public statement that challenges or criticises the Office of the DPP as we consider such approach to be inflammatory and viewed publicly as self-serving, with ultimately a counterproductive effect.
5. For the reasons outlined above, we also wouldn't recommend Lisa making a statement.
6. In relation to a breach of the Professional Conduct Rules, I think the section Nick refers to relates to the conduct of a solicitor in their duty to a client. In any event, I understand the point you are making, however, I don't think we are anywhere near being able to level those type of serious allegations against Drumgold for a number of reasons, the main one being, not enough time has passed, particularly in circumstances where the DPP would say any delay was due to the fact that they have had a number of matters to deal with since announcing not to proceed with a trial (some of which have been canvassed in the press recently), many of which have arguably had a greater urgency than this. Further, such approach has the same legal and PR risks as outlined above.

Tasha Smithies
Sr Litigation Counsel

[REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham [REDACTED] >
Sent: Thursday, 15 December 2022 7:02 PM
To: Lisa Wilkinson External [REDACTED] >; Saunders, Marlia
[REDACTED] >
Cc: Tasha Smithie [REDACTED]; Giorgia Taylor
[REDACTED]; Beverley McGarvey
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Hi Marlia,

This is most disappointing.

Isn't Drumgold obliged to formally respond to you under 4.1. 3 of the Legal Professionals Conduct Rules? I imagine him continually ignoring you places him in breach of his legal obligations. Are you able to formally remind him of his legal obligations or can we make a formal complaint? Trust he understands we are not going to let this go until it's corrected.

<https://www.legislation.act.gov.au/View/sl/2015-37/current/html/2015-37.html>

Bev, could you please introduce me to Ten's crisis comms company? Unfortunately, it would seem they have been completely non-existent throughout this entire process. We would like to discuss with them the strategy of backgrounding media on this.

In view of Drumgold's breach of the Legal Professionals Conduct Rules, would Ten issue a formal public statement?

I look forward to hearing back and working through this until we get the result we are after.

Regards

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

From: Lisa Wilkinson [REDACTED] >
Sent: Thursday, December 15, 2022 7:03 am
To: Saunders, Marlia [REDACTED]
Cc: Nick Fordham [REDACTED]; Tasha Smithies
[REDACTED]; Giorgia Taylor
[REDACTED]
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks Marlia.

That is incredibly disappointing. Are there any suggestions you have on how we move forward and correct the public record on this?

With Lehrmann threatening to sue for defamation, and his much-reported sit-down interview with Channel Seven likely to be filmed in the coming weeks, my name will continue to be dragged unfairly through the mud in all the retelling of this whole saga, as it was, once again on Media Watch just three days ago, which included the allegation that my journalism around the Brittany story was disgraceful, and that I had given a speech at the National Press Club. That is 100% untrue. And again, no-one is doing anything to correct the factual record behind the scenes on any element of the ongoing trashing of my name.

Meantime, would it be possible for me to email Mr Drumgold personally, attaching our letter once again, letting him know how deeply disappointed I am in his actions, the effect it has had on me, and requesting a face to face meeting. Further, is there an Ombudsman we can go to, or a formal complaint we can make to whomever or whichever authority sits above Mr Drumgold?

Kind regards,

Lisa.

Sent from my iPad

On 15 Dec 2022, at 4:11 pm, Saunders, Marlia
[REDACTED] wrote:

Hi Lisa

I called Shane Drumgold three times today, once from my mobile and twice from a landline – both times they were quickly diverted to voicemail.

It might be that he's avoiding my calls, either because he is still considering how to respond to our letter or because he doesn't want to take any action at this time given everything else that is going on.

We have sent the letter, but we can't compel him to respond. Unfortunately, there's not much more we can do from a legal perspective at this time.

I'm sorry that this hasn't had a better outcome for you.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

[REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

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From: Lisa Wilkinson [REDACTED]
Sent: Thursday, 15 December 2022 10:54 AM
To: Saunders, Marlia [REDACTED]
Cc: Nick Fordham [REDACTED] Tasha Smithie [REDACTED] Giorgia Taylor
<giorgia@thefordhamcompany.com.au>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks for the update Marlia.

I am very aware how close we now are to Christmas, so can I request that we get an update on your situation with Drumgold by 4pm today. If there has been no response, I think we need to have a teams meeting at a time convenient to everyone, so we can decide our next steps.

With thanks,

Lisa.

Sent from my iPad

On 15 Dec 2022, at 9:44 am, Saunders, Marlia [REDACTED] wrote:

Hi Nick

Unfortunately not.

I will try calling him today.

Cheers

Marlia

Marlia Saunders | Partner

THOMSON GEER

[REDACTED] | M [REDACTED]

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From: Nick Fordham

Sent: Thursday, 15 December 2022 9:43 AM

To: Saunders, Marlia [REDACTED]

Cc: Tasha Smithies

[REDACTED]; Lisa Wilkinson

[REDACTED] Giorgia Taylor

Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Hi Marlia,

Just wondering if you have heard Drumgold?

Look forward to hearing from you.

Regards,

Nick

THE
FORDHAM
C O M P A N Y

NICK FORDHAM

CEO

13-15 Little Burton Street

DARLINGHURST NSW 2010 AUSTRALIA

[REDACTED]
www.thefordhamcompany.com.au



From: "Saunders, Marlia"

Date: Tuesday, 13 December 2022 at 11:29 am

To: Nick Fordham

[REDACTED], Lisa
Wilkinson [REDACTED]

Cc: Tasha Smithies

Subject: RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks all.

I confirm the letter has been sent both by email and post this morning.

Please find the final version **attached**.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

[REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

msaunders@tqlaw.com.au | tqlaw.com.au

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From: Nick Fordham

[REDACTED]

Sent: Monday, 12 December 2022 6:20 PM

To: Lisa Wilkinson [REDACTED]

Cc: Tasha Smithies

[REDACTED]; Saunders, Marlia

Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thank you Lisa. Fine by me. Fingers crossed this is sorted in the next week.

NF

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 12 Dec 2022, at 7:05 am, Lisa Wilkinson

[REDACTED]

wrote:

Dear Marlia,

I am in your hands for the best possible outcome, so please go ahead and send. I am happy with the changes.

With thanks,

Lisa.

Sent from my iPad

On 12 Dec 2022, at
5:14 pm, Tasha
Smithies



wrote:

Thanks Marlia,
I agree with your
advice, no further
comments from
me.
Kind regards,
Tasha

Tasha Smithies
Sr Litigation
Counsel



1 Saunders Street
Pyrmont, Sydney,
NSW 2009



*Paramount
acknowledges the
Australian Aboriginal and
Torres Strait
Islander peoples as the
first people of the nation
and the traditional
custodians of the lands
where we live, learn and
work.*

From: Saunders,
Marlia



Sent: Monday, 12
December 2022
4:44 PM

To: Lisa Wilkinson
External



[REDACTED] Tasha
Smithies

[REDACTED] Nick
Fordham

[REDACTED]
Subject: RE:
Drumgold letter -
PRIVILEGED AND
CONFIDENTIAL
[TGLAW-
Legal.FID3680207]

Hi Lisa

Thanks for this. I'm happy with most of your changes, but there are a few I'd recommend against including. In particular, you don't want to waive privilege over the legal advice that was given to you in relation to the Logies speech and we also want to be careful with how we frame the references to the judge. My recollection is also that the note of the 15 June meeting that was tendered was prepared by one of the other DPP lawyers, not Drumgold.

If you are happy with this version, I'll wait to hear whether Tasha has any final comments, then can send it out tomorrow.

Kind regards

Marlia

Marlia
Saunders | Partne

r
THOMSON GEER
[REDACTED] | M

Level 14, 60 Martin
Place, Sydney NSW

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Disputes**

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From: Lisa
Wilkinson

Sent: Monday, 12
December 2022
4:24 PM

To: Saunders,
Marlia

Tasha
Smithies - Ten Legal
; Nick
Fordham

Subject: Drumgold
letter - PRIVILEGED
AND CONFIDENTIAL

Thanks for that
redraft Marlia.

I take on board your
points, but I have
done some more
tweaking and would
appreciate your
comments.

With thanks,

Lisa.

Sent from my iPad

#####

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Shane Drumgold: PRIVILEGED AND CONFIDENTIAL

From: Lisa Wilkinson <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Cc: "Saunders, Marlia" <[REDACTED]>; Nick Fordham <[REDACTED]>
Date: Mon, 12 Dec 2022 11:17:28 +1100
Attachments: Unnamed Attachment (68 bytes)

Thanks very much for this Marlia, (and sorry to hear about the COVID diagnosis Tasha).

I am happy to amend the document myself, but below are my thoughts. Let me know if there is anything here you have any concerns with, otherwise I will send back with the included amendments...

*I agree with Tasha that it is crucial we make on-the-record mention of the two phone calls (including specific dates) when he admitted that I had not been warned, and that the judge had "misconstrued" his words.

*In Justice McCallum's very public dressing down of me and my journalistic ethics she said I had been given a "clear and appropriate warning" by the DPP not to give a speech because it would give rise to publicity...which is a ridiculous version of events for a number of reasons, and reasons I would have raised during the meeting had any such warning by Mr Drumgold been given:

1. Simply winning the award would give rise to publicity.
2. Not giving a speech would give rise to publicity.

*I would like to add in the second par the words "...extremely concerned about targeted, ongoing media reports which have bitterly, unfairly, and unjustly criticised her role...etc"

*We need to remind Mr Drumgold that it was me who raised the issue of the possible need for me to make a speech at the Logies regarding my interview with Ms Higgins, and that I had specifically sought his learned counsel during that meeting because I was deeply aware of how careful I had to be, given its proximity to the trial. When I attempted to read the speech out to him, he stopped me after one sentence because he said he was "not a speechwriter". I did not need a speechwriter at that point. I needed a DPP who would tell me if my words were legally appropriate so close to the trial. He chose to completely deny me that right.

* Could you also include the following lines where appropriate:

"You will note that as a result of the fallout from this injustice, and the six months of relentlessly targeted attacks from significant and influential sections of the mainstream (and social) media, Ms Wilkinson has chosen to permanently stand down from her role hosting The Project."

"Ms Wilkinson too, has continued to honour her commitment to the court not to speak publicly about the trial, nor about the complete injustice done to her, but with the trial now closed, the time has come for the public record to be corrected, and her reputation to be publicly restored. Mr Drumgold, I, along with Ms Wilkinson and Ms Smithies took heart when you personally acknowledged during our conversations, the need for this to happen, and we believe that now is the time for you to do this."

Sent from my iPad

On 12 Dec 2022, at 9:20 am, Tasha Smithies <[REDACTED]> wrote:

Thanks Marlia,

~

I think this is good, it sets out what we need without being too pushy given our concerns around him feeling backed into a corner and the current media speculation around him and his office.

\~

It might be worth referring to the times you have attempted to call him so it gives context to why a letter is now being sent.

\~

Lisa, I am on leave today (covid is back in our house) but please feel free to contact Marlia directly.

\~

Kind regards,

Tasha

\~

Tasha Smithies

Sr Litigation Counsel

██████████ M ██████████
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Saunders, Marlia ██████████
Sent: Friday, 9 December 2022 9:10 PM
To: Nick Fordham ██████████
Cc: Lisa Wilkinson External ██████████; Tasha Smithies ██████████
Subject: RE: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

\~

Privileged & confidential

\~

Dear Lisa

\~

Please find **attached** a draft letter to Shane Drumgold for your review.

\~

Please let me know if you have any comments, or would like to have a call to discuss this on Monday.

\~

Kind regards

\~

Marlia

\~

Marlia Saunders | Partner
THOMSON GEER

██████████ | ██████████
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
██████████ | tglaw.com.au

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~

From: Nick Fordham [REDACTED]
Sent: Friday, 9 December 2022 6:01 PM
To: Saunders, Marlia [REDACTED]
Cc: Lisa Wilkinson [REDACTED]; Smithies Tasha ([REDACTED])
Subject: Re: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

~

Hi Marlia,

~

Just after an update in regards to contacting Drumgold.

~

As per the strategy, could you please share the draft letter with us to review this weekend prior to dispatching.

~

Look forward to hearing from you.

~

Regards,

~

Nick

~

~

THE
FORDHAM
 COMPANY

NICK FORDHAM

CEO

13-15 Little Burton Street

DARLINGHURST NSW 2010
 AUSTRALIA

[REDACTED]

www.thefordhamcompany.com.au



~

~

From: Nick Fordham <[REDACTED]>
Date: Thursday, 8 December 2022 at 1:49 pm
To: "Saunders, Marlia" <[REDACTED]>
Cc: Lisa Wilkinson <[REDACTED]>, Tasha Smithies <[REDACTED]>
Subject: Re: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

~

Thank you Marlia.

\~

Hopefully he gets the drift that we will not be backing off until this is done. The sooner he can do it, the better for everyone.

\~

Regards

\~

Nick

\~

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

\~

\~

On 6 Dec 2022, at 11:14 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

\~

You may have seen the article in *The Australian* today (a copy of which is **attached**) which reports on the letter sent to the court on your behalf in July, including the fact you disputed that Shane Drumgold warned you against giving the Logies speech. In the final paragraph, it directly quotes from the letter: "Neither Ms Wilkinson nor the Network Ten Senior Legal Counsel present at the conference with the DPP on 15 June 2022 understood they had been cautioned that Ms Wilkinson giving an acceptance speech at the Logie Awards could result in an application being made to the court to vacate the trial date."

\~

This has also been picked up by [news.com.au](https://www.news.com.au/national/nsw-act/courts-law/bruce-lehrmann-hires-top-defamation-lawyer-mark-obrien-amid-potential-legal-action-against-media/news-story/55c591bbf2bdca01a23ac346a2b34f21) (<https://www.news.com.au/national/nsw-act/courts-law/bruce-lehrmann-hires-top-defamation-lawyer-mark-obrien-amid-potential-legal-action-against-media/news-story/55c591bbf2bdca01a23ac346a2b34f21>).

\~

It's great that the messaging is now in the public domain that you were not warned by Mr Drumgold about giving the Logies speech.

\~

You will have also seen that Mr Drumgold has been the subject of a lot of scrutiny and criticism since Friday's announcement, including calls for him to resign and speculation that Lehrmann may sue him personally for defamation. It's likely he's under a lot of pressure at the moment, which might explain why he hasn't responded to my voicemail on Monday or my follow up email yesterday.

\~

It may be best for us to take a slow and steady approach rather than rushing him given the other issues at play. I suggest that we leave it for a couple of days and I try calling him again at the end of the week. Please let me know if you're happy to take that approach, or if you'd prefer me to draft a formal letter to him now.

\~

Let me know if you'd like to discuss.

\~

Kind regards

\~

Marlia

\~

Marlia Saunders | Partner
THOMSON GEER

Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 | [tglaw.com.au](mailto:prepub@tglaw.com.au)

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Sent from my iPad

On 12 Dec 2022, at 9:20 am, Tasha Smithies <[REDACTED]> wrote:

Thanks Marlia,

I think this is good, it sets out what we need without being too pushy given our concerns around him feeling backed into a corner and the current media speculation around him and his office.

It might be worth referring to the times you have attempted to call him so it gives context to why a letter is now being sent.

Lisa, I am on leave today (covid is back in our house) but please feel free to contact Marlia directly.

Kind regards,
Tasha

Tasha Smithies
Sr Litigation Counsel

[REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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To: Nick Fordham <[REDACTED]>
Cc: Lisa Wilkinson External <[REDACTED]>; Tasha Smithies <[REDACTED]>
Subject: RE: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

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Privileged & confidential

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 Kind regards

\~
 Marlia

\~
Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tg@law.com.au

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Cc: Lisa Wilkinson <[REDACTED]>; Smithies Tasha ([REDACTED])
Subject: Re: Update on contact with Shane Drumgold [TGLAW-Legal.FID3680207]

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Regards,

\~
 Nick

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\~
 THE
FORDHAM
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NICK FORDHAM
 CEO
 13-15 Little Burton Street
 DARLINGHURST NSW 2010 AUSTRALIA
 [REDACTED]
www.thefordhamcompany.com.au


\~

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Date: Thursday, 8 December 2022 at 1:49 pm
To: "Saunders, Marlia" <[REDACTED]>
Cc: Lisa Wilkinson <[REDACTED]>, Tasha Smithies <[REDACTED]>
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Regards

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

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It's great that the messaging is now in the public domain that you were not warned by Mr Drumgold about giving the Logies speech.

You will have also seen that Mr Drumgold has been the subject of a lot of scrutiny and criticism since Friday's announcement, including calls for him to resign and speculation that Lehrmann may sue him personally for defamation. It's likely he's under a lot of pressure at the moment, which might explain why he hasn't responded to my voicemail on Monday or my follow up email yesterday.

It may be best for us to take a slow and steady approach rather than rushing him given the other issues at play. I suggest that we leave it for a couple of days and I try calling him again at the end of the week. Please let me know if you're happy to take that approach, or if you'd prefer me to draft a formal letter to him now.

Let me know if you'd like to discuss.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[\[REDACTED\]@tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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Level 14, 60 Martin Place
 Sydney NSW 2000 Australia

GPO Box 3909 Sydney NSW 2001

DRAFT

Our ref MS:5142487

12 December 2022

Mr Shane Drumgold SC
 Office of the Director of Public Prosecutions
 Reserve Bank Building
 20-22 London Circuit
 CANBERRA CITY ACT 2601

Dear Mr Drumgold SC

**R v Bruce Lehrmann, Supreme Court of the Australian Capital Territory
 Proceedings No. SCC 264 of 2021**

As you are aware, we act for Lisa Wilkinson.

As we have previously conveyed to you on a number of occasions, our client continues to be extremely concerned about targeted and ongoing media reports which have criticised her role in the three month delay of the trial in the above proceedings in connection with the Logie Awards speech she gave on 19 June 2022. In this regard, we refer to our phone calls with you on 22 June 2022 and 24 October 2022 and our emails to you on 2 December 2022 and 6 December 2022.

It is the strong view of both Ms Wilkinson and Network Ten Senior Litigation Counsel Tasha Smithies that Ms Wilkinson was never specifically warned by you, during your meeting on 15 June 2022 or otherwise, not to give a Logies speech. Their recollection is that your only advice was that Ms Wilkinson could not mention the trial as that could give rise to a stay. We note that you have agreed this was the case during our two phone calls referred to above.

The reason why Ms Wilkinson raised this issue during your meeting was because she was concerned to ensure that she did not do anything that may jeopardise the trial. Following the meeting, Ms Wilkinson took care to ensure that she did not mention the trial, the accused, the charges or even Parliament House in the speech that she gave.

Despite this, her Honour Chief Justice McCallum found on the basis of a note of the 15 June 2022 meeting (which was tendered in Court without notice to Ms Wilkinson): "*Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial*". This finding has gone on to be reported as a fact by the media that Ms Wilkinson was warned not to give a speech but that she went ahead and gave the speech anyway. In our phone call on 22 June 2022, you said that you felt the need to correct reports that there was a positive direction not to give a speech and that you felt Ms Wilkinson had been poorly treated. You said you would give some thought as to how you could deal with it in open court the following day.

However, you did not say anything in Court that next day, and the record has not been corrected since that time. This omission has provided a basis for our client's ethics as a journalist to be strongly and repeatedly criticised. At the height of the publicity has been calls by influential journalists for Ms

Wilkinson to be imprisoned for contempt of court. As a result of the ongoing criticisms both in mainstream media and on social media, Ms Wilkinson has chosen to permanently stand down from her role hosting *The Project*.

Ms Wilkinson feels that she has been treated unfairly by the Office of the Director of Public Prosecutions in that:

1. you have not corrected the record in relation to what occurred during the 15 June 2022 meeting by clarifying that there was no positive direction from you to Ms Wilkinson not to give a speech; and
2. you have not publicly confirmed that you do not consider Ms Wilkinson's conduct amounted to contempt and that you will not be pursuing any contempt charges against her.

Ms Wilkinson has continued to honour her commitment to the Court not to speak publicly about the trial, nor about this issue. Now that the prosecution has been withdrawn, there is no reason to prevent these matters being addressed by you. It is imperative that this occurs given the media reports about Ms Wilkinson have not subsided.

Our client respectfully requests that you release a public statement that clarifies the true situation and corrects the public record so that her name and reputation on this issue can be restored. Ms Wilkinson would like the opportunity to review and approve the statement before it is released.

We would be happy to discuss this request with you further if required. We look forward to hearing from you at your earliest convenience.

Yours faithfully
THOMSON GEER

Marlia Saunders
Partner

[REDACTED]
[REDACTED]
[REDACTED]

Drumgold letter - PRIVILEGED AND CONFIDENTIAL

From: Lisa Wilkinson <[REDACTED]>
To: "Saunders, Marlia" [REDACTED]; Tasha Smithies - Ten Legal [REDACTED];
Nick Fordham [REDACTED]
Date: Mon, 12 Dec 2022 16:23:42 +1100
Attachments: Drumgold letter. 3. 121222.docx (23.61 kB)

Thanks for that redraft Marlia.

I take on board your points, but I have done some more tweaking and would appreciate your comments.

With thanks,

Lisa.

Sent from my iPad

DRAFT

Our MS:5142487
ref

12 December 2022

Mr Shane Drumgold SC
Office of the Director of Public Prosecutions
Reserve Bank Building
20-22 London Circuit
CANBERRA CITY ACT 2601

Dear Mr Drumgold SC

**R v Bruce Lehrmann, Supreme Court of the Australian Capital
Territory
Proceedings No. SCC 264 of 2021**

As you are aware, we act for Lisa Wilkinson.

As we have previously conveyed to you on a number of occasions, our client continues to be extremely concerned about **the** targeted, **widespread** and ongoing media reports which have criticised her role in the three-month delay of the trial in the above proceedings in connection with the Logie Awards speech she gave on 19 June 2022. In this regard, we refer to our phone calls with you on 22 June 2022 and 24 October 2022 and our emails to you on 2 December 2022 and 6 December 2022.

As you have been kind enough to previously acknowledge during our two phone calls referred to above, Ms Wilkinson and Network Ten Senior Litigation Counsel Tasha Smithies that Ms Wilkinson was never specifically warned by you, during your meeting on 15 June 2022 or otherwise, not to give a Logies speech. **As also confirmed by Network Ten Senior Litigation Counsel Tasha Smithies, who was in that meeting, your only advice was** that Ms Wilkinson could not mention the trial as that could give rise to a

stay. We note that you have agreed this was the case during our two phone calls referred to above.

The reason ~~why~~ Ms Wilkinson voluntarily raised ~~this the~~ issue of the Logies speech with you during your meeting was because she was concerned to ensure that she did not do anything that may jeopardise the approaching trial. Following the meeting, and your advice, Ms Wilkinson then took care to ensure that she did not mention the trial, the accused, the charges or even Parliament House where the alleged crime was said to have taken place, in the speech that she gave, and which had been fully approved by Ten's Legal Counsel.

Despite this, her Honour Chief Justice McCallum found, on the basis of a your note of the 15 June 2022 meeting (which was tendered in Court without notice to Ms Wilkinson): *"Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial"*. This finding has gone on to be reported as a fact by the media that Ms Wilkinson was specifically warned by you not to give a speech but that she went ahead and gave the speech anyway.

In our phone call on 22 June 2022, you said that you felt the need to correct reports that there was a positive direction given by you during that meeting for Ms Wilkinson not to give a speech and that you felt Ms Wilkinson had been poorly treated. You said you would give some thought as to how you could deal with it in open court the following day.

However, you did not say anything in Court that next day, and the record has still not been corrected since that time. This omission has provided a basis for our client's ethics as a journalist to be strongly and repeatedly criticised.

At the height of the publicity in the weeks immediately after the Logies, and more recently during the trial itself, there have ~~has~~ been calls by influential journalists for Ms Wilkinson to be imprisoned for contempt of court. As a direct result of the ongoing criticisms both in mainstream media and on social media, Ms Wilkinson has chosen to permanently stand down from her role hosting *The Project*.

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2. you have not publicly confirmed that you do not consider Ms Wilkinson's conduct amounted to contempt and that you will not be pursuing any contempt charges against her.

Ms Wilkinson has continued to honour her commitment to the Court not to speak publicly about the trial, nor about this issue. Now that the prosecution has been withdrawn, there is no reason to prevent these matters being addressed by you. It is imperative that this occurs given **that the media reports about Ms Wilkinson have not subsided and Justice McCallum's criticism of her personal and professional conduct remains as fact on the public record.**

Mr Drumgold, as you know, a gross injustice has been visited upon our client. You are a person who has devoted his life to justice and right now are the only one who can help restore justice in this case.

Ms Wilkinson ~~Our client~~ respectfully requests that you release a public statement that clarifies the true situation and corrects the public record so that ~~her~~ **our client's** name and reputation on this issue can be restored.

Ms Wilkinson would like the opportunity to review and approve the statement before it is released.

We would be happy to discuss this request with you further if required. We look forward to hearing from you at your earliest convenience.

Yours faithfully
THOMSON GEER

Marlia Saunders
Partner

[REDACTED]
[REDACTED]
[REDACTED]

RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}.[REDACTED]>
Date: Mon, 12 Dec 2022 16:43:48 +1100
Attachments: Lisa Wilkinson - Letter to Mr Shane Drumgold SC - December 2022 [REDACTED]

Hi Lisa

~
 Thanks for this. I'm happy with most of your changes, but there are a few I'd recommend against including. In particular, you don't want to waive privilege over the legal advice that was given to you in relation to the Logies speech and we also want to be careful with how we frame the references to the judge. My recollection is also that the note of the 15 June meeting that was tendered was prepared by one of the other DPP lawyers, not Drumgold.

~
 If you are happy with this version, I'll wait to hear whether Tasha has any final comments, then can send it out tomorrow.

~
 Kind regards

~
 Marlia

~
Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

[Advice](#) | [Transactions](#) | [Disputes](#)

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From: Lisa Wilkinson <[REDACTED]>
Sent: Monday, 12 December 2022 4:24 PM
To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

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 Thanks for that redraft Marlia.

I take on board your points, but I have done some more tweaking and would appreciate your comments.

With thanks,

Lisa.

Sent from my iPad

Level 14, 60 Martin Place
 Sydney NSW 2000 Australia

GPO Box 3909 Sydney NSW 2001

DRAFT

Our ref MS:5142487

12 December 2022

Mr Shane Drumgold SC
 Office of the Director of Public Prosecutions
 Reserve Bank Building
 20-22 London Circuit
 CANBERRA CITY ACT 2601

Dear Mr Drumgold SC

**R v Bruce Lehrmann, Supreme Court of the Australian Capital Territory
 Proceedings No. SCC 264 of 2021**

As you are aware, we act for Lisa Wilkinson.

As we have previously conveyed to you on a number of occasions, our client continues to be extremely concerned about the targeted, widespread and ongoing media reports which have criticised her role in the three month delay of the trial in the above proceedings in connection with the Logie Awards speech she gave on 19 June 2022. In this regard, we refer to our phone calls with you on 22 June 2022 and 24 October 2022 and our emails to you on 2 December 2022 and 6 December 2022.

As you have acknowledged during our two phone calls referred to above, Ms Wilkinson was never warned by you, during your meeting on 15 June 2022 or otherwise, not to give a Logies speech. As also confirmed by Network Ten Senior Litigation Counsel Tasha Smithies, who was in that meeting, your only advice was that Ms Wilkinson could not mention the trial as that could give rise to a stay.

The reason Ms Wilkinson voluntarily raised the issue of the Logies speech with you during your meeting was because she was concerned to ensure that she did not do anything that may jeopardise the approaching trial. Following the meeting, Ms Wilkinson took care to ensure that she did not mention the trial, the accused, the charges or even Parliament House in the speech that she gave.

The reason Ms Wilkinson voluntarily raised this the issue of the Logies speech with you during your meeting was because she was concerned to ensure that she did not do anything that may jeopardise the approaching trial. Following the meeting, Ms Wilkinson took care to ensure that she did not mention the trial, the accused, the charges or even Parliament House in the speech that she gave.

Despite this, her Honour Chief Justice McCallum found on the basis of a note of the 15 June 2022 meeting (which was tendered in Court without notice to Ms Wilkinson): "*Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial*". This finding has gone on to be reported as fact by the media that Ms Wilkinson was specifically warned by you not to give a speech but that she went ahead and gave the speech anyway.

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Ms Wilkinson respectfully requests that you release a public statement that clarifies the true situation and corrects the public record so that our client's name and reputation on this issue can be restored. Ms Wilkinson would like the opportunity to review and approve the statement before it is released.

We would be happy to discuss this request with you further if required. We look forward to hearing from you at your earliest convenience.

Yours faithfully
THOMSON GEER

Marlia Saunders
Partner

[Redacted signature block]

Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

From: Lisa Wilkinson <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Cc: "Saunders, Marlia" <[REDACTED]>; Nick Fordham <[REDACTED]>
Date: Mon, 12 Dec 2022 18:04:54 +1100
Attachments: Unnamed Attachment (68 bytes)

Dear Marlia,

I am in your hands for the best possible outcome, so please go ahead and send. I am happy with the changes.

With thanks,

Lisa.

Sent from my iPad

On 12 Dec 2022, at 5:14 pm, Tasha Smithies <[REDACTED]> wrote:

Thanks Marlia,

I agree with your advice, no further comments from me.

Kind regards,

Tasha

\~

Tasha Smithies
 Sr Litigation Counsel

[REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Saunders, Marlia <[REDACTED]>
Sent: Monday, 12 December 2022 4:44 PM
To: Lisa Wilkinson External <[REDACTED]>; Tasha Smithies <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

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Hi Lisa

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Thanks for this. I'm happy with most of your changes, but there are a few I'd recommend against including. In particular, you don't want to waive privilege over the legal advice that was given to you in relation to the Logies speech and we also want to be careful with how we frame the references to the judge. My recollection is also that the note of the 15 June meeting that was tendered was prepared by one of the other DPP lawyers, not Drumgold.

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Kind regards

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Marlia

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THOMSON GEER

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Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

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Marlia

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THOMSON GEER

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Network Ten Pty Ltd ABN 91 052 515 250 Disclaimer This e-mail (including all attachments) is intended solely for the named addressee. If you receive it in error, please let us know by reply e-mail, delete it from your system and destroy the copies. This e-mail is also subject to copyright. No part of it should be reproduced, adapted or transmitted without the written consent of the copyright owner. E-mails may be interfered with, may contain computer viruses or other defects and may not be successfully replicated on other systems. We give no warranties in relation to these matters. If you have any doubts about the authenticity of an e-mail purportedly sent by us, please contact us immediately.

From: Saunders, Marlia <[REDACTED]>
Sent: Tuesday, 13 December 2022 9:20 AM
To: Drumgold, Shane
Subject: R v Lehrmann - Lisa Wilkinson [TGLAW-Legal.FID3680207]
Attachments: Lisa Wilkinson - Letter to Mr Shane Drumgold SC - December 2022.pdf

Dear Mr Drumgold

Please see our correspondence **attached**.

Kind regards

Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

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Our ref MS:5142487

13 December 2022

Mr Shane Drumgold SC
Office of the Director of Public Prosecutions
Reserve Bank Building
20-22 London Circuit
CANBERRA CITY ACT 2601

Dear Mr Drumgold SC

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Proceedings No. SCC 264 of 2021**

As you are aware, we act for Lisa Wilkinson.

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The reason Ms Wilkinson voluntarily raised the issue of the Logies speech with you during your meeting was because she was concerned to ensure that she did not do anything that may jeopardise the approaching trial. Following the meeting, Ms Wilkinson took care to ensure that she did not mention the trial, the accused, the charges or even Parliament House in the speech that she gave.

Despite this, her Honour Chief Justice McCallum found on the basis of a note of the 15 June 2022 meeting (which was tendered in Court without notice to Ms Wilkinson): *"Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial"*. This finding has gone on to be reported as fact by the media that Ms Wilkinson was specifically warned by you not to give a speech but that she went ahead and gave the speech anyway.

In our phone call on 22 June 2022, you said that you felt the need to correct reports that there was a positive direction by you not to give a speech and that you felt Ms Wilkinson had been poorly treated. You said you would give some thought as to how you could deal with it in open court the following day. However, you did not say anything in Court that next day, and the record has still not been corrected since that time. This omission has provided a basis for our client's ethics as a journalist to be strongly and repeatedly criticised.

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We would be happy to discuss this request with you further if required. We look forward to hearing from you at your earliest convenience.

Yours faithfully
THOMSON GEER



Marlia Saunders
Partner

[Redacted]
[Redacted]
[Redacted]

R v Lehrmann - Lisa Wilkinson [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: "Drumgold, Shane" <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}.[REDACTED]>
Date: Tue, 13 Dec 2022 09:19:41 +1100
Attachments: Lisa Wilkinson - Letter to Mr Shane Drumgold SC - December 2022.pdf (129.55 kB)

Dear Mr Drumgold

\~
Please see our correspondence **attached**.

\~
Kind regards

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Marlia Saunders | Partner
THOMSON GEER

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GPO Box 3909 Sydney NSW 2001

Our ref MS:5142487

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Despite this, her Honour Chief Justice McCallum found on the basis of a note of the 15 June 2022 meeting (which was tendered in Court without notice to Ms Wilkinson): *"Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial"*. This finding has gone on to be reported as fact by the media that Ms Wilkinson was specifically warned by you not to give a speech but that she went ahead and gave the speech anyway.

In our phone call on 22 June 2022, you said that you felt the need to correct reports that there was a positive direction by you not to give a speech and that you felt Ms Wilkinson had been poorly treated. You said you would give some thought as to how you could deal with it in open court the following day. However, you did not say anything in Court that next day, and the record has still not been corrected since that time. This omission has provided a basis for our client's ethics as a journalist to be strongly and repeatedly criticised.

R v Lehrmann - Lisa Wilkinson [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: "Drumgold, Shane" <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}> [REDACTED]>
Date: Tue, 13 Dec 2022 09:19:41 +1100
Attachments: Lisa Wilkinson - Letter to Mr Shane Drumgold SC - December 2022.pdf (129.55 kB)

Dear Mr Drumgold

\~
Please see our correspondence **attached**.

\~
Kind regards

\~
Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

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\~

Level 14, 60 Martin Place
 Sydney NSW 2000 Australia

GPO Box 3909 Sydney NSW 2001

Our ref MS:5142487

13 December 2022

Mr Shane Drumgold SC
 Office of the Director of Public Prosecutions
 Reserve Bank Building
 20-22 London Circuit
 CANBERRA CITY ACT 2601

Dear Mr Drumgold SC

**R v Bruce Lehrmann, Supreme Court of the Australian Capital Territory
 Proceedings No. SCC 264 of 2021**

As you are aware, we act for Lisa Wilkinson.

As we have previously conveyed to you on a number of occasions, our client continues to be extremely concerned about the targeted, widespread and ongoing media reports which have criticised her role in the three month delay of the trial in the above proceedings in connection with the Logie Awards speech she gave on 19 June 2022. In this regard, we refer to our phone calls with you on 22 June 2022 and 24 October 2022 and our emails to you on 2 December 2022 and 6 December 2022.

As you have acknowledged during our two phone calls referred to above, Ms Wilkinson was never warned by you, during your meeting on 15 June 2022 or otherwise, not to give a Logies speech. As also confirmed by Network Ten Senior Litigation Counsel Tasha Smithies, who was in that meeting, your only advice was that Ms Wilkinson could not mention the trial as that could give rise to a stay.

The reason Ms Wilkinson voluntarily raised the issue of the Logies speech with you during your meeting was because she was concerned to ensure that she did not do anything that may jeopardise the approaching trial. Following the meeting, Ms Wilkinson took care to ensure that she did not mention the trial, the accused, the charges or even Parliament House in the speech that she gave.

Despite this, her Honour Chief Justice McCallum found on the basis of a note of the 15 June 2022 meeting (which was tendered in Court without notice to Ms Wilkinson): *"Notwithstanding that clear and appropriate warning, upon receiving the award, Ms Wilkinson gave a speech in which she openly referred to and praised the complainant in the present trial"*. This finding has gone on to be reported as fact by the media that Ms Wilkinson was specifically warned by you not to give a speech but that she went ahead and gave the speech anyway.

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At the height of the publicity in the weeks immediately after the Logies, and more recently during the trial itself, there have been calls by influential journalists for Ms Wilkinson to be imprisoned for contempt of court. As a direct result of the ongoing criticism both in mainstream media and on social media, Ms Wilkinson has chosen to permanently stand down from her role hosting *The Project*.

Ms Wilkinson feels that she has been treated unfairly by the Office of the Director of Public Prosecutions in that:

1. you have not corrected the record in relation to what occurred during the 15 June 2022 meeting by clarifying that there was no positive direction from you to Ms Wilkinson not to give a speech; and
2. you have not publicly confirmed that you do not consider Ms Wilkinson's conduct amounted to contempt of court and that you will not be pursuing any contempt charges against her.

Ms Wilkinson has continued to honour her commitment to the Court not to speak publicly about the trial, nor about this issue. Now that the prosecution has been withdrawn, there is no reason to prevent these matters being addressed by you. It is imperative that this occurs given that the media reports about Ms Wilkinson have not subsided.

Ms Wilkinson respectfully requests that you release a public statement that clarifies the true situation and corrects the public record so that her name and reputation on this issue can be restored. Ms Wilkinson would like the opportunity to review and approve the statement before it is released.

We would be happy to discuss this request with you further if required. We look forward to hearing from you at your earliest convenience.

Yours faithfully
THOMSON GEER



Marlia Saunders
Partner

[Redacted]
[Redacted]
[Redacted]

RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Nick Fordham <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Lisa Wilkinson <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}>[REDACTED]>
Date: Thu, 15 Dec 2022 09:44:10 +1100

Hi Nick

Unfortunately not.

I will try calling him today.

Cheers

Marlia

Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
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Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Hi Marlia,

Just wondering if you have heard Drumgold?

Look forward to hearing from you.

Regards,

Nick

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NICK FORDHAM
 CEO
 13-15 Little Burton Street
 DARLINGHURST NSW 2010 AUSTRALIA

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 Kind regards

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Date: Thu, 15 Dec 2022 16:11:11 +1100

Hi Lisa

~
 I called Shane Drumgold three times today, once from my mobile and twice from a landline – both times they were quickly diverted to voicemail.

~
 It might be that he's avoiding my calls, either because he is still considering how to respond to our letter or because he doesn't want to take any action at this time given everything else that is going on.

~
 We have sent the letter, but we can't compel him to respond. Unfortunately, there's not much more we can do from a legal perspective at this time.

~
 I'm sorry that this hasn't had a better outcome for you.

~
 Kind regards

~
 Marlia

~
Marlia Saunders | Partner
THOMSON GEER

[REDACTED] | [REDACTED]
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THOMSON GEER

Level 14, 60 Martin Place, Sydney NSW 2000 Australia
marlia@tglaw.com.au

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Hi Marlia,
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 CEO
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 DARLINGHURST NSW 2010 AUSTRALIA
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Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <{f3680207}> [REDACTED]
Date: Thu, 15 Dec 2022 16:11:11 +1100

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Date: Thu, 15 Dec 2022 18:02:52 +1100

Thanks Marlia.

That is incredibly disappointing. Are there any suggestions you have on how we move forward and correct the public record on this?

With Lehrmann threatening to sue for defamation, and his much-reported sit-down interview with Channel Seven likely to be filmed in the coming weeks, my name will continue to be dragged unfairly through the mud in all the retelling of this whole saga, as it was, once again on Media Watch just three days ago, which included the allegation that my journalism around the Brittany story was disgraceful, and that I had given a speech at the National Press Club. That is 100% untrue. And again, no-one is doing anything to correct the factual record behind the scenes on any element of the ongoing trashing of my name.

Meantime, would it be possible for me to email Mr Drumgold personally, attaching our letter once again, letting him know how deeply disappointed I am in his actions, the effect it has had on me, and requesting a face to face meeting. Further, is there an Ombudsman we can go to, or a formal complaint we can make to whomever or whichever authority sits above Mr Drumgold?

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Sent: Monday, 12 December 2022 6:20 PM

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Cc: Tasha Smithies <[REDACTED]>; Saunders, Marlia <[REDACTED]>

Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

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We have sent the letter, but we can't compel him to respond. Unfortunately, there's not much more we can do from a legal perspective at this time.

I'm sorry that this hasn't had a better outcome for you.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

Level 14, 60 Martin Place, Sydney NSW 2000 Australia
| tg@tglaw.com.au

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From: Lisa Wilkinson <[REDACTED]>

Sent: Thursday, 15 December 2022 10:54 AM

To: Saunders, Marlia <[REDACTED]>

Cc: Nick Fordham <[REDACTED]>; Tasha Smithies <[REDACTED]>; Giorgia Taylor <[REDACTED]>

Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks for the update Marlia.

I am very aware how close we now are to Christmas, so can I request that we get an update on your situation with Drumgold by 4pm today. If there has been no response, I think we need to have a teams meeting at a time convenient to everyone, so we can decide our next steps.

With thanks,

Lisa.

Sent from my iPad

On 15 Dec 2022, at 9:44 am, Saunders, Marlia <[REDACTED]> wrote:

Hi Nick

Unfortunately not.

I will try calling him today.

Cheers

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Marlia

~
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~
Hi Marlia,
~
Just wondering if you have heard Drumgold?
~
Look forward to hearing from you.
~
Regards,
~
Nick
~

~
THE
FORDHAM
COMPANY

NICK FORDHAM
CEO
13-15 Little Burton Street
DARLINGHURST NSW 2010
AUSTRALIA
[REDACTED]
www.thefordhamcompany.com.au
[REDACTED] [REDACTED] [REDACTED]

~
~

From: "Saunders, Marlia" <[REDACTED]>
Date: Tuesday, 13 December 2022 at 11:29 am
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Cc: Tasha Smithies <[REDACTED]>
Subject: RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

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Thanks all.
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I confirm the letter has been sent both by email and post this morning.
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Please find the final version **attached**.
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Kind regards
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Sent: Monday, 12 December 2022 6:20 PM
To: Lisa Wilkinson <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Saunders, Marlia <[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thank you Lisa. Fine by me. Fingers crossed this is sorted in the next week.

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NICK FORDHAM
 CHIEF EXECUTIVE OFFICER
 THE FORDHAM COMPANY
www.thefordhamcompany.com.au

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If you are happy with this version, I'll wait to hear whether Tasha has any final comments, then can send it out tomorrow.

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With thanks,

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Drumgold letter - PRIVILEGED AND CONFIDENTIAL

From: Tasha Smithies <[REDACTED]>
To: Nick Fordham <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>;
 "Saunders, Marlia" <[REDACTED]>
Cc: Georgia Taylor <[REDACTED]>; Beverley McGarvey <[REDACTED]>
Date: Fri, 16 Dec 2022 09:31:27 +1100
Attachments: Unnamed Attachment (68 bytes)

Thanks Lisa and Nick,

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~

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~

- We would not recommend that N10 make any public statement that challenges or criticises the Office of the DPP as we consider such approach to be inflammatory and viewed publicly as self-serving, with ultimately a counterproductive effect.

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- For the reasons outlined above, we also wouldn't recommend Lisa making a statement.

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Tasha Smithies
 Sr Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

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 Hi Marlia,

~
 This is most disappointing.

~
 Isn't Drumgold obliged to formally respond to you under 4.1. 3 of the Legal Professionals Conduct Rules? I imagine him continually ignoring you places him in breach of his legal obligations. Are you able to formally remind him of his legal obligations or can we make a formal complaint? Trust he understands we are not going to let this go until it's corrected.

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<https://www.legislation.act.gov.au/View/sl/2015-37/current/html/2015-37.html>

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 Bev, could you please introduce me to Ten's crisis comms company? Unfortunately, it would seem they have been completely non-existent throughout this entire process. We would like to discuss with them the strategy of backgrounding media on this.

~
 In view of Drumgold's breach of the Legal Professionals Conduct Rules, would Ten issue a formal public statement?

~
 I look forward to hearing back and working through this until we get the result we are after.

~
 Regards

~
 ~Nick

~
NICK FORDHAM
 CHIEF EXECUTIVE OFFICER

~
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

From: Lisa Wilkinson <[REDACTED]>
Sent: Thursday, December 15, 2022 7:03 am
To: Saunders, Marlia <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; Tasha Smithies <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

~
 Thanks Marlia.

~
 That is incredibly disappointing. Are there any suggestions you have on how we move forward and correct the public record on this?

~
 With Lehrmann threatening to sue for defamation, and his much-reported sit-down interview with Channel Seven likely to be filmed in the coming weeks, my name will continue to be dragged unfairly through the mud in all the retelling of this whole saga, as it was, once again on Media Watch just three days ago, which included the allegation that my journalism around the Brittany story was disgraceful, and that I had given a speech at the National Press Club. That is 100% untrue. And again, no-one is doing anything to correct the factual record behind the scenes on any element of the ongoing trashing of my name.

~
 Meantime, would it be possible for me to email Mr Drumgold personally, attaching our letter once again, letting him know how deeply disappointed I am in his actions, the effect it has had on me, and requesting a face to face meeting. Further, is there an Ombudsman we can go to, or a formal complaint we can make to whomever or whichever authority sits above Mr Drumgold?

~
 Kind regards,

~
 Lisa.

Sent from my iPad

On 15 Dec 2022, at 4:11 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

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THOMSON GEER

T [REDACTED] | M [REDACTED]
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[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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With thanks,

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Lisa.

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Sent from my iPad

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Hi Nick

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Unfortunately not.

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I will try calling him today.

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Cheers

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Marlia

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Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

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Regards,

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Nick

\~

T H E

FORDHAM
C O M P A N Y

NICK FORDHAM

CEO

13-15 Little Burton Street

DARLINGHURST NSW 2010

AUSTRALIA

T [REDACTED]

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Drumgold letter - PRIVILEGED AND CONFIDENTIAL

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To: Nick Fordham <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>;
"Saunders, Marlia" <[REDACTED]>
Cc: Georgia Taylor <[REDACTED]>; Beverley McGarvey <[REDACTED]>
Date: Fri, 16 Dec 2022 09:31:27 +1100
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Sent: Thursday, December 15, 2022 7:03 am
To: Saunders, Marlia <[REDACTED]>
Cc: [REDACTED]; Tasha Smithies <[REDACTED]>; Giorgia Taylor
Subject: Re: Drumgold le er - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

That is incredibly disappoin ng. Are there any sugges ons you have on how we move forward and correct the public record on

With Lehrmann threatening to sue for defama on, and his much-reported sit-down interview with Channel Seven likely to be lmed in the coming weeks, my name will con nue to be dragged unfairly through the mud in all the retelling of this whole saga, as it was, once again on Media Watch just three days ago, which included the allega on that my journalism around the any story was disgraceful, and that I had given a speech at the Na onal Press Club. That is 100% untrue. And again, no-one is doing anything to correct the factual record behind the scenes on any element of the ongoing trashing of my name.

me, would it be possible for me to email Mr Drumgold personally, a er once again, le ng him know how deeply disappointed I am in his ac ect it has had on me, and reques ng a face to face mee ng. Further, is there an Ombudsman we can go to, or a formal complaint we can make to whomever or whichever authority sits above Mr Drumgold?

Sent from my iPad

On 15 Dec 2022, at 4:11 pm, Saunders, Marlia <[REDACTED]>

I called Shane Drumgold three times today, once from my mobile and twice from a landline – both times they were quickly diverted to voicemail.

It might be that he's avoiding my calls, either because he is still considering how to respond to our letter or because he doesn't want to take any action at this time given everything else that is going on.

We have sent the letter, but we can't compel him to respond. Unfortunately, there's not much more we can do from a legal perspective at this time.

I'm sorry that this hasn't had a better outcome for you.

Marlia Saunders |
THOMSON GEER
T | M
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

Please note that our offices will be closed from COB Friday 23 December 2022 and will reopen on Monday 9 January 2023. However, if you require urgent prepublication advice or urgent advice generally, please email [REDACTED]. The prepub email address is being constantly monitored. If you need to speak with me, please call my mobile as set out above.

From: Lisa Wilkinson <[REDACTED]>
Sent: Thursday, 15 December 2022 10:54 AM
To: Saunders, Marlia <[REDACTED]>
Cc: [REDACTED]; Tasha Smithies <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks for the update Marlia.

I am very aware how close we now are to Christmas, so can I request that we get an update on your situa Drumgold by 4pm today. If there has been no response, I think we need to have a teams mee me convenient to everyone, so we can decide our next steps.

Sent from my iPad

On 15 Dec 2022, at 9:44 am, Saunders, Marlia <[REDACTED]>

Unfortunately not.

I will try calling him today.

325

Marlia Saunders |
THOMSON GEER
T | M
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

Please note that our offices will be closed from COB Friday 23 December 2022 and will reopen on Monday 9 January 2023. However, if you require urgent prepublication advice or urgent advice generally, please email prepub@tglaw.com.au. The prepub email address is being constantly monitored. If you need to speak with me, please call my mobile as set out above.

From: [REDACTED]
Sent: Thursday, 15 December 2022 9:43 AM
To: Saunders, Marlia <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Lisa Wilkinson <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Just wondering if you have heard Drumgold?

Look forward to hearing from you.

THE
FORDHAM
COMPANY

NICK FORDHAM

13-15 Little Burton Street
DARLINGHURST NSW 2010

T [REDACTED]
www.thefordhamcompany.com.au
  

From: "Saunders, Marlia" <[REDACTED]>
Date: Tuesday, 13 December 2022 at 11:29 am
To: Nick Fordham <[REDACTED]>, Lisa Wilkinson <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>
Subject: RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

I confirm the letter has been sent both by email and post this morning.

Please find the final version **attached**

Marlia Saunders |
THOMSON GEER
T | M
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

326

Please note that our offices will be closed from COB Friday 23 December 2022 and will reopen on Monday 9 January 2023. However, if you require urgent prepublication advice or urgent advice generally, please email [REDACTED]. The prepub email address is being constantly monitored. If you need to speak with me, please call my mobile as set out above.

From: [REDACTED]
Sent: Monday, 12 December 2022 6:20 PM
To: Lisa Wilkinson <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Saunders, Marlia <[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thank you Lisa. Fine by me. Fingers crossed this is sorted in the next week.

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 12 Dec 2022, at 7:05 am, Lisa Wilkinson <[REDACTED]>

I am in your hands for the best possible outcome, so please go ahead and send. I am happy with the changes.

Sent from my iPad

On 12 Dec 2022, at 5:14 pm, Tasha Smithies <[REDACTED]>

Thanks Marlia,
I agree with your advice, no further comments from me.

Tasha Smithies
Sr Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Saunders, Marlia <[REDACTED]>
Sent: Monday, 12 December 2022 4:44 PM
To: Lisa Wilkinson External <[REDACTED]>; Tasha Smithies <[REDACTED]>
Subject: RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks for this. I'm happy with most of your changes, but there are a few I'd recommend against including. In particular, you don't want to waive privilege over the legal advice that was given to you in relation to the Logies speech and we also want to be careful with how we frame the references to the judge. My recollection is also that the note of the 15 June meeting that was tendered was prepared by one of the other DPP lawyers, not Drumgold.

If you are happy with this version, I'll wait to hear whether Tasha has any final comments, then can send it out

Marlia Saunders |
THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | [tgllaw.com.au](mailto:[REDACTED]@tgllaw.com.au)

Advice | Transactions | Disputes

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From: Lisa Wilkinson [REDACTED]
Sent: Monday, 12 December 2022 4:24 PM
To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal
[REDACTED] <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

Thanks for that redraft Marlia.

I take on board your points, but I have done some more tweaking and would appreciate your comments.

Sent from my iPad

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From: Tasha Smithies <[REDACTED]>
Date: 16 December 2022 at 2:01:53 pm AEDT
To: Lisa Wilkinson External <[REDACTED]>, Angus Llewellyn
<[REDACTED]>
Cc: Chris Bendall <[REDACTED]>
Subject: Fwd: DEFAMATION OF BRUCE LEHRMANN

Hi Lisa and Angus,
Please see attached - as expected.
We will speak to external lawyers and counsel (we had already retained Matt Collins and Tim senior) and work with them on any response. We have 28 days to respond. Do call me on the mobile as may be easier to chat over the phone.
Kind regards,
Tasha

Tasha Smithies
Sr Litigation Counsel
O [REDACTED] **M** [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

Begin forwarded message:

From: Mark O'Brien <[REDACTED]>
Date: 16 December 2022 at 1:20:10 pm AEDT
To: Beverley McGarvey <[REDACTED]>, Chris Bendall
<[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>, Tasha Smithies
<[REDACTED]>, Paul Svilans
<[REDACTED]>
Subject: DEFAMATION OF BRUCE LEHRMANN

Dear Sir and Madam

Please find **attached** letter of today's date.

Regards

Mark O'Brien

Principal | Mark O'Brien Legal

Level 19, 68 Pitt Street, Sydney NSW 2000 Australia

T [REDACTED] | M [REDACTED]

E [REDACTED]

W [REDACTED]

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**MARK
O'BRIEN
LEGAL**
ABN 86 002 421 123

Our Ref: MOBL657

16 December 2022

Beverley McGarvey
Executive Vice President & Chief Content Officer
Network Ten Pty Limited and Network Ten (Sydney) Pty Limited
1 Saunders Street
Pyrmont, NSW 2009

Christopher Bendall
Executive Producer
The Project
Como Centre
Level 4, 620 Chapel Street
South Yarra, VIC 3141

Confidential and Not for Publication

By Email: [REDACTED]; [REDACTED]

Dear Sir and Madam

DEFAMATION OF BRUCE LEHRMANN

We act for Mr Bruce Lehrmann.

As you would be aware, criminal proceedings were brought against Mr Lehrmann in the Supreme Court of the Australian Capital Territory over the alleged sexual assault of Ms Brittany Higgins.

Mr Lehrmann has at all times vehemently denied sexually assaulting Ms Higgins.

The criminal proceedings brought against Mr Lehrmann were withdrawn on 2 December 2022.

Publication

On or about 15 February 2021 Network Ten broadcast a segment during the program *The Project* in which Ms Lisa Wilkinson interviewed Ms Brittany Higgins. That segment was also published online via [REDACTED]

The Project's YouTube channel on the YouTube website with close to 300,000 views (<https://www.youtube.com/channel/UCorruoVYwGGyND4SZVtrVDQ>) (the **Publications**).

The Publications contained a number of statements regarding Mr Lehmann, including the following:

- a. *Lisa Wilkinson: "Can you describe how you were treated professionally by one of the senior male advisors to Minister Reynolds?"*

Brittany Higgins: "Yeah. So immediately it became clear that this person had a special bond with the Minister. It was very clear that he was sort of her go-to person and he was really quite territorial of that position."

- b. *Lisa Wilkinson: "So he was a bit of a favourite of Minister Reynolds?"*

Brittany Higgins: "Yeah very much so. He had been advising her in the Home Affairs portfolio prior to that. He had a lot of friends everywhere. He was considered one of the sort of rising stars."

- c. *Lisa Wilkinson: "On the 22nd of March 2019, less than three weeks after she'd started in Linda Reynold's office, Brittany organised Friday night drinks with contacts and colleagues in Defence. So how did this senior male colleague act towards you?"*

Brittany Higgins: "He was nice to me. I think he was grateful that I invited him. I was kind of happy that I had an opportunity to kind of demonstrate some value to the team I guess. I noticed that he was buying me a lot of drinks and I was kind of... I just thought of 'job well done', I thought I was kind of broadly being rewarded in a weird way."

- d. *Brittany Higgins: "My senior male colleague who was actually quite helpful in terms of getting me into a cab on the basis that I really couldn't walk. I mean I don't specifically remember the exact conversation but the general tone was 'we live in the same direction but I've got to stop somewhere first.'"*

Lisa Wilkinson: "Where was that somewhere?"

Brittany Higgins: "Parliament."

- e. *Brittany Higgins: "The first thing that sort of awoke me was... I was in a pain. My leg was kind of being crushed. The senior staffer was on top of me. He was clearly almost finished [...] I woke up mid-rape essentially. I don't know why I knew he was almost finished but I'd felt like it had been going on for a while or that he was almost done. He was sweaty. I couldn't get him off of me. At this point I started crying."*

Lisa Wilkinson: "What did you say to him?"

Brittany Higgins: "I told him to stop."

Lisa Wilkinson: "Did he?"

Brittany Higgins: "No."

Lisa Wilkinson: "How many times would you estimate you said to him to stop?"

Brittany Higgins: "I felt like it was on a loop endlessly. At least half a dozen. I was crying the whole way through it."

- f. Lisa Wilkinson: "You have a photo that you took of a bruise that developed from that night. What does that photograph show?"*

Brittany Higgins: "It's quite a large bruise. It's just the weight obviously of his leg pinning me down."

- g. Brittany Higgins: "My dress was up around my waist, the straps were kind of down, I was pretty dishevelled."*

- h. Lisa Wilkinson: "Monday morning, Brittany went to work as usual. So did her senior colleague, the alleged rapist. But no one raised the security breach. That came on Tuesday morning."*

- i. Brittany Higgins: "[Fiona Brown] came in on the Tuesday morning and asked if the senior colleague and I would go into the office and speak with her. So she originally brought in the senior colleague and they were probably in there for about 45 minutes."*

Lisa Wilkinson: "So this colleague came out?"

Brittany Higgins: "Yes so he immediately walked out of the office and started packing up his things."

- j. Lisa Wilkinson: "What was her tone towards you until you told her that you had been raped?"*

[...]

Brittany Higgins: "She asked me to recount the events of the night [...] that was sort of the first time I'd vocalised that I'd been raped. And I think as I was telling it, it was the first time I had sort of pieced it together myself what had happened was an assault..."

- k. Lisa Wilkinson: "We now return to our interview with Brittany Higgins, the young Liberal staffer who tells us she was raped inside Parliament House."*

- l. Lisa Wilkinson: "So you had just told a senior advisor to Prime Minister Scott Morrison that you had been raped on Minister Reynold's couch in her private office?"*

Brittany Higgins: "Yes."

Lisa Wilkinson: "That's a serious crime."

Brittany Higgins: "Yeah."

- m. *Brittany Higgins: "It felt like everyone had all this information on my own assault and I didn't have any..."*
- n. *Brittany Higgins: "We actually went into the room where it happened [...] it was the first time I had ever had to go back there. And so between sort of me and their table was the couch and I just remember feeling so [...] I was just so cognisant of this is where it's happened, it's right there, that's exactly where... and it was just this loop playing in my mind of this trauma that I'd just sort of come to terms with. And I just thought it was unfathomable that they would put me in that space again [...] I felt like I was reliving it every second of being in that room."*
- o. *Lisa Wilkinson: "So what's happened to the man that you say raped you on Minister Reynold's couch?"*
- Brittany Higgins: "He's fine. He's working in Sydney. He's got a good job. People don't know why he left and I don't think he's suffered any consequences for it at all."*
- p. *Lisa Wilkinson: "If everything that you say is true, it sounds to me like the easiest place in this country to rape a woman, and get away with it, is Parliament House in Canberra."*

Brittany Higgins: "Yeah."

Identification

The Publications were clearly of and concerning Mr Lehrmann, with Mr Lehrmann being identifiable to many viewers by reason of the Publications stating that the assailant of Ms Higgins:

- a. was a "senior male advisor to Minister Reynolds";
- b. was Minister Reynolds "go-to person";
- c. was "a bit of a favourite of Minister Reynolds";
- d. "had been advising her in the Home Affairs portfolio prior that";
- e. attended Friday night drinks organised by Ms Higgins on 22 March 2019;
- f. started packing up his belongings on the Tuesday morning after the alleged incident following a meeting with Fiona Brown; and

g. was working in Sydney in February 2021.

It was therefore readily apparent to any person working for the Liberal Party in Parliament House and indeed many other people in that workplace (where several thousand people work) that the assailant could only be Mr Lehrmann.

The Publications invited readers to speculate about the identity of Mr Lehrmann and within the following hours and days his name was widely trafficked as the culprit on social media and the internet generally. See for instance:

- <https://kangaroocourtsofaustralia.com/2021/02/27/were-young-women-sexually-assaulted-when-bruce-lehrmann-the-alleged-parliament-house-rapist-was-an-official-at-the-anu-un-conference/>
- <https://twitter.com/blakandblack/status/1363106005404549121?lang=en>
- <https://blotreport.com/2021/02/17/did-morrison-almost-tell-the-truth/>
- <https://twitter.com/PeterWMurphy1/status/1362759012719026177>
- <https://www.clownworldau.com/story/brittany-higgins/>
- <https://twitter.com/peakhourimages/status/1363960533964128256?lang=en>
- <https://www.clownworldau.com/story/bruce-lehrmann-david-sharaz/>
- <https://www.youtube.com/watch?v=xgUjBWw1q9c>
- <https://www.townsvillemagpie.com.au/unfriendly-fire-the-real-reason-behind-the-facebook-ban-morrisons-lip-service-to-stiffen-ruperts-business-end/>

Further, by the time of broadcast of The Project segment on 15 February 2021, it was notorious within Parliament House and elsewhere that Mr Lehrmann was the person alleged to have sexually assaulted Ms Higgins. This is evidenced by numerous persons having contacted Mr Lehrmann on the evening of 15 February 2021 and thereafter in relation to the segment, having plainly identified him.

Imputations

The Publications convey, amongst others, the following imputations of and concerning Mr Lehrmann:

- a. He raped Brittany Higgins in Defence Minister Linda Reynolds' office in 2019.*
- b. He continued to rape Brittany Higgins after she woke up mid-rape and was crying and telling him to stop at least half a dozen times.*

- c. *He, whilst raping Brittany Higgins, crushed his leg against her leg so forcefully that to caused a large bruise.*
- d. *After he finished raping Brittany Higgins, he left her on a couch in a state of undress with her dress up around her waist.*

Mr Lehmann vehemently denies that he sexually assaulted Ms Higgins, and the imputations are therefore grossly and indefensibly defamatory of him, noting that in a civil case Ms Higgins' allegations would be required to be proven to the standard in *Briginshaw v Briginshaw* (1938) 60 CLR 336.

Limitation period

As at 15 February 2021 Section 56A of the *Limitation Act 1969* (NSW) was in the following terms:

- (1) A person claiming to have a cause of action for defamation may apply to the court for an order extending the limitation period for the cause of action.*
- (2) A court may extend the limitation period to a period of up to 3 years running from the date of the alleged publication of the matter if the plaintiff satisfies the court that it is just and reasonable to allow an action to proceed.*
- (3) In determining whether to extend the limitation period, the court is to have regard to all of the circumstances of the case and in particular to—*
 - (a) the length of, and the reasons for, the plaintiff's delay, and*
 - (b) if a reason for the delay was that some or all of the facts relevant to the cause of action became known to the plaintiff after the limitation period expired—*
 - (i) the day on which the facts became known to the plaintiff, and*
 - (ii) the extent to which the plaintiff acted promptly and reasonably once the plaintiff knew whether or not the facts might be capable of giving rise to an action, and*
 - (c) the extent, having regard to the delay, to which relevant evidence is likely to be unavailable or less cogent than if the action had been brought within the limitation period.*

It is well established that a putative applicant is entitled to wait until criminal or coronial proceedings traversing the same issues are disposed of before commencing defamation proceedings. In such circumstances the Court has a discretion to extend the limitation period for a period of time. See for instance:

- a. *Houda v New South Wales* [2012] NSWSC 1036 where the Court was prepared to extend time from mid-December (when the DPP decided not to appeal the Magistrate's dismissal of the charges) until 19 March of the following year.
- b. *Barrett v TCN Channel Nine Pty Ltd* [2017] NSWCA 304. In this case the coronial decision was in February and the plaintiff had sought legal advice and given instructions to commence proceedings at a conference in May of the same year. The trial judge was prepared to extend time until the end of June (but a period of unexplained delay meaning proceedings were not filed until later that year meant the extension application failed).

In summary, given the ACT Director of Public Prosecutions only announced on 2 December 2022 he was withdrawing the criminal proceedings brought against Mr Lehrmann in relation to the allegation that he sexually assaulted Ms Higgins, Mr Lehrmann will be entitled to an extension of time for the commencement of proceedings over the Publications.

Next Steps

We have retained Steven Whybrow SC and Matthew Richardson SC to act in defamation proceedings against Network Ten in relation to the Publications.

However, Mr Lehrmann is prepared to consider a non-litigious resolution of his concerns before proceedings are commenced. In that regard we refer you to the provisions of the *Civil Dispute Resolution Act 2011* (C'th) in addition to the *Defamation Act 2005* (NSW).

Mr Lehrmann offers to resolve the dispute on the following terms:

- (a) Payment of the sum of \$235,000 for damages to Mr Lehrmann.
- (b) Network Ten provides to Mr Lehrmann a letter of apology on Network Ten letterhead and signed by the Executive Vice President & Chief Content Officer in the following terms:

"Apology to Bruce Lehrmann

On about 15 February 2021, Network Ten broadcast a segment on the program The Project in which Ms Lisa Wilkinson interviewed Ms Brittany Higgins.

The broadcast alleged that Ms Higgins was raped by a senior colleague working in the same ministerial office as Ms Higgins. That colleague was immediately identified by many persons as Mr Bruce Lehrmann.

Network Ten only ever intended to suggest that Ms Higgins had made allegations against Mr Lehrmann and not that he was guilty of those allegations.

On 2 December 2022, the Director of Public Prosecutions in the Australian Capital Territory announced the withdrawal of the charges against Mr Lehrmann.

We accept in those circumstances that Mr Lehrmann is entitled to the presumption of innocence, and we apologise to him for the publication of the broadcast.”

(c) Payment of Mr Lehrmann’s costs, including Counsels’ fees, incurred to date.

This offer is open for 14 days from the date of this letter.

In the event the offer is not accepted, Mr Lehrmann will rely upon the sending of this letter, and any response to it (or lack of response) on any issue arising in the proceedings, including aggravated damages and indemnity costs.

Yours faithfully



Mark O'Brien
Principal

T [REDACTED]
M [REDACTED]
E [REDACTED]

Copy to: Stuart Thomas

[REDACTED]

Tasha Smithies

[REDACTED]

Fwd: DEFAMATION OF BRUCE LEHRMANN

From: Tasha Smithies <[REDACTED]>
To: Lisa Wilkinson External <[REDACTED]>; Angus Llewellyn <[REDACTED]>
Cc: Chris Bendall <[REDACTED]>
Date: Fri, 16 Dec 2022 14:01:40 +1100
Attachments: image001.png (3.8 kB); Letter to Network Ten dated 16 December 2022.pdf (200.13 kB)

Hi Lisa and Angus,
Please see attached - as expected.
We will speak to external lawyers and counsel (we had already retained Matt Collins and Tim senior) and work with them on any response. We have 28 days to respond. Do call me on the mobile as may be easier to chat over the phone.

Tasha Smithies
Sr Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

Begin forwarded message:

From: Mark O'Brien <[REDACTED]>
Date: 16 December 2022 at 1:20:10 pm AEDT
To: Beverley McGarvey <[REDACTED]>, Chris Bendall <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>, Tasha Smithies <[REDACTED]>, Paul Svilans <[REDACTED]>
Subject: DEFAMATION OF BRUCE LEHRMANN

Dear Sir and Madam

attached letter of today's date.

Mark O'Brien

Principal | Mark O'Brien Legal

Level 19, 68 Pitt Street, Sydney NSW 2000 Australia

T [REDACTED] M [REDACTED]
[REDACTED]

www.markobrienlegal.com.au

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- d. *Brittany Higgins: "My senior male colleague who was actually quite helpful in terms of getting me into a cab on the basis that I really couldn't walk. I mean I don't specifically remember the exact conversation but the general tone was 'we live in the same direction but I've got to stop somewhere first.'"*

Lisa Wilkinson: "Where was that somewhere?"

Brittany Higgins: "Parliament."

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Lisa Wilkinson: "What did you say to him?"

Brittany Higgins: "I told him to stop."

Lisa Wilkinson: "Did he?"

Brittany Higgins: "No."

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[...]

Brittany Higgins: "She asked me to recount the events of the night [...] that was sort of the first time I'd vocalised that I'd been raped. And I think as I was telling it, it was the first time I had sort of pieced it together myself what had happened was an assault..."

- k. Lisa Wilkinson: "We now return to our interview with Brittany Higgins, the young Liberal staffer who tells us she was raped inside Parliament House."*

- l. Lisa Wilkinson: "So you had just told a senior advisor to Prime Minister Scott Morrison that you had been raped on Minister Reynold's couch in her private office?"*

Brittany Higgins: "Yes."

Lisa Wilkinson: "That's a serious crime."

Brittany Higgins: "Yeah."

- m. *Brittany Higgins: "It felt like everyone had all this information on my own assault and I didn't have any..."*
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Brittany Higgins: "Yeah."

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The Publications were clearly of and concerning Mr Lehrmann, with Mr Lehrmann being identifiable to many viewers by reason of the Publications stating that the assailant of Ms Higgins:

- a. was a "senior male advisor to Minister Reynolds";
- b. was Minister Reynolds "go-to person";
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- d. "had been advising her in the Home Affairs portfolio prior that";
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- f. started packing up his belongings on the Tuesday morning after the alleged incident following a meeting with Fiona Brown; and

g. was working in Sydney in February 2021.

It was therefore readily apparent to any person working for the Liberal Party in Parliament House and indeed many other people in that workplace (where several thousand people work) that the assailant could only be Mr Lehrmann.

The Publications invited readers to speculate about the identity of Mr Lehrmann and within the following hours and days his name was widely trafficked as the culprit on social media and the internet generally. See for instance:

- <https://kangarocourtsofaustralia.com/2021/02/27/were-young-women-sexually-assaulted-when-bruce-lehrmann-the-alleged-parliament-house-rapist-was-an-official-at-the-anu-un-conference/>
- <https://twitter.com/blakandblack/status/1363106005404549121?lang=en>
- <https://blotreport.com/2021/02/17/did-morrison-almost-tell-the-truth/>
- <https://twitter.com/PeterWMurphy1/status/1362759012719026177>
- <https://www.clownworldau.com/story/brittany-higgins/>
- <https://twitter.com/peakhourimages/status/1363960533964128256?lang=en>
- <https://www.clownworldau.com/story/bruce-lehrmann-david-sharaz/>
- <https://www.youtube.com/watch?v=xgUjBWw1q9c>
- <https://www.townsvillemagpie.com.au/unfriendly-fire-the-real-reason-behind-the-facebook-ban-morrisons-lip-service-to-stiffen-ruperts-business-end/>

Further, by the time of broadcast of The Project segment on 15 February 2021, it was notorious within Parliament House and elsewhere that Mr Lehrmann was the person alleged to have sexually assaulted Ms Higgins. This is evidenced by numerous persons having contacted Mr Lehrmann on the evening of 15 February 2021 and thereafter in relation to the segment, having plainly identified him.

Imputations

The Publications convey, amongst others, the following imputations of and concerning Mr Lehrmann:

- a. *He raped Brittany Higgins in Defence Minister Linda Reynolds' office in 2019.*
- b. *He continued to rape Brittany Higgins after she woke up mid-rape and was crying and telling him to stop at least half a dozen times.*

- c. *He, whilst raping Brittany Higgins, crushed his leg against her leg so forcefully that to caused a large bruise.*
- d. *After he finished raping Brittany Higgins, he left her on a couch in a state of undress with her dress up around her waist.*

Mr Lehrmann vehemently denies that he sexually assaulted Ms Higgins, and the imputations are therefore grossly and indefensibly defamatory of him, noting that in a civil case Ms Higgins' allegations would be required to be proven to the standard in *Briginshaw v Briginshaw* (1938) 60 CLR 336.

Limitation period

As at 15 February 2021 Section 56A of the *Limitation Act 1969* (NSW) was in the following terms:

- (1) A person claiming to have a cause of action for defamation may apply to the court for an order extending the limitation period for the cause of action.*
- (2) A court may extend the limitation period to a period of up to 3 years running from the date of the alleged publication of the matter if the plaintiff satisfies the court that it is just and reasonable to allow an action to proceed.*
- (3) In determining whether to extend the limitation period, the court is to have regard to all of the circumstances of the case and in particular to—*
 - (a) the length of, and the reasons for, the plaintiff's delay, and*
 - (b) if a reason for the delay was that some or all of the facts relevant to the cause of action became known to the plaintiff after the limitation period expired—*
 - (i) the day on which the facts became known to the plaintiff, and*
 - (ii) the extent to which the plaintiff acted promptly and reasonably once the plaintiff knew whether or not the facts might be capable of giving rise to an action, and*
 - (c) the extent, having regard to the delay, to which relevant evidence is likely to be unavailable or less cogent than if the action had been brought within the limitation period.*

It is well established that a putative applicant is entitled to wait until criminal or coronial proceedings traversing the same issues are disposed of before commencing defamation proceedings. In such circumstances the Court has a discretion to extend the limitation period for a period of time. See for instance:

- a. *Houda v New South Wales* [2012] NSWSC 1036 where the Court was prepared to extend time from mid-December (when the DPP decided not to appeal the Magistrate's dismissal of the charges) until 19 March of the following year.
- b. *Barrett v TCN Channel Nine Pty Ltd* [2017] NSWCA 304. In this case the coronial decision was in February and the plaintiff had sought legal advice and given instructions to commence proceedings at a conference in May of the same year. The trial judge was prepared to extend time until the end of June (but a period of unexplained delay meaning proceedings were not filed until later that year meant the extension application failed).

In summary, given the ACT Director of Public Prosecutions only announced on 2 December 2022 he was withdrawing the criminal proceedings brought against Mr Lehrmann in relation to the allegation that he sexually assaulted Ms Higgins, Mr Lehrmann will be entitled to an extension of time for the commencement of proceedings over the Publications.

Next Steps

We have retained Steven Whybrow SC and Matthew Richardson SC to act in defamation proceedings against Network Ten in relation to the Publications.

However, Mr Lehrmann is prepared to consider a non-litigious resolution of his concerns before proceedings are commenced. In that regard we refer you to the provisions of the *Civil Dispute Resolution Act 2011* (C'th) in addition to the *Defamation Act 2005* (NSW).

Mr Lehrmann offers to resolve the dispute on the following terms:

- (a) Payment of the sum of \$235,000 for damages to Mr Lehrmann.
- (b) Network Ten provides to Mr Lehrmann a letter of apology on Network Ten letterhead and signed by the Executive Vice President & Chief Content Officer in the following terms:

"Apology to Bruce Lehrmann

On about 15 February 2021, Network Ten broadcast a segment on the program The Project in which Ms Lisa Wilkinson interviewed Ms Brittany Higgins.

The broadcast alleged that Ms Higgins was raped by a senior colleague working in the same ministerial office as Ms Higgins. That colleague was immediately identified by many persons as Mr Bruce Lehrmann.

Network Ten only ever intended to suggest that Ms Higgins had made allegations against Mr Lehrmann and not that he was guilty of those allegations.

On 2 December 2022, the Director of Public Prosecutions in the Australian Capital Territory announced the withdrawal of the charges against Mr Lehrmann.

We accept in those circumstances that Mr Lehrmann is entitled to the presumption of innocence, and we apologise to him for the publication of the broadcast.”

(c) Payment of Mr Lehrmann’s costs, including Counsels’ fees, incurred to date.

This offer is open for 14 days from the date of this letter.

In the event the offer is not accepted, Mr Lehrmann will rely upon the sending of this letter, and any response to it (or lack of response) on any issue arising in the proceedings, including aggravated damages and indemnity costs.

Yours faithfully



Mark O'Brien
Principal

T [REDACTED]

M [REDACTED]

E [REDACTED]

Copy to: Stuart Thomas

[REDACTED]

Tasha Smithies

[REDACTED]

Fwd: DEFAMATION OF BRUCE LEHRMANN

From: Tasha Smithies <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: Myles Farley <[REDACTED]>
Date: Fri, 16 Dec 2022 14:24:10 +1100
Attachments: image001.png (3.8 kB); Letter to Network Ten dated 16 December 2022.pdf (200.13 kB)

Hi Marlia,
 Please see below and attached, N10 would like to you to act for it in this matter. I will call shortly but we would appreciate if you could pass this on to Counsel by way of formal brief. I have also provided it to Lisa, Angus and internally to the EP's of the show.

Kind regards,
 Tasha

Tasha Smithies

Sr Litigation Counsel

O~[REDACTED]~ M~[REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009

Begin forwarded message:

From: Mark O'Brien <[REDACTED]>
Date: 16 December 2022 at 1:20:10 pm AEDT
To: Beverley McGarvey <[REDACTED]>, Chris Bendall <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>, Tasha Smithies <[REDACTED]>, Paul Svilans <[REDACTED]>
Subject: DEFAMATION OF BRUCE LEHRMANN

Dear Sir and Madam

\~

Please find **attached** letter of today's date.

\~

Regards

\~

Mark O'Brien

Principal | Mark O'Brien Legal

~

Level 19, 68 Pitt Street, Sydney NSW 2000 Australia

T [REDACTED] | M [REDACTED]

E [REDACTED]

W [REDACTED]

~

~

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MARK O'BRIEN LEGAL

ABN 86 002 421 123

Level 19, 68 Pitt Street
Sydney NSW 2000
Australia

Our Ref: MOBL657

16 December 2022

Beverley McGarvey
Executive Vice President & Chief Content Officer
Network Ten Pty Limited and Network Ten (Sydney) Pty Limited
1 Saunders Street
Pyrmont, NSW 2009

Christopher Bendall
Executive Producer
The Project
Como Centre
Level 4, 620 Chapel Street
South Yarra, VIC 3141

Confidential and Not for Publication

By Email: [REDACTED]; [REDACTED]

Dear Sir and Madam

DEFAMATION OF BRUCE LEHRMANN

We act for Mr Bruce Lehrmann.

As you would be aware, criminal proceedings were brought against Mr Lehrmann in the Supreme Court of the Australian Capital Territory over the alleged sexual assault of Ms Brittany Higgins.

Mr Lehrmann has at all times vehemently denied sexually assaulting Ms Higgins.

The criminal proceedings brought against Mr Lehrmann were withdrawn on 2 December 2022.

Publication

On or about 15 February 2021 Network Ten broadcast a segment during the program *The Project* in which Ms Lisa Wilkinson interviewed Ms Brittany Higgins. That segment was also published online via [REDACTED]

The Project's YouTube channel on the YouTube website with close to 300,000 views (<https://www.youtube.com/channel/UCorruoVYwGGyND4SZVtrVDQ>) (the **Publications**).

The Publications contained a number of statements regarding Mr Lehmann, including the following:

- a. *Lisa Wilkinson: "Can you describe how you were treated professionally by one of the senior male advisors to Minister Reynolds?"*

Brittany Higgins: "Yeah. So immediately it became clear that this person had a special bond with the Minister. It was very clear that he was sort of her go-to person and he was really quite territorial of that position."

- b. *Lisa Wilkinson: "So he was a bit of a favourite of Minister Reynolds?"*

Brittany Higgins: "Yeah very much so. He had been advising her in the Home Affairs portfolio prior to that. He had a lot of friends everywhere. He was considered one of the sort of rising stars."

- c. *Lisa Wilkinson: "On the 22nd of March 2019, less than three weeks after she'd started in Linda Reynold's office, Brittany organised Friday night drinks with contacts and colleagues in Defence. So how did this senior male colleague act towards you?"*

Brittany Higgins: "He was nice to me. I think he was grateful that I invited him. I was kind of happy that I had an opportunity to kind of demonstrate some value to the team I guess. I noticed that he was buying me a lot of drinks and I was kind of... I just thought of 'job well done', I thought I was kind of broadly being rewarded in a weird way."

- d. *Brittany Higgins: "My senior male colleague who was actually quite helpful in terms of getting me into a cab on the basis that I really couldn't walk. I mean I don't specifically remember the exact conversation but the general tone was 'we live in the same direction but I've got to stop somewhere first.'"*

Lisa Wilkinson: "Where was that somewhere?"

Brittany Higgins: "Parliament."

- e. *Brittany Higgins: "The first thing that sort of awoke me was... I was in a pain. My leg was kind of being crushed. The senior staffer was on top of me. He was clearly almost finished [...] I woke up mid-rape essentially. I don't know why I knew he was almost finished but I'd felt like it had been going on for a while or that he was almost done. He was sweaty. I couldn't get him off of me. At this point I started crying."*

Lisa Wilkinson: "What did you say to him?"

Brittany Higgins: "I told him to stop."

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Brittany Higgins: "It's quite a large bruise. It's just the weight obviously of his leg pinning me down."

- g. Brittany Higgins: "My dress was up around my waist, the straps were kind of down, I was pretty dishevelled."*
- h. Lisa Wilkinson: "Monday morning, Brittany went to work as usual. So did her senior colleague, the alleged rapist. But no one raised the security breach. That came on Tuesday morning."*
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- l. Lisa Wilkinson: "So you had just told a senior advisor to Prime Minister Scott Morrison that you had been raped on Minister Reynold's couch in her private office?"*

Brittany Higgins: "Yes."

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Brittany Higgins: "Yeah."

- m. *Brittany Higgins: "It felt like everyone had all this information on my own assault and I didn't have any..."*
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Brittany Higgins: "Yeah."

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<https://blotreport.com/2021/02/17/did-morrison-almost-tell-the-truth/>

<https://twitter.com/PeterWMurphy1/status/1362759012719026177>

<https://www.clownworldau.com/story/brittany-higgins/>

<https://twitter.com/peakhourimages/status/1363960533964128256?lang=en>

<https://www.clownworldau.com/story/bruce-lehrmann-david-sharaz/>

<https://www.youtube.com/watch?v=xgUjBWw1q9c>

<https://www.townsvillemagpie.com.au/unfriendly-fire-the-real-reason-behind-the-facebook-ban-morrisons-lip-service-to-stiffen-ruperts-business-end/>

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Mr Lehrmann offers to resolve the dispute on the following terms:

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Yours faithfully



Mark O'Brien
Principal

T [REDACTED]

M [REDACTED]

E [REDACTED]

Copy to: Stuart Thomas

[REDACTED]

Tasha Smithies

[REDACTED]

Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

From: Nick Fordham <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Cc: Georgia Taylor <[REDACTED]>; Beverley McGarvey <[REDACTED]>;
 Lisa Wilkinson External <[REDACTED]>; "Saunders, Marlia" <[REDACTED]>
Date: Tue, 20 Dec 2022 19:42:14 +1100
Attachments: Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes)

Hi Tasha,

I would seem from your email that you are suggesting that you have now exhausted all avenues and consider we all have to just move on from this. Unfortunately, we are still collectively going to have to continue pursuing this until these matters are properly addressed and dealt with to all of our satisfaction. As a proud journalist with an impeccable track record, this ongoing, blatantly incorrect coverage with its false and often defamatory narratives have cut Lisa to the bone and resulted in incredible damage to her professional and personal reputation. With the likes of Ch 9 and Ch 7 now producing documentaries for Spotlight and Under Investigation, this will no doubt continue until proper action is taken.

The fact is, Lisa was simply performing her duties under her Network Ten contract and was provided clear and unequivocal advice that the Logies speech was legally vetted and approved, and similarly approved by the highest levels of the network's management.

I appreciate that there could be a perception that it may not be in Ten's interest to release a public statement (at this time), but I would still like to continue discussing this as it may be our last resort. All of this can be solved in one statement. Otherwise, the fallout from this will only cause more damage to Lisa's professional reputation and potentially cause future harm to her employment opportunities beyond this current term with Network Ten.

As you would be aware, Ten has a responsibility and also a duty of care to do everything in its power to correct this and continue to support Lisa from an ongoing legal representation perspective.

In respect of Drumgold's conduct and responsibility as a legal professional, I reiterate he has a legal duty to respond to Marlia according to the Legal Profession Conduct Rules and cannot continue to ignore her correspondence. His decision to ignore Marlia's recent communications has left Ten and Lisa with no other option but for Lisa to write to him personally (or Ten potentially releasing a statement). Lisa will highlight this in the correspondence to Drumgold and I confirm that we will run the draft letter past you and Ms Saunders prior to it being dispatched this week.

We are fully cognisant that this is a very difficult and emotional matter that must be addressed, and as such we are most grateful for Ten's support to date and look forward to this continuing until this is all resolved.

Regards,

Nick

 **NICK FORDHAM**
 CEO
 13-15 Little Burton Street
 DARLINGHURST NSW 2010
 AUSTRALIA
 T [REDACTED]
www.thefordhamcompany.com.au
 si [REDACTED] [REDACTED] [REDACTED]

From: Tasha Smithies <[REDACTED]>
Date: Friday, 16 December 2022 at 9:31 am
To: Nick Fordham <[REDACTED]>, Lisa Wilkinson <[REDACTED]>, "Saunders, Marlia" <[REDACTED]>
Cc: Georgia Taylor <[REDACTED]>, Beverly McGarvey

159

<[REDACTED]>

Subject: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

~
Thanks Lisa and Nick,
~

I agree with Marlia that unfortunately there is not much more we can do from a legal perspective and appreciate this is a disappointing outcome for you. Marlia and I don't see any downside to a personal email from Lisa which re-attaches the letter as sent. I suggest you run a draft passed Marlia. My thoughts from a legal perspective on some of the issues raised by you both are below.

Kind regards,
Tasha
~

- I may have seen the recent Media Watch story through a different lense, however, I thought it was okay (much better than the previous coverage) and didn't have a go at Lisa rather the media reporting of the trial. I also didn't think it attributed to Lisa the National Press Club speech, but properly attributed it to the ABC/Higgins/Tame. It was more of a digest of coverage and views. It also canvassed the difficulties Lehrmann would face if he sued noting that he was not named in The Project Story, the potential defamation issues some that broadcast the speech by Brittany after the jury was discharged and the allegations made by the AFP against the DPP and the DPP against the AFP.
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- From a legal perspective Lehrmann doing a sit down interview is preferable to a defamation claim as although he will deny the allegations and have a go at The Project story, that would be what we/public would expect he would do and avoids a lengthy and costly set of court proceedings that would also bring with it more publicity.
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- We would not recommend that N10 make any public statement that challenges or criticises the Office of the DPP as we consider such approach to be inflammatory and viewed publicly as self-serving, with ultimately a counterproductive effect.
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- For the reasons outlined above, we also wouldn't recommend Lisa making a statement.
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- In relation to a breach of the Professional Conduct Rules, I think the section Nick refers to relates to the conduct of a solicitor in their duty to a client. In any event, I understand the point you are making, however, I don't think we are anywhere near being able to level those type of serious allegations against Drumgold for a number of reasons, the main one being, not enough time has passed, particularly in circumstances where the DPP would say any delay was due to the fact that they have had a number of matters to deal with since announcing not to proceed with a trial (some of which have been canvassed in the press recently), many of which have arguably had a greater urgency than this. Further, such approach has the same legal and PR risks as outlined above.
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Tasha Smithies

Sr Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>

Sent: Thursday, 15 December 2022 7:02 PM

To: Lisa Wilkinson External <[REDACTED]>; Saunders, Marlia <[REDACTED]>

Cc: Tasha Smithies <[REDACTED]>; Giorgia Taylor <[REDACTED]>; Beverley McGarvey <[REDACTED]>

Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

~
Hi Marlia,
~

160

This is most disappointing.

Isn't Drumgold obliged to formally respond to you under 4.1. 3 of the Legal Professionals Conduct Rules? I imagine him continually ignoring you places him in breach of his legal obligations. Are you able to formally remind him of his legal obligations or can we make a formal complaint? Trust he understands we are not going to let this go until it's corrected.

<https://www.legislation.act.gov.au/View/sl/2015-37/current/html/2015-37.html>

Bev, could you please introduce me to Ten's crisis comms company? Unfortunately, it would seem they have been completely non-existent throughout this entire process. We would like to discuss with them the strategy of backgrounding media on this.

In view of Drumgold's breach of the Legal Professionals Conduct Rules, would Ten issue a formal public statement?

I look forward to hearing back and working through this until we get the result we are after.

Regards

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

From: Lisa Wilkinson <[REDACTED]>
Sent: Thursday, December 15, 2022 7:03 am
To: Saunders, Marlia <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; Tasha Smithies <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks Marlia.

That is incredibly disappointing. Are there any suggestions you have on how we move forward and correct the public record on this?

With Lehrmann threatening to sue for defamation, and his much-reported sit-down interview with Channel Seven likely to be filmed in the coming weeks, my name will continue to be dragged unfairly through the mud in all the retelling of this whole saga, as it was, once again on Media Watch just three days ago, which included the allegation that my journalism around the Brittany story was disgraceful, and that I had given a speech at the National Press Club. That is 100% untrue. And again, no-one is doing anything to correct the factual record behind the scenes on any element of the ongoing trashing of my name.

Meantime, would it be possible for me to email Mr Drumgold personally, attaching our letter once again, letting him know how deeply disappointed I am in his actions, the effect it has had on me, and requesting a face to face meeting. Further, is there an Ombudsman we can go to, or a formal complaint we can make to whomever or whichever authority sits above Mr Drumgold?

Kind regards,

Lisa.

Sent from my iPad

On 15 Dec 2022, at 4:11 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

I called Shane Drumgold three times today, once from my mobile and twice from a landline – both times they were quickly diverted to voicemail.

It might be that he's avoiding my calls, either because he is still considering how to respond to our letter or because he doesn't want to take any action at this time given everything else that is going on.

We have sent the letter, but we can't compel him to respond. Unfortunately, there's not much more we can do from a legal perspective at this time.

I'm sorry that this hasn't had a better outcome for you.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

Please note that our offices will be closed from COB Friday 23 December 2022 and will reopen on Monday 9 January 2023. However, if you require urgent prepublication advice or urgent advice generally, please email [REDACTED]. The prepub email address is being constantly monitored. If you need to speak with me, please call my mobile as set out above.

From: Lisa Wilkinson <[REDACTED]>

Sent: Thursday, 15 December 2022 10:54 AM

To: Saunders, Marlia <[REDACTED]>

Cc: Nick Fordham <[REDACTED]>; Tasha Smithies <[REDACTED]>; Giorgia Taylor <[REDACTED]>

Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks for the update Marlia.

I am very aware how close we now are to Christmas, so can I request that we get an update on your situation with Drumgold by 4pm today. If there has been no response, I think we need to have a teams meeting at a time convenient to everyone, so we can decide our next steps.

With thanks,

Lisa.

Sent from my iPad

On 15 Dec 2022, at 9:44 am, Saunders, Marlia <[REDACTED]> wrote:

Hi Nick

Unfortunately not.

I will try calling him today.

Cheers

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

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From: Nick Fordham <[REDACTED]>
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 To: Saunders, Marlia <[REDACTED]>
 Cc: Tasha Smithies <[REDACTED]>; Lisa Wilkinson <[REDACTED]>; Giorgia Taylor <[REDACTED]>
 Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Hi Marlia,
 Just wondering if you have heard Drumgold?
 Look forward to hearing from you.
 Regards,
 Nick



NICK FORDHAM
 CEO
 13-15 Little Burton Street
 DARLINGHURST NSW 2010
 AUSTRALIA
 T [REDACTED]
www.thefordhamcompany.com.au

~
 ~

From: "Saunders, Marlia" <[REDACTED]>
 Date: Tuesday, 13 December 2022 at 11:29 am
 To: Nick Fordham <[REDACTED]>, Lisa Wilkinson <[REDACTED]>
 Cc: Tasha Smithies <[REDACTED]>
 Subject: RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks all.
 I confirm the letter has been sent both by email and post this morning.
 Please find the final version **attached**.
 Kind regards
 Marlia

Marlia Saunders | Partner
 THOMSON GEER
 T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
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~

From: Nick Fordham <[REDACTED]>
 Sent: Monday, 12 December 2022 6:20 PM
 To: Lisa Wilkinson <[REDACTED]>
 Cc: Tasha Smithies <[REDACTED]>; Saunders, Marlia <[REDACTED]>
 Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thank you Lisa. Fine by me. Fingers crossed this is sorted in the next week.
 NF

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 12 Dec 2022, at 7:05 am, Lisa Wilkinson <[REDACTED]> wrote:

Dear Marlia,

I am in your hands for the best possible outcome, so please go ahead and send. I am happy with the changes.

With thanks,

Lisa.

Sent from my iPad

On 12 Dec 2022, at 5:14 pm, Tasha Smithies <[REDACTED]> wrote:

Thanks Marlia,
I agree with your advice, no further comments from me.
Kind regards,
Tasha

Tasha Smithies
Sr Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Saunders, Marlia <[REDACTED]>
Sent: Monday, 12 December 2022 4:44 PM
To: Lisa Wilkinson External <[REDACTED]>; Tasha Smithies <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Hi Lisa

Thanks for this. I'm happy with most of your changes, but there are a few I'd recommend against including. In particular, you don't want to waive privilege over the legal advice that was given to you in relation to the Logies speech and we also want to be careful with how we frame the references to the judge. My recollection is also that the note of the 15 June meeting that was tendered was prepared by one of the other DPP lawyers, not Drumgold.

If you are happy with this version, I'll wait to hear whether Tasha has any final comments, then can send it out tomorrow.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

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\~

From: Lisa Wilkinson <[REDACTED]>
Sent: Monday, 12 December 2022 4:24 PM
To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

\~

Thanks for that redraft Marlia.

I take on board your points, but I have done some more tweaking and would appreciate your comments.

With thanks,

Lisa.

Sent from my iPad

 This e-mail is for the use of the intended recipient(s) only. If you have received this e-mail in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not use, disclose or distribute this e-mail without the author's permission. We have taken precautions to minimise the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this e-mail. We cannot accept liability for any loss or damage caused by software viruses.
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Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

From: Nick Fordham <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Cc: Georgia Taylor <[REDACTED]>; Beverley McGarvey <[REDACTED]>;
Lisa Wilkinson External <[REDACTED]>; "Saunders, Marlia" <[REDACTED]>
Date: Tue, 20 Dec 2022 19:42:14 +1100
Attachments: Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes); Unnamed Attachment (68 bytes)

It would seem from your email that you are suggesting that you have now exhausted all avenues and consider we all have to just move on from this. Unfortunately, we are still collectively going to have to continue pursuing this until these matters are properly addressed and dealt with to all of our satisfaction. As a proud journalist with an impeccable track record, this ongoing, blatantly incorrect coverage with its false and often defamatory narratives have cut Lisa to the bone and resulted in incredible damage to her professional and personal reputation. With the likes of Ch 9 and Ch 7 now producing documentaries for Spotlight and Under Investigation, this will no doubt continue until proper action is taken.

The fact is, Lisa was simply performing her duties under her Network Ten contract and was provided clear and unequivocal advice that the Logies speech was legally vetted and approved, and similarly approved by the highest levels of the network's management.

I appreciate that there could be a perception that it may not be in Ten's interest to release a public statement (at this time), but I would still like to continue discussing this as it may be our last resort. All of this can be solved in one statement. Otherwise, the fallout from this will only cause more damage to Lisa's professional reputation and potentially cause future harm to her employment opportunities beyond this current term with Network Ten.

As you would be aware, Ten has a responsibility and also a duty of care to do everything in its power to correct this and continue to support Lisa from an ongoing legal representation perspective.

In respect of Drumgold's conduct and responsibility as a legal professional, I reiterate he has a legal duty to respond to Marlia according to the Legal Profession Conduct Rules and cannot continue to ignore her correspondence. His decision to ignore Marlia's recent communications has left Ten and Lisa with no other option but for Lisa to write to him personally (or Ten potentially releasing a statement). Lisa will highlight this in the correspondence to Drumgold and I confirm that we will run the draft letter past you and Ms Saunders prior to it being dispatched this week.

We are fully cognisant that this is a very difficult and emotional matter that must be addressed, and as such we are most grateful for Ten's support to date and look forward to this continuing until this is all resolved.

NICK FORDHAM



13-15 Little Burton Street
DARLINGHURST NSW 2010

T [REDACTED]
www.thefordhamcompany.com.au
si  

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Date: Friday, 16 December 2022 at 9:31 am
To: Nick Fordham <[REDACTED]>, Lisa Wilkinson <[REDACTED]>, "Saunders, Marlia" <[REDACTED]>
Cc: Georgia Taylor <[REDACTED]>, Beverly McGarvey

338

[REDACTED]>
Subject: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

Thanks Lisa and Nick,

I agree with Marlia that unfortunately there is not much more we can do from a legal perspective and appreciate this is a disappointing outcome for you. Marlia and I don't see any downside to a personal email from Lisa which re-attaches the letter as sent. I suggest you run a draft passed Marlia. My thoughts from a legal perspective on some of the issues raised by you both are

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Sr Litigation Counsel
O [REDACTED] M [REDACTED]
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Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

339

This is most disappointing

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NICK FORDHAM
CHIEF EXECUTIVE OFFICER

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From: [REDACTED]
Sent: Thursday, December 15, 2022 7:03 am
To: Saunders, Marlia [REDACTED]
Cc: [REDACTED]; Tasha Smithies <[REDACTED]>; Georgia Taylor
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

That is incredibly disappointing. Are there any suggestions you have on how we move forward and correct the public record on

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me, would it be possible for me to email Mr Drumgold personally, and [REDACTED] once again, letting him know how deeply disappointed I am in his conduct it has had on me, and requesting a face to face meeting. Further, is there an Ombudsman we can go to, or a formal complaint we can make to whomever or whichever authority sits above Mr Drumgold?

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340

We have sent the letter, but we can't compel him to respond. Unfortunately, there's not much more we can do from a legal perspective at this time.

I'm sorry that this hasn't had a better outcome for you.

Marlia Saunders |
THOMSON GEER
T | M
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks for the update Marlia.

I am very aware how close we now are to Christmas, so can I request that we get an update on your situa Drumgold by 4pm today. If there has been no response, I think we need to have a teams mee me convenient to everyone, so we can decide our next steps.

Sent from my iPad

On 15 Dec 2022, at 9:44 am, Saunders, Marlia <[REDACTED]>

Unfortunately not.

I will try calling him today.

Marlia Saunders |
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Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

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Look forward to hearing from you.

THE FORDHAM COMPANY
NICK FORDHAM
13-15 Little Burton Street
DARLINGHURST NSW 2010
T [REDACTED]
www.thefordhamcompany.com.au
  

From: "Saunders, Marlia" <[REDACTED]>
Date: Tuesday, 13 December 2022 at 11:29 am
To: Nick Fordham <[REDACTED]>, Lisa Wilkinson <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>
Subject: RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

I confirm the letter has been sent both by email and post this morning.
Please find the final version **attached**

Marlia Saunders |
THOMSON GEER
T | M
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] tglaw.com.au

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Sent: Monday, 12 December 2022 6:20 PM
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Cc: Tasha Smithies <[REDACTED]>; Saunders, Marlia <[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thank you Lisa. Fine by me. Fingers crossed this is sorted in the next week.

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY

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On 12 Dec 2022, at 7:05 am, Lisa Wilkinson <[REDACTED]>

I am in your hands for the best possible outcome, so please go ahead and send. I am happy with the changes.

Sent from my iPad

On 12 Dec 2022, at 5:14 pm, Tasha Smithies <[REDACTED]>

Thanks Marlia,
I agree with your advice, no further comments from me.

Tasha Smithies

Sr Litigation Counsel

O [REDACTED]

M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



*Paramount acknowledges the Australian Aboriginal and Torres Strait
Islander peoples as the first people of the nation and the traditional
custodians of the lands where we live, learn and work.*

From: Saunders, Marlia <[REDACTED]>

Sent: Monday, 12 December 2022 4:44 PM

To: Lisa Wilkinson External <[REDACTED]>; Tasha Smithies <[REDACTED]>

Subject: RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks for this. I'm happy with most of your changes, but there are a few I'd recommend against including. In particular, you don't want to waive privilege over the legal advice that was given to you in relation to the Logies speech and we also want to be careful with how we frame the references to the judge. My recollection is also that the note of the 15 June meeting that was tendered was prepared by one of the other DPP lawyers, not Drumgold.

If you are happy with this version, I'll wait to hear whether Tasha has any final comments, then can send it out

Marlia Saunders |
THOMSON GEER

343

T | M
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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From: Lisa Wilkinson [REDACTED]
Sent: Monday, 12 December 2022 4:24 PM
To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal
[REDACTED]; Nick Fordham <[REDACTED]>
Subject: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

Thanks for that redraft Marlia.

I take on board your points, but I have done some more tweaking and would appreciate your comments.

Sent from my iPad

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RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Nick Fordham <[REDACTED]>; Tasha Smithies <[REDACTED]>
Cc: Giorgia Taylor <[REDACTED]>; Beverley McGarvey <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehmman _Litigation_ _5142487 _ E_Mail <[REDACTED]>
Date: Wed, 21 Dec 2022 09:52:34 +1100

Hi Nick

~

Thanks for your email last night.

~

You may have seen that the ACT Government has this morning announced it will establish a Board of Inquiry which will review the Lehmman trial, including the decision to lay charges, the decision to proceed to trial and the decision not to proceed to a retrial and the conduct of police investigators and the DPP.

~

It's likely that Shane Drumgold would have known for some time that this was in the works, and it explains why he has not responded to our correspondence in the last few weeks. He will not be in a position to say anything publicly while the inquiry is pending. The Board of Inquiry is due to report to the Government in the first half of 2023.

~

Tasha is now on annual leave, but we'll come back to Lisa about this further in the New Year.

~

Wishing you all the best for the Christmas break.

~

Kind regards

~

Marlia

~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

~

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~

From: Nick Fordham <[REDACTED]>
Sent: Tuesday, 20 December 2022 7:42 PM
To: Tasha Smithies <[REDACTED]>
Cc: Giorgia Taylor <[REDACTED]>; Beverley McGarvey <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>; Saunders, Marlia <[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

~

Hi Tasha,

~

It would seem from your email that you are suggesting that you have now exhausted all avenues and consider we all have to just move on from this. Unfortunately, we are still collectively going to have to continue pursuing this until these matters are properly addressed and dealt with to all of our satisfaction. As a proud journalist with an impeccable track record, this ongoing, blatantly incorrect coverage with its false and often defamatory narratives have cut Lisa to the bone and resulted in incredible damage to her professional and personal reputation. With the likes of Ch 9 and Ch 7 now producing documentaries for Spotlight and Under Investigation, this will no doubt continue until proper action is taken.

~

The fact is, Lisa was simply performing her duties under her Network Ten contract and was provided clear and unequivocal advice that the Logies speech was legally vetted and approved, and similarly approved by the highest levels of the network's management.

~

I appreciate that there could be a perception that it may not be in Ten's interest to release a public statement (at this time), but I would still like to continue discussing this as it may be our last resort. All of this can be solved in one statement. Otherwise, the fallout from this will only cause more damage to Lisa's professional reputation and potentially cause future harm to her employment opportunities beyond this current term with Network Ten.

166

~

As you would be aware, Ten has a responsibility and also a duty of care to do everything in its power to correct this and continue to support Lisa from an ongoing legal representation perspective.

~

In respect of Drumgold's conduct and responsibility as a legal professional, I reiterate he has a legal duty to respond to Marlia according to the Legal Profession Conduct Rules and cannot continue to ignore her correspondence. His decision to ignore Marlia's recent communications has left Ten and Lisa with no other option but for Lisa to write to him personally (or Ten potentially releasing a statement). Lisa will highlight this in the correspondence to Drumgold and I confirm that we will run the draft letter past you and Ms Saunders prior to it being dispatched this week.

~

We are fully cognisant that this is a very difficult and emotional matter that must be addressed, and as such we are most grateful for Ten's support to date and look forward to this continuing until this is all resolved.

~

Regards,

~

Nick

~

NICK FORDHAM

CEO

13-15 Little Burton Street

DARLINGHURST NSW 2010 AUSTRALIA

T [REDACTED]

www.thefordhamcompany.com.au



~

~

~

From: Tasha Smithies <[REDACTED]>

Date: Friday, 16 December 2022 at 9:31 am

To: Nick Fordham <[REDACTED]>, Lisa Wilkinson <[REDACTED]>, "Saunders, Marlia" <[REDACTED]>

Cc: Georgina Taylor <[REDACTED]>, Beverly McGarvey <[REDACTED]>

Subject: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

~

Thanks Lisa and Nick,

~

I agree with Marlia that unfortunately there is not much more we can do from a legal perspective and appreciate this is a disappointing outcome for you. Marlia and I don't see any downside to a personal email from Lisa which re-attaches the letter as sent. I suggest you run a draft passed Marlia. My thoughts from a legal perspective on some of the issues raised by you both are below.

Kind regards,

Tasha

~

- I may have seen the recent Media Watch story through a different lense, however, I thought it was okay (much better than the previous coverage) and didn't have a go at Lisa rather the media reporting of the trial. I also didn't think it attributed to Lisa the National Press Club speech, but properly attributed it to the ABC/Higgins/Tame. It was more of a digest of coverage and views. It also canvassed the difficulties Lehrmann would face if he sued noting that he was not named in The Project Story, the potential defamation issues some that broadcast the speech by Brittany after the jury was discharged and the allegations made by the AFP against the DPP and the DPP against the AFP.

~

- From a legal perspective Lehrmann doing a sit down interview is preferable to a defamation claim as although he will deny the allegations and have a go at The Project story, that would be what we/public would expect he would do and avoids a lengthy and costly set of court proceedings that would also bring with it more publicity.

~

- Any attempt to complain about Drumgold or the Office of the DPP (eg a complaint to an Ombudsman) is highly risky from a legal perspective as Drumgold/the Office of the DPP is likely to see it as a personal attack and Drumgold/the Office of the DPP has the power to revisit contempt charges – whilst Drumgold has indicated he wouldn't pursue contempt charges, he (or the Office of the DPP independently of Drumgold) can change their mind and its possible he has received pressure from other sources around why Lisa hasn't been charged with contempt. I don't think this is a course of action we would advise Lisa or N10 to take.

~

- We would not recommend that N10 make any public statement that challenges or criticises the Office of the DPP as we consider such approach to be inflammatory and viewed publicly as self-serving, with ultimately a counterproductive effect.

~

- For the reasons outlined above, we also wouldn't recommend Lisa making a statement.

- In relation to a breach of the Professional Conduct Rules, I think the section Nick refers to relates to the conduct of a solicitor in their duty to a client. In any event, I understand the point you are making, however, I don't think we are anywhere near being able to level those type of serious allegations against Drumgold for a number of reasons, the main one being, not enough time has passed, particularly in circumstances where the DPP would say any delay was due to the fact that they have had a number of matters to deal with since announcing not to proceed with a trial (some of which have been canvassed in the press recently), many of which have arguably had a greater urgency than this. Further, such approach has the same legal and PR risks as outlined above.

Tasha Smithies

Sr Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>

Sent: Thursday, 15 December 2022 7:02 PM

To: Lisa Wilkinson External <[REDACTED]>; Saunders, Marlia <[REDACTED]>

Cc: Tasha Smithies <[REDACTED]>; Giorgia Taylor <[REDACTED]>; Beverley McGarvey <[REDACTED]>

Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Hi Marlia,

This is most disappointing.

Isn't Drumgold obliged to formally respond to you under 4.1. 3 of the Legal Professionals Conduct Rules? I imagine him continually ignoring you places him in breach of his legal obligations. Are you able to formally remind him of his legal obligations or can we make a formal complaint? Trust he understands we are not going to let this go until it's corrected.

<https://www.legislation.act.gov.au/View/sl/2015-37/current/html/2015-37.html>

Bev, could you please introduce me to Ten's crisis comms company? Unfortunately, it would seem they have been completely non-existent throughout this entire process. We would like to discuss with them the strategy of backgrounding media on this.

In view of Drumgold's breach of the Legal Professionals Conduct Rules, would Ten issue a formal public statement?

I look forward to hearing back and working through this until we get the result we are after.

Regards

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

From: Lisa Wilkinson <[REDACTED]>

Sent: Thursday, December 15, 2022 7:03 am

To: Saunders, Marlia <[REDACTED]>

Cc: Nick Fordham <[REDACTED]>; Tasha Smithies <[REDACTED]>; Giorgia Taylor <[REDACTED]>

Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks Marlia.

168

\~
That is incredibly disappointing. Are there any suggestions you have on how we move forward and correct the public record on this?

\~
With Lehrmann threatening to sue for defamation, and his much-reported sit-down interview with Channel Seven likely to be filmed in the coming weeks, my name will continue to be dragged unfairly through the mud in all the retelling of this whole saga, as it was, once again on Media Watch just three days ago, which included the allegation that my journalism around the Brittany story was disgraceful, and that I had given a speech at the National Press Club. That is 100% untrue. And again, no-one is doing anything to correct the factual record behind the scenes on any element of the ongoing trashing of my name.

\~
Meantime, would it be possible for me to email Mr Drumgold personally, attaching our letter once again, letting him know how deeply disappointed I am in his actions, the effect it has had on me, and requesting a face to face meeting. Further, is there an Ombudsman we can go to, or a formal complaint we can make to whomever or whichever authority sits above Mr Drumgold?

\~
Kind regards,

\~
Lisa.

Sent from my iPad

On 15 Dec 2022, at 4:11 pm, Saunders, Marlia <[REDACTED]> wrote:

\~
Hi Lisa

\~
I called Shane Drumgold three times today, once from my mobile and twice from a landline – both times they were quickly diverted to voicemail.

\~
It might be that he's avoiding my calls, either because he is still considering how to respond to our letter or because he doesn't want to take any action at this time given everything else that is going on.

\~
We have sent the letter, but we can't compel him to respond. Unfortunately, there's not much more we can do from a legal perspective at this time.

\~
I'm sorry that this hasn't had a better outcome for you.

\~
Kind regards

\~
Marlia

\~
Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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\~
From: Lisa Wilkinson <[REDACTED]>
Sent: Thursday, 15 December 2022 10:54 AM
To: Saunders, Marlia <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>; Tasha Smithies <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

\~
Thanks for the update Marlia.

\~
I am very aware how close we now are to Christmas, so can I request that we get an update on your situation with Drumgold by 4pm today. If there has been no response, I think we need to have a teams meeting at a time convenient to everyone, so we can decide our next steps.

\~
With thanks,

\~
Lisa.

~
~
Sent from my iPad
~

On 15 Dec 2022, at 9:44 am, Saunders, Marlia <[REDACTED]> wrote:

~
Hi Nick
~
Unfortunately not.
~
I will try calling him today.
~

Cheers

~
Marlia
~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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~
From: Nick Fordham <[REDACTED]>
Sent: Thursday, 15 December 2022 9:43 AM
To: Saunders, Marlia <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Lisa Wilkinson <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

~
Hi Marlia,
~
Just wondering if you have heard Drumgold?
~
Look forward to hearing from you.
~
Regards,
~
Nick

~
THE
FORDHAM
COMPANY

NICK FORDHAM
CEO
13-15 Little Burton Street
DARLINGHURST NSW 2010 AUSTRALIA
T [REDACTED]
www.thefordhamcompany.com.au



~
~
From: "Saunders, Marlia" <[REDACTED]>
Date: Tuesday, 13 December 2022 at 11:29 am
To: Nick Fordham <[REDACTED]>, Lisa Wilkinson <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>
Subject: RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]
~
[Thanks all.](#)

170

\~
I confirm the letter has been sent both by email and post this morning.

\~
Please find the final version **attached**.

\~
Kind regards

\~
Marlia

\~
Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tg@law.com.au

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\~
From: Nick Fordham <[REDACTED]>

Sent: Monday, 12 December 2022 6:20 PM

To: Lisa Wilkinson <[REDACTED]>

Cc: Tasha Smithies <[REDACTED]>; Saunders, Marlia <[REDACTED]>

Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

\~
Thank you Lisa. Fine by me. Fingers crossed this is sorted in the next week.

\~
NF

NICK FORDHAM

CHIEF EXECUTIVE OFFICER

\~
THE FORDHAM COMPANY

www.thefordhamcompany.com.au

\~

\~

On 12 Dec 2022, at 7:05 am, Lisa Wilkinson <[REDACTED]> wrote:

Dear Marlia,

\~
I am in your hands for the best possible outcome, so please go ahead and send. I am happy with the changes.

\~
With thanks,

\~
Lisa.

Sent from my iPad

\~

On 12 Dec 2022, at 5:14 pm, Tasha Smithies <[REDACTED]> wrote:

\~

Thanks Marlia,
I agree with your advice, no further comments from me.

Kind regards,

Tasha

\~

Tasha Smithies

Sr Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Saunders, Marlia <[REDACTED]>
Sent: Monday, 12 December 2022 4:44 PM
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Subject: RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

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 Hi Lisa

\~
 Thanks for this. I'm happy with most of your changes, but there are a few I'd recommend against including. In particular, you don't want to waive privilege over the legal advice that was given to you in relation to the Logies speech and we also want to be careful with how we frame the references to the judge. My recollection is also that the note of the 15 June meeting that was tendered was prepared by one of the other DPP lawyers, not Drumgold.

\~
 If you are happy with this version, I'll wait to hear whether Tasha has any final comments, then can send it out tomorrow.

\~
 Kind regards

\~
 Marlia

\~
Marlia Saunders | Partner
THOMSON GEER

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I take on board your points, but I have done some more tweaking and would appreciate your comments.

With thanks,

Lisa.

Sent from my iPad

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RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Nick Fordham <[REDACTED]>; Tasha Smithies <[REDACTED]>
Cc: Giorgia Taylor <[REDACTED]>; Beverley McGarvey <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehmman _Litigation_ _5142487 _ E_Mail <[REDACTED]>
Date: Wed, 21 Dec 2022 09:52:34 +1100

Hi Nick

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Thanks for your email last night.

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~
Tasha is now on annual leave, but we'll come back to Lisa about this further in the New Year.

~
Wishing you all the best for the Christmas break.

~
Kind regards

~
Marlia

~
Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] **M** [REDACTED]
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Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

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The fact is, Lisa was simply performing her duties under her Network Ten contract and was provided clear and unequivocal advice that the Logies speech was legally vetted and approved, and similarly approved by the highest levels of the network's management.

I appreciate that there could be a perception that it may not be in Ten's interest to release a public statement (at this time), but I would still like to continue discussing this as it may be our last resort. All of this can be solved in one statement. Otherwise, the fallout from this will only cause more damage to Lisa's professional reputation and potentially cause future harm to her employment opportunities beyond this current term with Network Ten.

345

As you would be aware, Ten has a responsibility and also a duty of care to do everything in its power to correct this and continue to support Lisa from an ongoing legal representation perspective.

In respect of Drumgold's conduct and responsibility as a legal professional, I reiterate he has a legal duty to respond to Marlia according to the Legal Profession Conduct Rules and cannot continue to ignore her correspondence. His decision to ignore Marlia's recent communications has left Ten and Lisa with no other option but for Lisa to write to him personally (or Ten potentially releasing a statement). Lisa will highlight this in the correspondence to Drumgold and I confirm that we will run the draft letter past you and Ms Saunders prior to it being dispatched this week.

We are fully cognisant that this is a very difficult and emotional matter that must be addressed, and as such we are most grateful for Ten's support to date and look forward to this continuing until this is all resolved.

NICK FORDHAM

DARLINGHURST NSW 2010 AUSTRALIA

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From: Tasha Smithies <[REDACTED]>
Date: Friday, 16 December 2022 at 9:31 am
To: Nick Fordham <[REDACTED]>, Lisa Wilkinson <[REDACTED]>, "Saunders, Marlia" <[REDACTED]>
Cc: Georgina Taylor <[REDACTED]>, Beverly McGarvey <[REDACTED]>
Subject: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

Thanks Lisa and Nick,

I agree with Marlia that unfortunately there is not much more we can do from a legal perspective and appreciate this is a disappointing outcome for you. Marlia and I don't see any downside to a personal email from Lisa which re-attaches the letter as sent. I suggest you run a draft passed Marlia. My thoughts from a legal perspective on some of the issues raised by you both are

- I may have seen the recent Media Watch story through a different lense, however, I thought it was okay (much better than the previous coverage) and didn't have a go at Lisa rather the media reporting of the trial. I also didn't think it attributed to Lisa the National Press Club speech, but properly attributed it to the ABC/Higgins/Tame. It was more of a digest of coverage and views. It also canvassed the difficulties Lehrmann would face if he sued noting that he was not named in The Project Story, the potential defamation issues some that broadcast the speech by Brittany after the jury was discharged and the allegations made by the AFP against the DPP and the DPP against the AFP.
- From a legal perspective Lehrmann doing a sit down interview is preferable to a defamation claim as although he will deny the allegations and have a go at The Project story, that would be what we/public would expect he would do and avoids a lengthy and costly set of court proceedings that would also bring with it more publicity.
- Any attempt to complain about Drumgold or the Office of the DPP (eg a complaint to an Ombudsman) is highly risky from a legal perspective as Drumgold/the Office of the DPP is likely to see it as a personal attack and Drumgold/the Office of the DPP has the power to revisit contempt charges – whilst Drumgold has indicated he wouldn't pursue contempt charges, he (or the Office of the DPP independently of Drumgold) can change their mind and its possible he has received pressure from other sources around why Lisa hasn't been charged with contempt. I don't think this is a course of action we would advise Lisa or N10 to take.
- We would not recommend that N10 make any public statement that challenges or criticises the Office of the DPP as we consider such approach to be inflammatory and viewed publicly as self-serving, with ultimately a counterproductive

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- For the reasons outlined above, we also wouldn't recommend Lisa making a statement.
- In relation to a breach of the Professional Conduct Rules, I think the section Nick refers to relates to the conduct of a solicitor in their duty to a client. In any event, I understand the point you are making, however, I don't think we are anywhere near being able to level those type of serious allegations against Drumgold for a number of reasons, the main one being, not enough time has passed, particularly in circumstances where the DPP would say any delay was due to the fact that they have had a number of matters to deal with since announcing not to proceed with a trial (some of which have been canvassed in the press recently), many of which have arguably had a greater urgency than this. Further, such approach has the same legal and PR risks as outlined above.

Tasha Smithies

Sr Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Sent: Thursday, 15 December 2022 7:02 PM
To: Lisa Wilkinson External <[REDACTED]>; Saunders, Marlia <[REDACTED]u>
Cc: Tasha Smithies <[REDACTED]>; Giorgia Taylor <[REDACTED]>; Beverley McGarvey <[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

This is most disappoin

Isn't Drumgold obliged to formally respond to you under 4.1. 3 of the Legal Professionals Conduct Rules? I imagine him usually ignoring you places him in breach of his legal obligations. Are you able to formally remind him of his legal obligations or can we make a formal complaint? Trust he understands we are not going to let this go un

<https://www.legislation.act.gov.au/View/sl/2015-37/current/html/2015-37.html>

Bev, could you please introduce me to Ten's crisis comms company? Unfortunately, it would seem they have been completely non-existent throughout this entire process. We would like to discuss with them the strategy of backgrounding media on this.

In view of Drumgold's breach of the Legal Professionals Conduct Rules, would Ten issue a formal public statement?

I look forward to hearing back and working through this until we get the result we are a

\~

www.thefordhamcompany.com.au

From: [REDACTED]
Sent: Thursday, December 15, 2022 7:03 am
To: Saunders, Marlia <[REDACTED]>
Cc: [REDACTED]; Tasha Smithies <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

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That is incredibly disappointing. Are there any suggestions you have on how we move forward and correct the public record on

With Lehrmann threatening to sue for defamation, and his much-reported sit-down interview with Channel Seven likely to be filmed in the coming weeks, my name will continue to be dragged unfairly through the mud in all the retelling of this whole saga, as it was, once again on Media Watch just three days ago, which included the allegation that my journalism around the any story was disgraceful, and that I had given a speech at the National Press Club. That is 100% untrue. And again, no-one is doing anything to correct the factual record behind the scenes on any element of the ongoing trashing of my name.

me, would it be possible for me to email Mr Drumgold personally, and then once again, letting him know how deeply disappointed I am in his action and the effect it has had on me, and requesting a face to face meeting. Further, is there an Ombudsman we can go to, or a formal complaint we can make to whomever or whichever authority sits above Mr Drumgold?

Sent from my iPad

On 15 Dec 2022, at 4:11 pm, Saunders, Marlia <[REDACTED]>

Hi Lisa

I called Shane Drumgold three times today, once from my mobile and twice from a landline – both times they were quickly diverted to voicemail.

It might be that he's avoiding my calls, either because he is still considering how to respond to our letter or because he doesn't want to take any action at this time given everything else that is going on.

We have sent the letter, but we can't compel him to respond. Unfortunately, there's not much more we can do from a legal perspective at this time.

I'm sorry that this hasn't had a better outcome for you.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tgllaw.com.au

Advice | Transactions | Disputes

Please note that our offices will be closed from COB Friday 23 December 2022 and will reopen on Monday 9 January 2023. However, if you require urgent prepublication advice or urgent advice generally, please email [REDACTED] the prepub email address is being constantly monitored. If you need to speak with me, please call my mobile as set out above.

From: Lisa Wilkinson <[REDACTED]>

Sent: Thursday, 15 December 2022 10:54 AM

To: Saunders, Marlia <[REDACTED]>

Cc: [REDACTED]; Tasha Smithies <[REDACTED]>; Giorgia Taylor <[REDACTED]>

Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks for the update Marlia.

I am very aware how close we now are to Christmas, so can I request that we get an update on your situation with Drumgold by 4pm today. If there has been no response, I think we need to have a teams meeting at a time convenient to everyone, so we can decide our next steps.

Sent from my iPad

On 15 Dec 2022, at 9:44 am, Saunders, Marlia <[REDACTED]>

Hi Nick

~

Unfortunately not.

~

I will try calling him today.

~

Cheers

~

Marlia

~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

[Advice](#) | [Transactions](#) | [Disputes](#)

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~

From: [REDACTED]

Sent: Thursday, 15 December 2022 9:43 AM

To: Saunders, Marlia <[REDACTED]>

Cc: Tasha Smithies <[REDACTED]>; Lisa Wilkinson <[REDACTED]>; Giorgia Taylor <[REDACTED]>

Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Just wondering if you have heard Drumgold?

Look forward to hearing from you.

THE
FORDHAM
COMPANY

NICK FORDHAM

DARLINGHURST NSW 2010 AUSTRALIA

www.thefordhamcompany.com.au



From: "Saunders, Marlia" <[REDACTED]>

Date: Tuesday, 13 December 2022 at 11:29 am

To: Nick Fordham <[REDACTED]>, Lisa Wilkinson <[REDACTED]>

Cc: Tasha Smithies <[REDACTED]>

Subject: RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thanks all.

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~
I confirm the letter has been sent both by email and post this morning.

~
Please find the final version **attached**.

~
Kind regards

~
Marlia

~
Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

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~
From: [REDACTED]

Sent: Monday, 12 December 2022 6:20 PM

To: Lisa Wilkinson <[REDACTED]>

Cc: Tasha Smithies <[REDACTED]>; Saunders, Marlia <[REDACTED]>

Subject: Re: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Thank you Lisa. Fine by me. Fingers crossed this is sorted in the next week.

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On 12 Dec 2022, at 7:05 am, Lisa Wilkinson <[REDACTED]>

I am in your hands for the best possible outcome, so please go ahead and send. I am happy with the changes.

Sent from my iPad

On 12 Dec 2022, at 5:14 pm, Tasha Smithies <[REDACTED]>

Thanks Marlia,
I agree with your advice, no further comments from me.

Tasha Smithies

Sr Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Saunders, Marlia <[REDACTED]>
Sent: Monday, 12 December 2022 4:44 PM
To: Lisa Wilkinson External <[REDACTED]>; Tasha Smithies <[REDACTED]>
Subject: RE: Drumgold letter - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

Hi Lisa

Thanks for this. I'm happy with most of your changes, but there are a few I'd recommend against including. In particular, you don't want to waive privilege over the legal advice that was given to you in relation to the Logies speech and we also want to be careful with how we frame the references to the judge. My recollection is also that the note of the 15 June meeting that was tendered was prepared by one of the other DPP lawyers, not Drumgold.

If you are happy with this version, I'll wait to hear whether Tasha has any final comments, then can send it out tomorrow.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tg@law.com.au

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From: Lisa Wilkinson <[REDACTED]>
Sent: Monday, 12 December 2022 4:24 PM
To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Drumgold letter - PRIVILEGED AND CONFIDENTIAL

Thanks for that redraft Marlia.

I take on board your points, but I have done some more tweaking and would appreciate your comments.

Sent from my iPad

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Re: PRIVILEGED AND CONFIDENTIAL

From: Nick Fordham <[REDACTED]>
To: Tasha Smithies <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Cc: Myles Farley <[REDACTED]>; "Saunders, Marlia" <[REDACTED]>; Chris Bendall <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Date: Wed, 11 Jan 2023 15:50:58 +1100

Hi Tasha,

HNY. Hope you had a nice break.

Can we please jump on a call and discuss the next steps with Drumgold, the Inquiry and also Ten's position re the defamation letter?

If your journalists hear anything further, can you please keep us in the loop.

Regards

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

From: Tasha Smithies <[REDACTED]>
Sent: Wednesday, January 11, 2023 9:15 am
To: Lisa Wilkinson External <[REDACTED]>
Cc: Myles Farley <[REDACTED]>; Marlia Saunders <[REDACTED]>; Chris Bendall <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL

Hi Lisa,
We have heard the same thing via our journalists. Under the QLD legislation he can't be named until committed to stand trial which can take awhile. I understand that there may be a media challenge to his identification- so we will see what happens.
Kind regards,
Tasha

Tasha Smithies
Sr Litigation Counsel
O-[REDACTED] M-[REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

On 11 Jan 2023, at 9:03 am, Lisa Wilkinson <[REDACTED]> wrote:

Dear all,

I am reliably informed by the SMH's senior journo who covered the October trial, and court documents today appear to confirm, that the "high profile man to be charged with rape who currently can't be named" due to Queensland law is our very own Mr Lehmann.

8:38 ↗



Daily Law List

Toowoomba - 11 January 2023

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Important note: For matters not appearing on the list or Toowoomba registry on [REDACTED]

This list is updated at 6:45am and 8:45am each day.

Knox, Shaquille Wayne Timothy

Laurie, Douglas James

Lehrmann, Bruce Emery

Lual, Arieke

Lual, Arieke

Morton, John William

Newbery, Chantelle Lee

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O'Connor, Morgan Raymond Colin

O'Connor, Nathan Ross

Payne, Aaron Robert James

Peasley, Grant David

Rowe, Allan Charles Barry

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Shanks, Jayden Michael

Statham, Jason Jeffrey, Mr

Stuhlfauth, Adam Peter William

Tomlinson, Nathan John

Washington, Michael Travis, Mr

ELLEN RAMSLEY

ANTHONY Albanese's office has refused to comment after one of his ministers said Australia should look at becoming a republic due to royal family "feuding".

Government Services Minister Bill Shorten said the blowback of Prince

Harry's memoir and bombshell interviews with British and US media should fuel debate about Australia's future in the Commonwealth.

"But perhaps at the deepest level, why do we need to keep borrowing a dysfunctional British family to be the head of state of

trauma, but at another level, this is just family gossip.

"And it reminds me that this family are the head of state of Australia, so it really puts a question mark around our government structures, where we've got a feuding family on the other side of the world who seem to really not like each other very much - they're actually head of Australia."

The Prime Minister's

night, accompanied by armed security guards to record a segment with The Late Show's Stephen Colbert in New York City, the latest in a series of interviews to promote his bombshell memoir Spare.

There was no sign of his wife, Meghan Markle, or the couple's two children, who are believed to be at home in California.

HARRY'S NEW BOMBHELLS, PT

High-profile man on rape charge

KATE KYRIACOU

A HIGH-profile man is set to front a Queensland court after being charged with the rape of a young woman.

The man is alleged to have raped the woman in October, 2021.

Queensland law protects the identity of accused serious sex offenders, preventing media outlets from naming charged persons until they are commit-

ted to stand trial - a process that can take several years.

A Queensland Police Service spokesman confirmed the man would front court on Wednesday.

"Toowoomba Criminal Investigation Branch detectives have charged a man with the alleged rape of a young woman in October, 2021," police said in a statement. "The man is scheduled to appear in Toowoomba Magistrates Court on

January 11, 2023, charged with two counts of rape."

He has previously faced serious charges.

In November, Queensland Attorney-General Shannon Fentiman announced the law protecting the identity of accused rapists would be changed this year. Queensland is one of the last states to have this law, designed to protect the reputation of the accused until evidence is tested at committal.



Margot Robbie on the cover of W Magazine

Sent from my iPad

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Re: PRIVILEGED AND CONFIDENTIAL

From: Nick Fordham <[REDACTED]>
To: Tasha Smithies <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Cc: Myles Farley <[REDACTED]>; "Saunders, Maria" <[REDACTED]>; Chris Bendall <[REDACTED]> Georgia Taylor <[REDACTED]>
Date: Wed, 11 Jan 2023 15:50:58 +1100

HNY. Hope you had a nice break.
Can we please jump on a call and discuss the next steps with Drumgold, the Inquiry and also Ten's position re the defamation letter?
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Sent: Wednesday, January 11, 2023 9:15 am
To: Lisa Wilkinson External <[REDACTED]>
Cc: Myles Farley <[REDACTED]>; Maria Saunders <[REDACTED]>; Chris Bendall <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL

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Tasha Smithies
O [REDACTED] M [REDACTED]
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From: Tasha Smithies <[REDACTED]>
Date: 11 January 2023 at 5:33:14 pm AEDT
To: Nick Fordham <[REDACTED]>, Lisa Wilkinson External
<[REDACTED]>
Cc: Marlia Saunders <[REDACTED]>, Chris Bendall <[REDACTED]>,
Myles Farley <[REDACTED]>, Georgia Taylor
<[REDACTED]>, Stuart Thomas <[REDACTED]>
Subject: RE: PRIVILEGED AND CONFIDENTIAL

Hi Nick,

As Marlia outlined in her last email (see below set out for ease), the DPP is not in a position to respond or take any further action at this time, accordingly there are no further steps we can take during the course of the inquiry.

In relation to the defamation letter, no claim or demand is made against Lisa, it is limited to Ten as the publisher. Ten will review and respond to the letter against Ten. Given that the letter is expressed to be confidential between Ten and the claimant, Ten does not propose to comment on its response to the letter. Of course if the situation changes and Lisa is named or she is the subject of any claim, we will let you know.

Kind regards,
Tasha

Hi Nick

Thanks for your email last night.

You may have seen that the ACT Government has this morning announced it will establish a Board of Inquiry which will review the Lehrmann trial, including the decision to lay charges, the decision to

HNY. Hope you had a nice break.

Can we please jump on a call and discuss the next steps with Drumgold, the Inquiry and also Ten's position re the defamation letter?

If your journalists hear anything further, can you please keep us in the loop.

Regards

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
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RE: PRIVILEGED AND CONFIDENTIAL

From: Tasha Smithies <[REDACTED]>
To: Nick Fordham <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Cc: "Saunders, Marlia" <[REDACTED]>; Chris Bendall <[REDACTED]>; Myles Farley <[REDACTED]>; Georgina Taylor <[REDACTED]>; Stuart Thomas <[REDACTED]>
Date: Wed, 11 Jan 2023 17:33:07 +1100
Attachments: Unnamed Attachment (68 bytes)

Hi Nick,
 ~

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~
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~
 Kind regards,
 Tasha
 ~

 ~
 Hi Nick
 ~

Thanks for your email last night.

~
 You may have seen that the ACT Government has this morning announced it will establish a Board of Inquiry which will review the Lehrmann trial, including the decision to lay charges, the decision to proceed to trial and the decision not to proceed to a retrial and the conduct of police investigators and the DPP.

~
 It's likely that Shane Drumgold would have known for some time that this was in the works, and it explains why he has not responded to our correspondence in the last few weeks. He will not be in a position to say anything publicly while the inquiry is pending. The Board of Inquiry is due to report to the Government in the first half of 2023.

~
 Tasha is now on annual leave, but we'll come back to Lisa about this further in the New Year.

~
 Wishing you all the best for the Christmas break.

~
 Kind regards

~
 Marlia
 ~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

~
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~
 ~
 ~

Tasha Smithies

Sr Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Sent: Wednesday, 11 January 2023 3:51 PM
To: Tasha Smithies <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Cc: Myles Farley <[REDACTED]>; Marlia Saunders <[REDACTED]>; Chris Bendall <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL

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 Hi Tasha,
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 Can we please jump on a call and discuss the next steps with Drumgold, the Inquiry and also Ten's position re the defamation letter?
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 If your journalists hear anything further, can you please keep us in the loop.
 ~
 Regards
 ~
 Nick
 ~
 ~
NICK FORDHAM
 CHIEF EXECUTIVE OFFICER
 ~
THE FORDHAM COMPANY
www.thefordhamcompany.com.au
 ~

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RE: PRIVILEGED AND CONFIDENTIAL

From: Tasha Smithies <[REDACTED]>
To: Nick Fordham <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Cc: "Saunders, Marlia" <[REDACTED]>; Chris Bendall <[REDACTED]>; Myles Farley <[REDACTED]>; Georgina Taylor <[REDACTED]>; Stuart Thomas <[REDACTED]>
Date: Wed, 11 Jan 2023 17:33:07 +1100
Attachments: Unnamed Attachment (68 bytes)

As Marlia outlined in her last email (see below set out for ease), the DPP is not in a position to respond or take any further steps, accordingly there are no further steps we can take during the course of the inquiry.

On to the defamation, no claim or demand is made against Lisa, it is limited to Ten as the publisher. Ten will review and respond to the letter against Ten. Given that the letter is expressed to be confidential between Ten and the claimant, Ten does not propose to comment on its response to the letter. Of course if the situation changes and Lisa is named or she is the subject of any claim, we will let you know.

Thanks for your email last night.

You may have seen that the ACT Government has this morning announced it will establish a Board of Inquiry which will review the Lehmann trial, including the decision to lay charges, the decision to proceed to trial and the decision not to proceed to a retrial and the conduct of police investigators and the DPP.

It's likely that Shane Drumgold would have known for some time that this was in the works, and it explains why he has not responded to our correspondence in the last few weeks. He will not be in a position to say anything publicly while the inquiry is pending. The Board of Inquiry is due to report to the Government in the first half of 2023.

Tasha is now on annual leave, but we'll come back to Lisa about this further in the New Year.

Wishing you all the best for the Christmas break.

Marlia Saunders |
THOMSON GEER
T | M
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[\[REDACTED\]@tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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O [REDACTED] M [REDACTED]
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356



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Sent: Wednesday, 11 January 2023 3:51 PM
To: Tasha Smithies <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Cc: Myles Farley <[REDACTED]>; Marla Saunders <[REDACTED]>; Chris Bendall <[REDACTED]>; Georgia Taylor <[REDACTED]>
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If your journalists hear anything further, can you please keep us in the loop.

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Cc: Lisa Wilkinson External <[REDACTED]>; "Saunders, Marlia" <[REDACTED]>; Chris Bendall <[REDACTED]>; Myles Farley <[REDACTED]>; Giorgia Taylor <[REDACTED]>; Stuart Thomas <[REDACTED]>
Date: Wed, 11 Jan 2023 21:53:19 +1100
Attachments: Unnamed Attachment (68 bytes)

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Considering the significant damage that has been caused to Lisa's career and ongoing damage to her professional reputation we'd like to have some understanding of how Ten is proposing to respond to the defamation letter.

Are you free for a call on Friday?

Regards,

Nick

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THE FORDHAM COMPANY
www.thefordhamcompany.com.au

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~

Wishing you all the best for the Christmas break.

~

Kind regards

~

Marlia

~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | lglaw.com.au

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Tasha Smithies

Sr Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



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Sent: Wednesday, 11 January 2023 3:51 PM

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180

Cc: Myles Farley <[REDACTED]>; Marlia Saunders <[REDACTED]>; Chris Bendall <[REDACTED]>; Giorgia Taylor <[REDACTED]>
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Sr Litigation Counsel
O [redacted] M [redacted]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Nick Fordham <[redacted]>
Sent: Wednesday, 11 January 2023 3:51 PM
To: Tasha Smithies <[redacted]>; Lisa Wilkinson External <[redacted]>

359

Cc: Myles Earley <[REDACTED]>; Marlia Saunders <[REDACTED]>; Chris Bendall <[REDACTED]>; Giorgia Taylor <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL

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From: Tasha Smithies <[REDACTED]>
Date: 18 January 2023 at 9:41:35 am AEDT
To: Lisa Wilkinson External <[REDACTED]>
Subject: RE: The Project - Response to further letter from Fiona Brown - Privileged and Confidential

Hi Lisa,

I think the reference to the radio is a reference to the Jonsey and Amanda show post the Logies which has nothing to do with N10.

I haven't provided Nick with a copy of the letter as we wouldn't normally liaise with him on N10 matters which includes this matter and the Lehrmann letter. The Lehrmann letter is also subject to confidentiality so we actually can't provide it or a response to him.

We (and external lawyers) can discuss with him the matters relating to you and the DPP as we have continued to do so.

In relation to N10 matters arising out of The Project story, I will provide you directly with any updates as appropriate (given the matters are largely left with legal) in the same way I would update Chris/Angus.

Kind regards,
Tasha

Tasha Smithies
Sr Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Lisa Wilkinson <[REDACTED]>
Sent: Tuesday, 17 January 2023 8:42 AM
To: Tasha Smithies <[REDACTED]>
Subject: Re: The Project - Response to further letter from Fiona Brown - Privileged and Confidential

Thanks so much for letting me know Tasha. The whole premise of her complaint is utterly ridiculous...and the Logies stuff is just palpably untrue.

I'm confused about the radio reference in Marlia's reply though. I can't see it mentioned in her legal team's letter to Justin.

So Nick is also up to speed on where we are legally, would you mind sending this correspondence to him as well please?

Many thanks, and happy new year.

Lisa.

Sent from my iPad

On 16 Jan 2023, at 4:08 pm, Tasha Smithies <[REDACTED]>
wrote:

Hi Chris, Tamara and Lisa,
Please find attached for your records letter received from lawyers for Fiona Brown and the response sent. Given the time of year the letter was sent, and with a lot going on before Christmas, we have only just responded.
We would appreciate if these communications were not further disseminated.
Hopefully this is the last we hear from Fiona Brown.
Kind regards,
Tasha

Tasha Smithies
Sr Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

<image001.png>

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22 December 2022

STRICTLY CONFIDENTIAL AND NOT FOR PUBLICATION

BY EMAIL [REDACTED]

Thomson Geer
Level 39, Rialto South Tower
525 Collins Street
MELBOURNE VIC 3000

Attention: Justin Quill

Dear Mr Quill

Our client: Fiona Brown

We refer to your letter dated 29 June 2022.

Our client's hurt has been exacerbated by your clients' response.

Limitation period

Our client is well within the 3 year long-stop limitation period for a defamation action in relation to the initial interview on The Panel, and if need be will make application to extend time past the initial 12-month period.

In any event, our client has causes of action against both Ten and its employee, Ms Wilkinson, falling within the 1 year limitation period based upon the subsequent broadcast of excerpts from the interview (**interview footage**) and the accompanying Logies speech by Ms Wilkinson (**Wilkinson speech**) (collectively, the **Logies Presentation**).

Liability for publication

If we understand your clients' position correctly, it is that neither Network 10 nor Ms Wilkinson anticipated or was to any degree involved in, acquiesced in, conducted to or approved of broadcast of the interview footage naming our client which accompanied the Wilkinson speech. We do not believe that proposition withstands scrutiny.

If your clients say that neither of the provided the interview footage naming our client to Channel Nine, submitted it as part of, accompanying or in on support of the Ten/Wilkinson 2022 Logies nomination, previewed it or otherwise anticipated that it would be used as part of the Logies Presentation, please advise and explain why, notwithstanding our client's pre-existing complaint about the original broadcast of the item on The Panel, your clients:

- (a) did not object to broadcast of the interview footage naming our client in collocation with the Wilkinson speech; and
- (b) did not seek to have it taken down.

Meaning

Based on what the viewer sees, any proposition that the interview footage, Ms Wilkinson's speech and the Logies Presentation were incapable of identifying our client, were incapable of conveying and did not convey any imputations of and concerning her, or that neither of your clients was a primary publisher of the offending material is untenable: *David Syme & Co v Canavan* [1918] HCA 50; (1918) 25 CLR 234 at 238; [1918] HCA 50; *Webb v Bloch* [1928] HCA 50; (1928) 41 CLR 331.

No defences

No possible defence of qualified privilege can be made out, as neither of your clients acted reasonably in publishing what they did. Nor can they have reasonably believed that broadcast of interview footage, Ms Wilkinson's speech or the Logies Presentation was in the public interest, having regard not least to the matters recited by McCallum CJ in *R v Lehmann (No 3)* [2022] ACTSC 145 (21 June 2022) at [18] to [22] and the matters set out in our client's original complaint.

Neither Ms Wilkinson's speech, the interview footage nor the Logies Presentation is or was an expression of opinion based on true facts, or otherwise.

Any suggestion that any of that material conveyed (unidentified) contextual imputations sits very uneasily with the denial that our client was identified or that any defamatory imputation was conveyed of and concerning her.

If, as suggested in your letter, Network Ten and Ms Wilkinson say that Ms Wilkinson's speech, the interview footage or the Logies Presentation (or any of them, identifying which) conveyed contextual imputations at the same time and in addition to the imputations identified in our client's concerns notice, please:

- (a) identify each contextual imputation; and
- (b) identify each imputation of which our client complains

which your clients say that they presently have a reasonable basis to prove substantially true.

Letter of assurance

We disagree that a proper correction and apology to our client would in any way breach the terms of the letter of assurance, so far as you have advised us of them. In any event, that has ceased to be of any relevance now, given that the Lehmann trial has been aborted and that the ACT DPP has announced that there will be no further prosecution of Mr Lehmann.

Offer

Our client makes the following offer to settle her complaints against Network Ten and Ms Wilkinson, on the following basis:

- 1 Publication of the following apology and correction on the first available edition of The Project in 2023:

Apology to Fiona Brown

An interview first broadcast in 2021, and excerpts of that interview which were broadcast prior to a speech by Lisa Wilkinson at the 2022 TV Week Logie Awards included material defamatory of Fiona Brown in her role as a senior public servant. Neither Network Ten nor Ms Wilkinson intended to defame Fiona Brown. No viewer should take from the interview or Lisa Wilkinson's speech any suggestion about Fiona Brown that was in any way critical or adverse. Network Ten has removed the relevant material from all of its online and social

media platforms, will not rebroadcast or republish it, and apologises to Fiona Brown for the hurt and damage caused.

- 2 Signed letters of apology from each of Network Ten and Ms Wilkinson, in the following terms:

Apology to Fiona Brown

An interview first broadcast on 15 February 2021 on Network Ten's 'The Project' excerpts of which were broadcast accompanied by remarks made at the 2022 TV Week Logie Awards by Lisa Wilkinson/me [as applicable] included material defamatory of you in your role as a senior public servant.

If any viewer understood that material to suggest that as a senior public servant you threatened Ms Brittany Higgins, that she would lose her job if she complained of sexual assault, we confirm that no such suggestion was intended, and I/we [as applicable] wholly withdraw it.

Network Ten has removed the edited segment and the Logies acceptance speech from all of its sites, and we apologise to you for the hurt or damage caused.

- 3 Network Ten will undertake that the parts of the interview footage and Logies Publication that refer to our client will not be re-broadcast by Network Ten or any of its affiliates, that Network Ten and Ms Wilkinson will undertake to advise Nine and any other entities to which either of them has supplied it, or which they are aware have republished it that the material is defamatory, and that they will use their best endeavours to ensure that the material is not rebroadcast or otherwise republished and is removed, taken down or access blocked to it on such third party sites as our client may advise are hosting it or on which it is archived.
- 4 Network Ten and Ms Wilkinson will together pay to our client the total sum of \$150,000 in lieu of damages. Such liability will be joint and several.
- 5 Network Ten and Ms Wilkinson will pay our client's legal costs incurred before this offer was made and our client's legal costs of any further negotiations or settling of the terms of any required documentation, on a solicitor/client basis. Such liability will be joint and several.
- 6 This offer is open for 21 days from the date of this letter.

Offer reasonable

This offer is reasonable at the time it is made, having regard to:

- (a) the fact that it is made early, before proceedings have been commenced and substantial legal costs incurred;
- (b) the parties' respective prospects as at the current date;
- (c) the extent of damage and hurt to feelings caused;
- (d) the gravity of the imputations conveyed, which are of the worst imaginable kind;
- (e) the utterly baseless nature of the imputations;
- (f) Network Ten's inexplicable and inexcusable failure to take adequate steps to stem the damage flowing from publication by making an immediate on air (or any) correction and apology;
- (g) Network Ten's aggravation of the harm already inflicted;

- (h) the fact that the amount which our client has offered to accept is far less than our client might reasonably expect to receive by way of an award of damages at trial having regard to the mass media nature of the publications, the nature of the imputations (which are at the top end of the range of objective seriousness) and the statutory cap for non-economic loss of \$443,000 **excluding aggravated damages**; and
- (i) the matters otherwise set out above.

Rejection unreasonable

Any rejection of our client's offer by Network Ten and Ms Wilkinson would be unreasonable, for the reasons set out above.

Reservation of rights

All of our client's rights are strictly reserved, including her right to rely upon this letter on the question of costs, including indemnity costs, in accordance with the principles in *Calderbank, v Calderbank*, and section 139K of the Civil Law (Wrongs) Act (ACT) 2002 and cognate state and territory legislation.

This letter and the information it contains is strictly not for publication.

Retention of Material

Please ensure that the full transcripts and unedited recordings of all relevant interviews, internal and external emails (including with Network Nine), records of Ten and/or Wilkinson's 2022 Logies nomination (including material submitted in support) text messages and social media posts, journalist's notes, production notes, draft and final scripts or edits including GFX (graphics) cues and notations, together with sound and vision of the original version of or links to the matters complained of or any promotion of them uploaded to or archived on any webpages operated, owned or maintained by Ten, on the Ten Twitter account at: https://twitter.com/Channel10AU?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauth or any other Ten social media accounts are retained for the purpose of evidence.

Yours faithfully

RUSSELL KENNEDY



Walter MacCallum
Principal

Level 14, 60 Martin Place
Sydney NSW 2000 Australia

GPO Box 3909 Sydney NSW 2001

T [REDACTED]
F [REDACTED]

Our ref MSA:4680786
Your ref WJM 311620

13 January 2023

[REDACTED]

Mr Walter MacCallum
Russell Kennedy
Level 6, 75 Elizabeth Street
SYDNEY NSW 2000

Dear Mr MacCallum

Fiona Brown

We refer to your letter of 22 December 2022 and our previous correspondence. This letter adopts the definitions of the publications used variously throughout your earlier correspondence.

We note it has taken your client almost six months to respond to our last letter.

Your client's offer is rejected.

We do not intend to repeat all of the matters already raised in our previous letters of 1 April 2021, 13 May 2021 and 29 June 2022.

Our clients maintain that any defamation action by your client would be hopeless and bound to fail because (at the very least):

- she is out of time to proceed over the Interview and there is no basis to obtain an extension of the limitation period;
- our clients did not have any involvement in the preparation or broadcast of the Interview Extract and Radio Program;
- she was not identified or even referred to in the Logies Speech;
- the publications do not convey the majority of the imputations contained in either of her concerns notices; and
- to the extent that any of the imputations contained in her concerns notices are conveyed, they are clearly protected by the substantive defences of truth, contextual truth, public interest commentary, qualified privilege and/or honest opinion.

Notwithstanding the above, this letter addresses some further issues identified from your client's 23 June 2022 concerns notice and your 22 December 2022 letter and includes a request for further particulars.

1 Limitation issue - Interview

If your client wishes to commence proceedings over the Interview that was broadcast on 15 February 2021, she will need to bring an application to extend the limitation period.

While such applications ultimately turn on their facts, we see no basis on which a court could be satisfied that it was not reasonable for your client to have commenced proceedings before 15 February 2022.

The authorities establish an extremely high bar that plaintiffs face to extend the limitation period, especially for publications prior to 1 July 2021. This is especially so where your client was approached for comment prior to the broadcast of the Interview.

We put you on notice that any application to extend the limitation period in respect of the Interview will be staunchly opposed, and we will rely on this and previous correspondence on the question of costs.

2 Liability for publication

Your 22 December 2022 letter misstates the law of publication in respect of the Interview Extract.

To assert or suggest that our clients have a positive obligation to prevent Channel Nine from broadcasting material or demand that Channel Nine remove material from its website(s) is incorrect.

Our clients provided a copy of the Interview (as broadcast on The Project on 15 February 2021) to Channel Nine as a part of Ms Wilkinson's nomination form for the purpose of assessment by the judges of her eligibility for an award.

Neither Network Ten nor Ms Wilkinson knew Ms Wilkinson was going to win the Silver Logie for *Most Outstanding News Coverage or Public Affairs Report* and did not have any involvement in preparing or broadcasting the Interview Extract.

3 Further particulars notice

Your second concerns notice of 23 June 2022 does not provide any particulars of serious harm.

Our clients seek further particulars about the serious harm your client alleges she has suffered as a result of the Interview Extract and Logies Speech in accordance with section 12A(4) of the uniform defamation legislation.

Frankly, given the harm your client says flows from the Interview, we fail to see how the Interview Extract or the Logies Speech could have caused serious harm to your client's reputation. The fact your client has issued two concerns notices, 15 months apart, makes this point for us. That is, any harm to your client's reputation had, by 19 June 2022, crystallised such that no further harm could satisfy the serious harm threshold.

As the Radio Program has nothing to do with our clients, there is no need to address this publication.

Once again, we wish to convey that while our clients wish your client no ill, they will vigorously defend any proceedings brought against them.

Yours faithfully

THOMSON GEER



Marlia Saunders

Partner

T [REDACTED]

M [REDACTED]

E [REDACTED]

Re: PRIVILEGED AND CONFIDENTIAL

From: Nick Fordham <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Cc: Lisa Wilkinson External <[REDACTED]>; "Saunders, Marlia" <[REDACTED]>; Myles Farley <[REDACTED]>; Giorgia Taylor <[REDACTED]>; Stuart Thomas <[REDACTED]>
Date: Wed, 18 Jan 2023 09:30:37 +1100
Attachments: Unnamed Attachment (68 bytes)

Are you free tomorrow or Friday for a quick catch up?

If you would prefer me liaising with Bev on this, please let me know.

Look forward to your response.

www.thefordhamcompany.com.au

From: Nick Fordham <[REDACTED]>
Sent: Wednesday, January 11, 2023 9:53 pm
To: Tasha Smithies <[REDACTED]>
Cc: Lisa Wilkinson External <[REDACTED]>; Marlia Saunders <[REDACTED]>; Chris Bendall <[REDACTED]>; Myles Farley <[REDACTED]>; Giorgia Taylor <[REDACTED]>; Stuart Thomas <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL

I did get Marlia's email but as you were on leave at the time we haven't had a chance connect on this. Appreciate it's really not in Ten's interests to continue to pursue this, but clearly we're not going to be satisfied until we get the result we're after.

Considering the significant damage that has been caused to Lisa's career and ongoing damage to her professional reputation we'd like to have some understanding of how Ten is proposing to respond to the defamation letter.

Are you free for a call on Friday?

NICK FORDHAM
CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 11 Jan 2023, at 5:33 pm, Tasha Smithies <[REDACTED]> wrote:

As Marlia outlined in her last email (see below set out for ease), the DPP is not in a position to respond or take any further action, accordingly there are no further steps we can take during the course of the inquiry.

In relation to the defamation, no claim or demand is made against Lisa, it is limited to Ten as the publisher. Ten will review and respond to the letter against Ten. Given that the letter is expressed to be confidential between Ten and the claimant, Ten does not propose to comment on its response to the letter. Of course if the situation changes and Lisa is named or she is the subject of any claim, we will let you know.

Hi Nick

~
Thanks for your email last night.

~
You may have seen that the ACT Government has this morning announced it will establish a Board of Inquiry which will review the Lehmann trial, including the decision to lay charges, the decision to proceed to trial and the decision not to proceed to a retrial and the conduct of police investigators and the DPP.

~
It's likely that Shane Drumgold would have known for some time that this was in the works, and it explains why he has not responded to our correspondence in the last few weeks. He will not be in a position to say anything publicly while the inquiry is pending. The Board of Inquiry is due to report to the Government in the first half of 2023.

~
Tasha is now on annual leave, but we'll come back to Lisa about this further in the New Year.

~
Wishing you all the best for the Christmas break.

~
Kind regards

~
Marlia

~
Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

~
Please note that our offices will be closed from COB Friday 23 December 2022 and will reopen on Monday 9 January 2023. However, if you require urgent prepublication advice or urgent advice generally, please email [REDACTED]. The prepub email address is being constantly monitored. If you need to speak with me, please call my mobile as set out above.

~
Tasha Smithies

Sr Litigation Counsel

C [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Sent: Wednesday, 11 January 2023 3:51 PM
To: Tasha Smithies <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Cc: Myles Farley <[REDACTED]>; Marlia Saunders <[REDACTED]>; Chris Bendall <[REDACTED]>; Georgia Taylor <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL

HNY. Hope you had a nice break.

Can we please jump on a call and discuss the next steps with Drumgold, the Inquiry and also Ten's position re the defama

If your journalists hear anything further, can you please keep us in the loop.

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

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From: Tasha Smithies
Sent: Thursday, January 19, 2023 1:00 PM
To: Nick Fordham <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>
Subject: RE: PRIVILEGED AND CONFIDENTIAL

Dear Nick,
 I have separately provided an update directly to Lisa in relation to N10's management of legal matters concerning her, so may be best for you to discuss with her.
 It's a matter for you if you wish to involve Bev, however, I note that these are legal matters being managed by Stuart and myself.
 Kind regards,
 Tasha

Tasha Smithies
 Sr Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Sent: Wednesday, 18 January 2023 9:31 AM
To: Tasha Smithies <[REDACTED]>
Cc: Lisa Wilkinson External <[REDACTED]>; Marlia Saunders <[REDACTED]>; Myles Farley <[REDACTED]>; Giorgia Taylor <[REDACTED]>; Stuart Thomas <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL

Hi Tasha,
 Are you free tomorrow or Friday for a quick catch up?
 If you would prefer me liaising with Bev on this, please let me know.

364

Look forward to your response.

www.thefordhamcompany.com.au

From: [REDACTED]
Sent: Wednesday, January 11, 2023 9:53 pm
To: Tasha Smithies <[REDACTED]>
Cc: Lisa Wilkinson External <[REDACTED]>; Marlia Saunders <[REDACTED]>; Chris Bendall <[REDACTED]>; Myles Farley <[REDACTED]>; Giorgia Taylor <[REDACTED]>; Stuart Thomas <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL

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365

proceed to a retrial and the conduct of police investigators and the DPP.

It's likely that Shane Drumgold would have known for some time that this was in the works, and it explains why he has not responded to our correspondence in the last few weeks. He will not be in a position to say anything publicly while the inquiry is pending. The Board of Inquiry is due to report to the Government in the first half of 2023.

Tasha is now on annual leave, but we'll come back to Lisa about this further in the New Year.

Wishing you all the best for the Christmas break.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tg@law.com.au

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Please note that our offices will be closed from COB Friday 23 December 2022 and will reopen on Monday 9 January 2023. However, if you require urgent prepublication advice or urgent advice generally, please email [REDACTED] the prepub email address is being constantly monitored. If you need to speak with me, please call my mobile as set out above.

Tasha Smithies
Sr Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: [REDACTED]
Sent: Wednesday, 11 January 2023 3:51 PM
To: Tasha Smithies [REDACTED]; Lisa Wilkinson External [REDACTED]
Cc: Myles Farley [REDACTED]; Marlia Saunders [REDACTED]; Chris Bendall [REDACTED]; Georgia Taylor [REDACTED]
Subject: Re: PRIVILEGED AND CONFIDENTIAL

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If your journalists hear anything further, can you please keep us in the loop.

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From: "Saunders, Marlia" <[REDACTED]>
Date: 19 January 2023 at 3:20:44 pm AEDT
To: Lisa Wilkinson External [REDACTED]
Subject: Fiona Brown complaint [TGLAW-Legal.FID3680207]

Hi Lisa

I hope you are well.

Justin told me you had a query about the Fiona Brown letter – I've been handling this, so he's not across the recent developments.

Give me a call when you are free and we can discuss.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | [\[REDACTED\]@tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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From: Tasha Smithies <[REDACTED]>
Date: 23 January 2023 at 10:15:24 am AEDT
To: Chris Bendall <[REDACTED]>, [REDACTED], Angus Llewellyn
<[REDACTED]>, Lisa Wilkinson External <[REDACTED]>
Subject: Lehrmann letter update - Privileged and Confidential

Hi Chris, Tamara, Lisa and Angus,

A brief update on the Lehrmann legal letter. As previously discussed N10 has responded pushing back on all issues. I can't provide a copy given the confidentiality issues.

It will now be up to Lehrmann to decide whether he commences proceedings. There are many legal issues for him and his lawyers to consider (its more complicated than usual), as he will have to file an application to actually be allowed to file the claim out of time which has to be determined first and would be opposed by any defendants. The Toowoomba charges may mean he needs to commence the proceedings and then have them stayed until the outcome of the Toowoomba matters. Or any N10/any other defendants may need to do this. We will have to wait and see what he does.

We have also been liaising with News and ARN. I can't provide details of these conversations as they are subject to common interest privilege.

Please don't forward this email as any copy forwarded would not be protected by legal privilege and we are trying to limit communications on the matter more generally given its possible proceedings will be commenced and those type of emails (the forwarded copies of the emails) could be required to be produced in discovery in any proceedings.

Kind regards,
Tasha

Tasha Smithies
Sr Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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Lehrmann letter update - Privileged and Confidential

From: Tasha Smithies <[REDACTED]>
To: Chris Bendall <[REDACTED]>; [REDACTED] <[REDACTED]>;
Angus Llewellyn <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Date: Mon, 23 Jan 2023 10:15:16 +1100
Attachments: Unnamed Attachment (68 bytes)

Hi Chris, Tamara, Lisa and Angus,
A brief update on the Lehrmann legal letter. As previously discussed N10 has responded pushing back on all issues. I can't provide a copy given the confidentiality of the proceedings.
It will now be up to Lehrmann to decide whether he commences proceedings. There are many legal issues for him and his lawyers to consider (its more complicated than usual), as he will have to go on to actually be allowed to commence proceedings which has to be determined first and would be opposed by any defendants. The Toowoomba charges may mean he needs to commence the proceedings and then have them stayed until the outcome of the Toowoomba matters. N10/any other defendants may need to do this. We will have to wait and see what he does.
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Tasha Smithies
Sr Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

Re: Lehrmann letter update - Privileged and Confidential

From: Lisa Wilkinson <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Date: Mon, 23 Jan 2023 13:42:15 +1100
Attachments: Unnamed Attachment (68 bytes)

Thanks so much for letting me know Tasha. The need for speed before Christmas would indicate Lehrmann only had a small window before the other, new rape charges became public.

I imagine arguing reputational damage now becomes a much harder fight for him to win.

Sent from my iPad

On 23 Jan 2023, at 10:15 am, Tasha Smithies <[REDACTED]> wrote:

Hi Chris, Tamara, Lisa and Angus,

A brief update on the Lehrmann legal letter. As previously discussed N10 has responded pushing back on all issues. I can't provide a copy given the confidentiality issues.

It will now be up to Lehrmann to decide whether he commences proceedings. There are many legal issues for him and his lawyers to consider (its more complicated than usual), as he will have to file an application to actually be allowed to file the claim out of time which has to be determined first and would opposed by any defendants. The Toowoomba charges may mean he needs to commence the proceedings and then have them stayed until the outcome of the Toowoomba matters. Or any N10/any other defendants may need to do this. We will have to wait and see what he does.

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Sr Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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replicated on other systems. We give no warranties in relation to these matters. If you have any doubts about the authenticity of an e-mail purportedly sent by us, please contact us immediately.

ACT inquiry

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson External <[REDACTED]>
Cc: "Smithies Tasha ([REDACTED])" <[REDACTED]>
Date: Tue, 24 Jan 2023 09:59:57 +1100

Hi Lisa

\~

FYI this article from Guardian Australia today – it's expected the terms of reference for the inquiry will be released next week:

\~

https://www.theguardian.com/australia-news/2023/jan/24/act-close-to-naming-head-of-bruce-lehrmann-trial-inquiry-and-its-scope?utm_term=63cee7ec75b06eda3c8955043aaa3f2f&utm_campaign=MorningMailAUS&utm_source=esp&utm_medium=Email&CMP=morningmailau_email

\~

Kind regards

\~

Marlia

\~

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

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ACT inquiry

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson External <[REDACTED]>
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Date: Tue, 24 Jan 2023 09:59:57 +1100

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Marlia Saunders | Partner
THOMSON GEER
T [REDACTED] M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tglaw.com.au

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Re: ACT inquiry - PRIVILEGED AND CONFIDENTIAL

From: Lisa Wilkinson <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: "Smithies Tasha ([REDACTED])" <[REDACTED]>
Date: Tue, 24 Jan 2023 10:19:23 +1100

Thanks so much Marlia. I will be fascinated to see what those terms are.

Meantime, I just wanted to clarify, do you think now would be a good time for me to send my personal letter to Shane Drumgold asking him to honour his two, separate commitments to you that he would clarify, on the public record, the fact he did not warn me or Tasha in that June 15 pre-Logies meeting not to give that speech?

Kind regards,

Lisa.

Sent from my iPad

On 24 Jan 2023, at 10:00 am, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

~

FYI this article from Guardian Australia today – it's expected the terms of reference for the inquiry will be released next week:

~

https://www.theguardian.com/australia-news/2023/jan/24/act-close-to-naming-head-of-bruce-lehrmann-trial-inquiry-and-its-scope?utm_term=63cee7ec75b06eda3c8955043aaa3f2f&utm_campaign=MorningMailAUS&utm_source=esp&utm_medium=Email&CMP=morningmailau_email

~

Kind regards

~

Marlia

~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tg@law.com.au

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 #####

Re: ACT inquiry - PRIVILEGED AND CONFIDENTIAL

From: Lisa Wilkinson [redacted] >
To: "Saunders, Marlia" <[redacted]>
Cc: "Smithies Tasha ([redacted])" <[redacted]>
Date: Tue, 24 Jan 2023 10:19:23 +1100

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Marlia Saunders |
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#####

From: Tasha Smithies <[REDACTED]>
Date: 25 January 2023 at 11:05:09 am AEDT
To: Marlia Saunders <[REDACTED]>, Lisa Wilkinson External
<[REDACTED]>
Subject: Fwd: ACT inquiry - PRIVILEGED AND CONFIDENTIAL

Hi Marlia and Lisa,

Happy to be guided by you Marlia as to timing of any letter from Lisa, I wonder, though if he will respond while the inquiry is running and therefore if it's better to wait until the inquiry is completed?

Lisa, I would suggest you run any letter by us before sending.

Kind regards,
Tasha

Tasha Smithies
Sr Litigation Counsel
O [REDACTED] **M** [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

Begin forwarded message:

From: Lisa Wilkinson <[REDACTED]>
Date: 24 January 2023 at 10:19:35 am AEDT
To: "Saunders, Marlia" <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>
Subject: Re: ACT inquiry - PRIVILEGED AND CONFIDENTIAL

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Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

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[REDACTED] | tg@law.com.au

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Fwd: ACT inquiry - PRIVILEGED AND CONFIDENTIAL

From: Tasha Smithies <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Date: Wed, 25 Jan 2023 11:05:01 +1100

Hi Marlia and Lisa,

Happy to be guided by you Marlia as to timing of any letter from Lisa, I wonder, though if he will respond while the inquiry is running and therefore if it's better to wait until the inquiry is completed?

Lisa, I would suggest you run any letter by us before sending.

Kind regards,
 Tasha

Tasha Smithies
 Sr Litigation Counsel
 O~[REDACTED]~ M~[REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009

Begin forwarded message:

From: Lisa Wilkinson <[REDACTED]>
Date: 24 January 2023 at 10:19:35 am AEDT
To: "Saunders, Marlia" <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>
Subject: Re: ACT inquiry - PRIVILEGED AND CONFIDENTIAL

Thanks so much Marlia. I will be fascinated to see what those terms are.

Meantime, I just wanted to clarify, do you think now would be a good time for me to send my personal letter to Shane Drumgold asking him to honour his two, separate commitments to you that he would clarify, on the public record, the fact he did not warn me or Tasha in that June 15 pre-Logies meeting not to give that speech?

Kind regards,

Lisa.

Sent from my iPad

On 24 Jan 2023, at 10:00 am, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

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FYI this article from Guardian Australia today – it's expected the terms of reference for the inquiry will be released next week:

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184

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Marlia Saunders |
THOMSON GEER
T | M
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[REDACTED] tglaw.com.au

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RE: ACT inquiry - PRIVILEGED AND CONFIDENTIAL [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Tasha Smithies <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <[REDACTED]>
Date: Wed, 25 Jan 2023 13:43:31 +1100

Hi Tasha and Lisa

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Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
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Marlia

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Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

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[REDACTED] | tg@law.com.au

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PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

From: Lisa Wilkinson <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Date: Fri, 27 Jan 2023 11:32:40 +1100
Attachments: New Drumgold letter.docx (15.67 kB)

Dear Marlia/Tasha,

Thanks for getting back to me. To be honest Marlia, I disagree that we should wait on sending this personal letter from me, and I'm not sure what has changed your mind since our phone call regarding the Inquiry last week.

Right now we are still in that window where the main game is the commitment Shane Drumgold gave to you in June, and again in October, to correct the public record regarding our pre-Logies meeting of June 15 and therefore restore my reputation, and address the glaring issue of his subsequent three month silence and refusal to engage and honour his commitment since the trial finished. That window of opportunity is about to close shut.

This is a personal letter from me, and I want this letter to arrive while this window is still open, and while the timing clearly sits in his mis-handling, his silence, and non-action around us.

Once the terms of reference for the Inquiry are announced, the whole game shifts: our concerns will appear irrelevant, we will look like we aren't keeping up with the main game, he could easily argue that his silence is due to the announcement of the terms of reference, and the whole thing will be lost in a torrent of new headlines, where we know the tabloid press will once again use my name, and my image to dredge up the whole defamatory narrative around me again. And again. And again.

When they get half a chance I continue to be click bait for outlets like News Corp and Daily Mail, and it is hard to imagine that calls for me being charged with contempt of court won't surface again once their commentators and headline writers start speculating about the Inquiry.

Marlia, the last seven months have been a complete nightmare for me, and it is not over. I refuse to just limp away from this situation professionally - and personally - defeated, with my reputation as an ethical journalist who deeply respects the legal system still not restored, and us not pushing for the outcome that I hope you agree I genuinely deserve.

I have copied in Nick for his thoughts as well as he has been involved on these issues from the start.

Meantime, here is the personal letter I would like to send to Shane Drumgold today. Look forward to your thoughts.

With thanks,

Lisa.

Sent from my iPad

New Drumgold letter

Dear Mr Drumgold,

I hope you are well.

I write in regard to the attached letter from Ms Marlia Saunders, QC, of Thomson Geer Lawyers, who has been acting for me ever since Justice McCallum's incorrect and publicly damning determination of what she believed transpired during our meeting of June 15th last year, and Her Honour's subsequent decision to delay the trial of Mr Bruce Lehrmann.

Mr Drumgold, I cannot overstate my relief when I was informed by Ms Saunders on both June 22nd and October 24th of last year, that you had confirmed to her in phone calls of those dates, the truth: that I had been done a grave injustice by Justice McCallum's "misinterpretation" of your words when Her Honour stated that I been given a "clear warning" by you not to give a Logies acceptance speech on June 19, 2023.

Thank you for confirming in those two phone calls with Ms Saunders, that you, in fact, did not issue a warning to me not to give that speech, nor did you give that warning to Ten's Senior Legal Counsel, Ms Tasha Smithies, who was also present in that meeting of June 15.

As you will recall, I was the one who raised the issue of the legal sensitivities around the unfortunate timing of the Logies in that meeting and hence, my reason for being so careful and seeking your learned counsel on that day.

As I also informed you in that meeting of June 15, in the event that my interview with Ms Higgins was to win the Outstanding TV Journalism award, the proposed acceptance speech had already been fully approved by Ten's Senior Legal Counsel, Tasha Smithies, but I was seeking your further counsel on the words I was proposing to say.

None of this is what the public record - or the torrent of media coverage that followed - has recorded.

In the first phone call with Ms Saunders of June 22nd you agreed that the public record needed to be corrected, offered to do exactly that and confirmed that you had NOT warned me not to give that speech in that meeting.

As Ms Saunders advised me she had recorded in her notes of that phone call:

“He said unprompted that he thinks the media has misreported the evidence that was tendered by the defence in the application yesterday. He said: ‘The media have reported that I told her [Lisa] not to give a speech. I didn't say that.’ He said he feels the need to correct reports that there was a positive direction not to give a speech. He feels Lisa has been poorly treated.”

As again recorded in contemporaneous notes taken by Ms Saunders during your phone conversation with her of October 24, you reiterated this need to correct the public record, and stated that my personal conduct “was not anything remotely resembling contempt of court.”

Mr Drumgold, again, I cannot tell you the relief I felt being informed of those words on those days.

As you know, and has been so clearly acknowledged by you, I did nothing wrong - I sought your counsel in that meeting not as a speechwriter, but specifically because I DIDN'T want to do the wrong thing - and yet, in the seven months since, my reputation as an ethical journalist of 40 years standing has been destroyed, while my motivations for reporting on this story have been called into question in a way that has ignited an unrelenting torrent of hate against me in significant sectors of the mainstream media and in the public domain.

That hate, as you would well know, also extended to the complete trashing of my ethics and reputation during Mr Lehrmann's trial by his defence barrister, Mr Steven Whybrow. Again, this was a direct result of the incorrect determination made by Justice McCallum that I had specifically disobeyed "a clear warning" from you, not to give that speech.

Throughout it all, I have been unable to defend myself while I honoured my commitment to the court to remain silent.

Now, as a direct result of the toxic fallout out from Justice McCallum's "misinterpretation" of your words, I have had to step down from my role at The Project - a job, and work, that I previously loved.

Sir, Ms Saunders has tried to contact you via emails and phone calls on a number of occasions since the trial finished three months ago, only to be met with complete silence from you.

Mr Drumgold, you are a man who has devoted his life to the pursuit of justice, and yet, you know that a grave injustice has occurred here. You are the only chance I have for the public record on what truly happened in that meeting of

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Will you please help me to do that, by honouring your two previous commitments to do so.

I very much look forward to your reply.

Yours sincerely,

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Cc: Nick Fordham <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <[REDACTED]>
Date: Fri, 27 Jan 2023 12:48:18 +1100

Hi Lisa

~
 Thanks for sending through your draft letter – I've got some suggested changes, but would like to discuss them with Tasha and she is on leave today. We'll come back to you on Monday.

~
 Otherwise, just a note that my mind has not changed since our call last week – I don't think the release of the terms of reference for the Inquiry changes the position in any way. Whether or not the terms of reference have been announced, Drumgold will be restricted in what he can say/do in response to your letter.

~
 The terms of reference will merely inform us as to the topics that will be covered during the Inquiry, including whether it will deal with the publicity surrounding the trial or any contempt of court issues, but they don't change the fact that Drumgold will not want to release any public statements relating to the matter until the Inquiry has concluded.

~
 That doesn't mean you shouldn't send your letter, but it unfortunately means he is unlikely to respond.

~
 Let's speak further on Monday.

~
 Kind regards

~
 Marlia

~
Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
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I have copied in Nick for his thoughts as well as he has been involved on these issues from the start.

Meantime, here is the personal letter I would like to send to Shane Drumgold today. Look forward to your thoughts.

With thanks,

Lisa.

Sent from my iPad

RE: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E-Mail <[REDACTED]>
Date: Fri, 27 Jan 2023 12:48:18 +1100

Hi Lisa

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That doesn't mean you shouldn't send your letter, but it unfortunately means he is unlikely to respond.

Let's speak further on Monday.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

From: Lisa Wilkinson <[REDACTED]>
Sent: Friday, 27 January 2023 11:33 AM
To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>
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Subject: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

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To: "Saunders, Marlia" <[REDACTED]>
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Date: Sat, 28 Jan 2023 12:43:48 +1100

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Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

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Subject: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

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#####

New Drumgold letter

Dear Mr Drumgold,

I hope you are well.

I write in regard to the attached letter from Ms Marlia Saunders, Partner, of Thomson Geer Lawyers, who has been acting for me ever since Chief Justice McCallum's decision in *R v Lehrmann (No 3)* ACTSC 145 on June 21, 2022. In making the decision to delay the trial of Mr Bruce Lehrmann, her Honour found that during our meeting of June 15th last year, you had given me a "clear and appropriate warning" not to give a Logies acceptance speech on June 19, 2023. Her Honour's finding was immediately reported on as fact, and was relied on by the media in support of criticisms of me for disrupting the trial.

Commented [TG1]: As discussed last week, I recommend you take care in how you refer to McCallum CJ in this letter to avoid the risk of "scandalising the court" which is a type of contempt.

I've had another look at her judgment and my file notes of my calls with Drumgold from June last year and have redrafted this bas

Mr Drumgold, I cannot overstate my relief when I was informed by Ms Saunders on both June 22nd and October 24th of last year, that you had confirmed to her in phone calls of those dates your view that the evidence had been misreported in the media, and that in fact you *did not* issue a warning to me not to give that speech.

This is consistent with my recollection of our June 15 meeting, as well as that of Ten's Senior Legal Counsel, Ms Tasha Smithies, who was also present in that meeting.

As you will recall, I was the one who raised the issue of the legal sensitivities around the unfortunate timing of the Logies in that meeting and hence, my reason for being so careful and seeking your learned counsel on that day.

Legal/81054019_1

As I also informed you in that meeting of June 15, I did not expect to win the Outstanding TV Journalism award for my interview with Ms Higgins was, but if I did I was seeking your further counsel on the words I was proposing to say.

Commented [TG2]: I strongly recommend you do not say this so you do not waive privilege over the legal advice you received.

None of this is what the public record - or the torrent of media coverage that followed - has recorded.

In the first phone call with Ms Saunders of June 22nd you said you felt I had been poorly treated in the media reports, and you would give consideration as to how you could correct the record in open court the following day. However, during the ensuing directions hearing, you did not say anything to correct the record.

Again on October 24, you reiterated to Ms Saunders the need to correct the public record, and stated that my personal conduct “was not anything remotely resembling contempt of court.”

Commented [TG3]: Again, I recommend against including this so as to not waive privilege over these emails.

Commented [TG4]: Again, I recommend against including this so as to not waive privilege over these emails.

Mr Drumgold, again, I cannot tell you the relief I felt being informed of those words on those days.

As you know, and has been so clearly acknowledged by you, I did nothing wrong - I sought your counsel in that meeting not as a speechwriter, but specifically because I DIDN'T want to do the wrong thing - and yet, in the seven months since, my reputation as an ethical journalist of 40 years standing has been destroyed, while my motivations for reporting on this story have been called into question in a way that has ignited an unrelenting torrent of hate

Legal/81054019_1

against me in significant sectors of the mainstream media and in the public domain.

That hate, as you would well know, also extended to the complete trashing of my ethics and reputation during Mr Lehrmann's trial by his defence barrister, Mr Steven Whybrow. Again, this was a direct result of the misconception that I had specifically disobeyed "a clear warning" from you, not to give that speech.

Throughout it all, I have been unable to defend myself while I honoured my commitment to the court to remain silent.

Now, as a direct result of the toxic fallout out from this misconception, I have had to step down from my role at The Project - a job, and work, that I previously loved.

Sir, Ms Saunders has tried to contact you via emails and phone calls on a number of occasions since the trial finished three months ago, only to be met with complete silence from you.

Mr Drumgold, you are a man who has devoted his life to the pursuit of justice, and yet, you know that a grave injustice has occurred here. You are the only chance I have for the public record on what truly happened in that meeting of June 15 to be properly corrected.

Will you please help me to do that, by honouring your two previous commitments to do so.

I very much look forward to your reply.

Legal/81054019_1

Yours sincerely,

Lisa Wilkinson, AM.

Legal/81054019_1

RE: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>
Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <[REDACTED]>
Date: Mon, 30 Jan 2023 10:48:57 +1100
Attachments: Lisa Wilkinson - New Drumgold letter (81054019v1).DOCX (26.13 kB)

Hi Lisa

Further to my last email, please see my recommended changes to your letter in the **attached** version. The changes are primarily directed to:

- ensuring privilege is not waived over legal advice and communications; and
- avoiding the risk of 'scandalising the court' in your comments about Chief Justice McCallum, which is a type of contempt.

I am also conscious that the letter may become public at some stage, and may be reported on, so the changes have been drafted with that in mind.

Subject to these changes, it is a matter for you whether to send this out now. As previously advised, our view from a legal perspective remains that Drumgold is unlikely to respond, and he has a legitimate basis for declining to respond, while the Inquiry is underway. While sending the letter now doesn't prevent you from sending another letter after the conclusion of the Inquiry, it may mean that any subsequent letter has less impact. Further, any leak of the letter may not be reported on favourably by the media.

Please let us know if you'd still like to have a call to discuss this, however Tasha is not available until Wednesday of this week.

Kind regards

Marlia

Marlia Saunders | Partner

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T [REDACTED] | M [REDACTED]
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[Advice](#) | [Transactions](#) | [Disputes](#)

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Sent: Saturday, 28 January 2023 12:44 PM
To: Saunders, Marlia <[REDACTED]>
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Subject: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

Dear Marlia/Tasha,

Thanks for getting back to me. To be honest Marlia, I disagree that we should wait on sending this personal letter from me, and I'm not sure what has changed your mind since our phone call regarding the Inquiry last week.

Right now we are still in that window where the main game is the commitment Shane Drumgold gave to you in June, and again in October, to correct the public record regarding our pre-Logies meeting of June 15 and therefore restore my reputation, and address the glaring issue of his subsequent three month silence and refusal to engage and honour his commitment since the trial finished. That window of opportunity is about to close shut.

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387

Marlia, the last seven months have been a complete nightmare for me, and it is not over. I refuse to just limp away from this situation professionally - and personally - defeated, with my reputation as an ethical journalist who deeply respects the legal system still not restored, and us not pushing for the outcome that I hope you agree I genuinely deserve.

I have copied in Nick for his thoughts as well as he has been involved on these issues from the start.

Meantime, here is the personal letter I would like to send to Shane Drumgold today. Look forward to your thoughts.

With thanks,

Lisa.

Sent from my iPad

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notify the sender immediately and then delete it. If you are not the intended recipient, you must not use, disclose
or distribute this e-mail without the author's permission. We have taken precautions to minimise the risk of
transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this
e-mail. We cannot accept liability for any loss or damage caused by software viruses.
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New Drumgold letter

Dear Mr Drumgold,

I hope you are well.

I write in regard to the attached letter from Ms Marlia Saunders, Partner, of Thomson Geer Lawyers, who has been acting for me ever since Chief Justice McCallum's decision in *R v Lehrmann (No 3)* ACTSC 145 on June 21, 2022. In making the decision to delay the trial of Mr Bruce Lehrmann, her Honour found that during our meeting of June 15th last year, you had given me a "clear and appropriate warning" not to give a Logies acceptance speech on June 19, 2023. Her Honour's finding was immediately reported on as fact, and was relied on by the media in support of criticisms of me for disrupting the trial.

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Mr Drumgold, I cannot overstate my relief when I was informed by Ms Saunders on both June 22nd and October 24th of last year, that you had confirmed to her in phone calls of those dates your view that the evidence had been misreported in the media, and that in fact you *did not* issue a warning to me not to give that speech.

This is consistent with my recollection of our June 15 meeting, as well as that of Ten's Senior Legal Counsel, Ms Tasha Smithies, who was also present in that meeting.

As you will recall, I was the one who raised the issue of the legal sensitivities around the unfortunate timing of the Logies in that meeting and hence, my reason for being so careful and seeking your learned counsel on that day.

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Again on October 24, you reiterated to Ms Saunders the need to correct the public record, and stated that my personal conduct “was not anything remotely resembling contempt of court.”

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Legal/81054019_1

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Throughout it all, I have been unable to defend myself while I honoured my commitment to the court to remain silent.

Now, as a direct result of the toxic fallout out from this misconception, I have had to step down from my role at The Project - a job, and work, that I previously loved.

Sir, Ms Saunders has tried to contact you via emails and phone calls on a number of occasions since the trial finished three months ago, only to be met with complete silence from you.

Mr Drumgold, you are a man who has devoted his life to the pursuit of justice, and yet, you know that a grave injustice has occurred here. You are the only chance I have for the public record on what truly happened in that meeting of June 15 to be properly corrected.

Will you please help me to do that, by honouring your two previous commitments to do so.

I very much look forward to your reply.

Legal/81054019_1

Yours sincerely,

Lisa Wilkinson, AM.

Legal/81054019_1

Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

From: Lisa Wilkinson <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Date: Mon, 30 Jan 2023 15:29:27 +1100
Attachments: Lisa Wilkinson - New Drumgold letter (81054019v1).DOCX (26.13 kB)

Dear Marlia,

Thanks so much for getting back to me with your suggested changes.

While I am prepared to accept almost all of them on your advice, there are two points I am confused by:

*Why would me stating that I was informed of the contents of the two phone calls between you and Shane Drumgold in which he confirmed the misinterpretation of his words to the judge and his stated desire to correct the public record, be a problem? Surely this merely justifies my - and Channel Ten's - long-standing frustration, disappointment and deep desire for him to correct the public record and restore my now-damaged reputation just as he said he would? This is the very reason for me now appealing to him personally in the letter. Taking that detail out means I am writing a letter purely based on my "recollection" of our meeting... and not the fact that he twice stated in these communications of his own desire to have the public record corrected.

*If the letter was to end up in the hands of the media - although I'm not sure how that would happen unless it was subpoenaed as a part of this upcoming inquiry should the terms of reference require or request it - why do you believe it would "not be looked upon favourably by the media", if all I am doing is asking for the truth to be told by Drumgold? Why would the media have a problem with the truth, when the incorrect public record - and their previous reporting of it - is exactly what has damaged my reputation?

Kind regards,

Lisa.

Sent from my iPad

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On 30 Jan 2023, at 10:49 am, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

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Further to my last email, please see my recommended changes to your letter in the **attached** version. The changes are primarily directed to:

\~

- ensuring privilege is not waived over legal advice and communications; and
- avoiding the risk of 'scandalising the court' in your comments about Chief Justice McCallum, which is a type of contempt.

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I am also conscious that the letter may become public at some stage, and may be reported on, so the changes have been drafted with that in mind.

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Subject to these changes, it is a matter for you whether to send this out now. As previously advised, our view from a legal perspective remains that Drumgold is unlikely to respond, and he has a legitimate basis for declining to respond, while the Inquiry is underway. While sending the letter now doesn't prevent you from sending another letter after the conclusion of the Inquiry, it may mean that any subsequent letter has less impact. Further, any leak of the letter may not be reported on favourably by the media.

\~

Please let us know if you'd still like to have a call to discuss this, however Tasha is not available until Wednesday of this week.

\~

Kind regards

\~

204

Marlia

\~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

\~

From: Lisa Wilkinson <[REDACTED]>

Sent: Saturday, 28 January 2023 12:44 PM

To: Saunders, Marlia <[REDACTED]>

Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>

Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

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My strong feeling remains however, that I want the arrival of this letter to sit within the time frame of his current three month post-trial silence (ie. post his conversations and assertions to you, and before the release of the terms of reference). And while I agree with you, and totally expect that he won't respond, the timing of its arrival really matters to me, and I believe, the eventual clearing of my name on the public record. It is something I refuse to give up on.

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\~

His commitments to me existed LONG before any Inquiry was called. And I want as much as possible for the two not to be conflated and confused, or my situation deemed as no longer relevant. Particularly if there is nothing in the terms of reference that touch on anything to do with me and my involvement in the case.

\~

Can I suggest we (you, me, Tasha and Nick) jump on a zoom call at a time to suit everyone before lunch on Monday, to work through any issues, so I can send the letter by 5PM Monday afternoon.

\~

Again, with thanks,

\~

Lisa.

\~

Sent from my iPad

On 27 Jan 2023, at 12:48 pm, Saunders, Marlia <[REDACTED]> wrote:

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The terms of reference will merely inform us as to the topics that will be covered during the Inquiry, including whether it will deal with the publicity surrounding the trial or any contempt of court issues, but they don't change the fact that Drumgold will not want to release any public statements relating to the matter until the Inquiry has concluded.

\~

That doesn't mean you shouldn't send your letter, but it unfortunately means he is unlikely to respond.

\~

Let's speak further on Monday.

\~

Kind regards

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Advice | Transactions | Disputes

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From: Lisa Wilkinson <[REDACTED]>

Sent: Friday, 27 January 2023 11:33 AM

To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>

Cc: Nick Fordham <[REDACTED]>

Subject: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

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From: Lisa Wilkinson <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Date: Mon, 30 Jan 2023 15:29:27 +1100
Attachments: Lisa Wilkinson - New Drumgold letter (81054019v1).DOCX (26.13 kB)

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Sent from my iPad

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393

Marlia Saunders |
THOMSON GEER

T | M
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] tglaw.com.au

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Sent: Saturday, 28 January 2023 12:44 PM
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Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
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Level 14, 60 Martin Place, Sydney NSW 2000 Australia
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In the first phone call with Ms Saunders of June 22nd you said you felt I had been poorly treated in the media reports, and you would give consideration as to how you could correct the record in open court the following day. However, during the ensuing directions hearing, you did not say anything to correct the record.

Again on October 24, you reiterated to Ms Saunders the need to correct the public record, and stated that my personal conduct “was not anything remotely resembling contempt of court.”

Commented [TG3]: Again, I recommend against including this so as to not waive privilege over these emails.

Commented [TG4]: Again, I recommend against including this so as to not waive privilege over these emails.

Mr Drumgold, again, I cannot tell you the relief I felt being informed of those words on those days.

As you know, and has been so clearly acknowledged by you, I did nothing wrong - I sought your counsel in that meeting not as a speechwriter, but specifically because I DIDN'T want to do the wrong thing - and yet, in the seven months since, my reputation as an ethical journalist of 40 years standing has been destroyed, while my motivations for reporting on this story have been called into question in a way that has ignited an unrelenting torrent of hate

Legal/81054019_1

against me in significant sectors of the mainstream media and in the public domain.

That hate, as you would well know, also extended to the complete trashing of my ethics and reputation during Mr Lehrmann's trial by his defence barrister, Mr Steven Whybrow. Again, this was a direct result of the misconception that I had specifically disobeyed "a clear warning" from you, not to give that speech.

Throughout it all, I have been unable to defend myself while I honoured my commitment to the court to remain silent.

Now, as a direct result of the toxic fallout out from this misconception, I have had to step down from my role at The Project - a job, and work, that I previously loved.

Sir, Ms Saunders has tried to contact you via emails and phone calls on a number of occasions since the trial finished three months ago, only to be met with complete silence from you.

Mr Drumgold, you are a man who has devoted his life to the pursuit of justice, and yet, you know that a grave injustice has occurred here. You are the only chance I have for the public record on what truly happened in that meeting of June 15 to be properly corrected.

Will you please help me to do that, by honouring your two previous commitments to do so.

I very much look forward to your reply.

Legal/81054019_1

Yours sincerely,

Lisa Wilkinson, AM.

Legal/81054019_1

RE: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>
Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Date: Mon, 30 Jan 2023 16:59:32 +1100

Hi Lisa

In response to your queries:

- * I made the change regarding the judge's misinterpretation of the evidence because I looked back at my notes of the conversation with Drumgold from last year and he said he was concerned by the misreporting in the media – he did not say the judge had misinterpreted his words.
- * Otherwise, there is an issue with referring to notes of the phone calls given this is likely to constitute a waiver of legal privilege, so I recommended that those quotes should come out.
- * I agree it's relatively low risk that the letter would get out.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

From: Lisa Wilkinson <[REDACTED]>
Sent: Monday, 30 January 2023 3:29 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

Dear Marlia,

Thanks so much for getting back to me with your suggested changes.

While I am prepared to accept almost all of them on your advice, there are two points I am confused by:

*Why would me stating that I was informed of the contents of the two phone calls between you and Shane Drumgold in which he confirmed the misinterpretation of his words to the judge and his stated desire to correct the public record, be a problem? Surely this merely justifies my - and Channel Ten's - long-standing frustration, disappointment and deep desire for him to correct the public record and restore my now-damaged reputation just as he said he would? This is the very reason for me now appealing to him personally in the letter. Taking that detail out means I am writing a letter purely based on my "recollection" of our meeting...and not the fact that he twice stated in these communications of his own desire to have the public record corrected.

*If the letter was to end up in the hands of the media - although I'm not sure how that would happen unless it was subpoenaed as a part of this upcoming inquiry should the terms of reference require or request it - why do you believe it would "not be looked upon favourably by the media", if all I am doing is asking for the truth to be told by Drumgold? Why would the media have a problem with the truth, when the incorrect public record - and their previous reporting of it - is exactly what has damaged my reputation?

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Sent from my iPad

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211

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I am also conscious that the letter may become public at some stage, and may be reported on, so the changes have been drafted with that in mind.

Subject to these changes, it is a matter for you whether to send this out now. As previously advised, our view from a legal perspective remains that Drumgold is unlikely to respond, and he has a legitimate basis for declining to respond, while the Inquiry is underway. While sending the letter now doesn't prevent you from sending another letter after the conclusion of the Inquiry, it may mean that any subsequent letter has less impact. Further, any leak of the letter may not be reported on favourably by the media.

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Once the terms of reference are released, the caravan will have rapidly moved on for Drumgold, and he will use THAT timing of my letter arriving after the terms of reference have been released, as his excuse for no response - as opposed to his current position, which is his three-month-refusal-through-silence to deliver on his two previous commitments to you to clear my name, post-trial, on the public record.

His commitments to me existed LONG before any Inquiry was called. And I want as much as possible for the two not to be conflated and confused, or my situation deemed as no longer relevant. Particularly if there is nothing in the terms of reference that touch on anything to do with me and my involvement in the case.

Can I suggest we (you, me, Tasha and Nick) jump on a zoom call at a time to suit everyone before lunch on Monday, to work through any issues, so I can send the letter by 5PM Monday afternoon.

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That doesn't mean you shouldn't send your letter, but it unfortunately means he is unlikely to respond.

Let's speak further on Monday.

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Advice | Transactions | Disputes

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Sent: Friday, 27 January 2023 11:33 AM

To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>

Cc: Nick Fordham <[REDACTED]>

Subject: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

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With thanks,

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Lisa.

Sent from my iPad

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notify the sender immediately and then delete it. If you are not the intended recipient, you must not use, disclose
or distribute this e-mail without the author's permission. We have taken precautions to minimise the risk of
transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this
e-mail. We cannot accept liability for any loss or damage caused by software viruses.
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[Advice](#) | [Transactions](#) | [Disputes](#)

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Advice | Transactions | Disputes

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Cc: [REDACTED]

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Sent from my iPad

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 notify the sender immediately and then delete it. If you are not the intended recipient, you must not use, disclose
 or distribute this e-mail without the author's permission. We have taken precautions to minimise the risk of
 transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this
 e-mail. We cannot accept liability for any loss or damage caused by software viruses.
 #####

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From: Lisa Wilkinson <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Date: Wed, 01 Feb 2023 12:09:30 +1100
Attachments: Lisa Wilkinson - New Drumgold letter (81054019v1).DOCX (26.13 kB)

Dear Marlia/Tasha,

According to press reports of last night and this morning...

<https://www.news.com.au/national/nsw-act/news/retired-judge-walter-sofronoff-kc-to-head-inquiry-following-bruce-lehrmann-trial/news-story/fb8436c416d093c94360a09b36acfdc2>

<https://thenewdaily.com.au/news/2023/02/01/bruce-lehrmann-trial-inquiry-walter-sofronoff/>

....the terms of reference for the Lehrmann Trial Inquiry are being released today.

I am extremely disappointed to say that that small window of opportunity I had to send my personal letter to Shane Drumgold whilst waiting for the Network sign-off has now closed.

I won't be sending it.

Kind regards,

Lisa.

Sent from my iPad

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Advice | Transactions | Disputes

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Advice | Transactions | Disputes

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 #####

Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

From: Lisa Wilkinson <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Date: Wed, 01 Feb 2023 12:09:30 +1100
Attachments: Lisa Wilkinson - New Drumgold letter (81054019v1).DOCX (26.13 kB)

Dear Marlia/Tasha,

According to press reports of last night and this morning...

<https://www.news.com.au/national/nsw-act/news/retired-judge-walter-sofronoff-kc-to-head-inquiry-following-bruce-lehrmann-trial/news-story/fb8436c416d093c94360a09b36acfdc2>

<https://thenewdaily.com.au/news/2023/02/01/bruce-lehrmann-trial-inquiry-walter-sofronoff/>

....the terms of reference for the Lehrmann Trial Inquiry are being released today.

I am extremely disappointed to say that that small window of opportunity I had to send my personal letter to Shane Drumgold whilst waiting for the Network sign-off has now closed.

I won't be sending it.

Sent from my iPad

On 30 Jan 2023, at 10:49 am, Saunders, Marlia <[REDACTED]> wrote:

Further to my last email, please see my recommended changes to your letter in the **attached** version. The changes are primarily directed to:

- ensuring privilege is not waived over legal advice and communications; and
- avoiding the risk of 'scandalising the court' in your comments about Chief Justice McCallum, which is a type of contempt.

I am also conscious that the letter may become public at some stage, and may be reported on, so the changes have been drafted with that in mind.

Subject to these changes, it is a matter for you whether to send this out now. As previously advised, our view from a legal perspective remains that Drumgold is unlikely to respond, and he has a legitimate basis for declining to respond, while the Inquiry is underway. While sending the letter now doesn't prevent you from sending another letter after the conclusion of the Inquiry, it may mean that any subsequent letter has less impact. Further, any leak of the letter may not be reported on favourably by the media.

Please let us know if you'd still like to have a call to discuss this, however Tasha is not available until Wednesday of this

Marlia Saunders |
THOMSON GEER
T | M

404

Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

From: Lisa Wilkinson <[REDACTED]>
Sent: Saturday, 28 January 2023 12:44 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

Thanks so much for getting back to me Marlia.

My strong feeling remains however, that I want the arrival of this letter to sit within the same frame of his current three month post-trial silence (ie. post his conversations to you, and before the release of the terms of reference). And while I agree with you, and totally expect that he won't respond, the timing of its arrival really matters to me, and I believe, the eventual clearing of my name on the public record. It is something I refuse to give up on.

Once the terms of reference are released, the caravan will have rapidly moved on for Drumgold, and he will use THAT timing of my letter or the terms of reference have been released, as his excuse for no response - as opposed to his current position, which is his three-month-refusal-through-silence to deliver on his two previous commitments to you to clear my name, post-trial, on the public record.

His commitments to me existed LONG before any Inquiry was called. And I want as much as possible for the two not to be muddled and confused, or my situation deemed as no longer relevant. Particularly if there is nothing in the terms of reference that touch on anything to do with me and my involvement in the case.

Can I suggest we (you, me, Tasha and Nick) jump on a zoom call at a time to suit everyone before lunch on Monday, to work through any issues, so I can send the letter by 5PM Monday a

Again, with thanks,

Sent from my iPad

On 27 Jan 2023, at 12:48 pm, Saunders, Marlia <[REDACTED]>

Thanks for sending through your draft letter – I've got some suggested changes, but would like to discuss them with Tasha and she is on leave today. We'll come back to you on Monday.

Otherwise, just a note that my mind has not changed since our call last week – I don't think the release of the terms of reference for the Inquiry changes the position in any way. Whether or not the terms of reference have been announced, Drumgold will be restricted in what he can say/do in response to your letter.

The terms of reference will merely inform us as to the topics that will be covered during the Inquiry, including whether it will deal with the publicity surrounding the trial or any contempt of court issues, but they don't change the fact that Drumgold will not want to release any public statements relating to the matter until the Inquiry has concluded.

That doesn't mean you shouldn't send your letter, but it unfortunately means he is unlikely to respond.

Let's speak further on Monday.

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THOMSON GEER
T | M
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

405

From: Lisa Wilkinson <[REDACTED]>
Sent: Friday, 27 January 2023 11:33 AM
To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>
Cc: [REDACTED]
Subject: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

Dear Marlia/Tasha,

Thanks for getting back to me. To be honest Marlia, I disagree that we should wait on sending this personal letter from me, and I'm not sure what has changed your mind since our phone call regarding the Inquiry last week.

Right now we are still in that window where the main game is the commitment Shane Drumgold gave to you in June, and again in October, to correct the public record regarding our pre-Logies meeting of June 15 and therefore restore my reputation, and address the glaring issue of his subsequent three month silence and refusal to engage and honour his commitment since the trial finished. That window of opportunity is about to close shut.

This is a personal letter from me, and I want this letter to arrive while this window is still open, and while the timing clearly sits in his mis-handling, his silence, and non-action around us.

Once the terms of reference for the Inquiry are announced, the whole game shifts: our concerns will appear irrelevant, we will look like we aren't keeping up with the main game, he could easily argue that his silence is due to the announcement of the terms of reference, and the whole thing will be lost in a torrent of new headlines, where we know the tabloid press will once again use my name, and my image to dredge up the whole defamatory narrative around me again. And again. And again.

When they get half a chance I continue to be click bait for outlets like News Corp and Daily Mail, and it is hard to imagine that calls for me being charged with contempt of court won't surface again once their commentators and headline writers start speculating about the Inquiry.

Marlia, the last seven months have been a complete nightmare for me, and it is not over. I refuse to just limp away from this situation professionally - and personally - defeated, with my reputation as an ethical journalist who deeply respects the legal system still not restored, and us not pushing for the outcome that I hope you agree I genuinely deserve.

I have copied in Nick for his thoughts as well as he has been involved on these issues from the start.

Meantime, here is the personal letter I would like to send to Shane Drumgold today. Look forward to your thoughts.

Sent from my iPad

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Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

From: Lisa Wilkinson <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Cc: "Saunders, Marlia" <[REDACTED]>; Nick Fordham <[REDACTED]>
Date: Wed, 01 Feb 2023 17:12:58 +1100
Attachments: Unnamed Attachment (68 bytes)

Hi Tasha,

Apologies if I didn't make my last email clear.

At all times, going right back to the beginning of my involvement with the Brittany Higgins story, the approval of the Logies speech, our June 15 meeting with the DPP, Justice McCallum's decision to delay the trial, and Shane Drumgold's disappointing refusal to engage since the trial's conclusion - indeed, over the course of my entire employment with Network Ten, and in particular whenever legal matters have arisen - I have always proceeded on the full advice, knowledge and approval of yourself and Network Ten management.

My understanding regarding your advice to me on sending a personal email to Mr Drumgold (as outlined in your email of 16/12/22 to my agent Nick Fordham), was: "Marlia and I don't see any downside to a personal email from Lisa [to Drumgold] which reattaches the letter as sent."

In that same email you also warned that when it comes to any issues regarding Drumgold's behaviour, "not enough time has passed, particularly in circumstances where the DPP would say any delay was due to the fact that they have had a number of matters to deal with since announcing not to proceed with a trial...many of which have had a greater urgency than this."

Taking into account that advice, and with Christmas fast approaching, it was decided to wait until the New Year to send any letter to Drumgold, when all interested parties would be back at work...during which time, as it turns out, defamation issues around Mr Lehrmann suddenly took a significant turn, particularly in relation to developments in Toowoomba.

Waiting three months to send the letter - ie. after the trial had finished, and before any announcements were made about the Inquiry - felt like the right timing. It indicated patience on our part.

Then, in your email to me of 25/1/23 in response to me seeking to once again confirm approval to send the letter to Drumgold, you said "Happy to be guided by you Marlia as to timing of any letter from Lisa. I wonder though if he will respond while the inquiry is running therefore if it is better to wait until the inquiry is completed? Lisa, I would suggest you run any letter by us before sending." There was no advice in that email not to send a letter to Drumgold.

So that is exactly how I have proceeded. Marlia and I have had a number of exchanges over the last week in regards to changes, and even though I remain incredibly frustrated by the situation I find myself in after all the effort that has been put in, I fully understood the importance of taking all of those legal considerations Marlia suggested, on board. And of course, as requested, running the letter by you.

In Marlia's email of Monday, she mentioned that you would not be available until today to review the final version of the letter I was proposing to send.

Tasha, I hope you know that I would never send such a letter without your approval - and as Nick indicated in his email to you and Marlia of last Friday (27/1), "awaiting your greenlight".

Unless I have somehow missed one of your emails, this is the first I knew that your position was now that I should not send a personal email to Drumgold. Even Marlia's of 27/1 stated...

Drumgold will be restricted in what he can say/do in response to your letter.

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The terms of reference will merely inform us as to the topics that will be covered during the Inquiry, including whether it will deal with the publicity surrounding the trial or any contempt of court issues, but they don't change the fact that Drumgold will not want to release any public statements relating to the matter until the Inquiry has concluded.

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That doesn't mean you shouldn't send your letter, but it unfortunately means he is unlikely to respond.

I fully understood that Drumgold was unlikely to respond. For me, it was more about finding a small moment when he would be more likely to take on board the effect this whole nightmare has had on me professionally - and personally. It was my chance to make a personal, private appeal that may prompt him to act honourably, and in line with his previous comments to Marlia in their phone conversations, at some point down the track when it was legally appropriate.

As previously mentioned though, I felt that once details of the Inquiry started being announced, the window would close on the letter having even the slightest chance of getting any cut-through with Drumgold.

Now, yesterday's announcement of Retired Judge Walter Sofronoff as leading the Inquiry, and the terms of reference about to be released, that chance is gone, and the whole caravan really has moved on.

Anyway, this is where we are.

Meantime, I would sincerely appreciate any information you might receive regarding the terms of reference should they include anything regarding the trial delay, and which may therefore require me to appear at the Inquiry.

With thanks to you both for your ongoing help,

Lisa.

Sent from my iPad

On 1 Feb 2023, at 1:34 pm, Tasha Smithies <[REDACTED]> wrote:

Hi Lisa,

~

Apologies but I am a bit confused by your email. It has been (as expressed in the various emails) and remains both Marlia and my legal view that any letter from you should not be sent at this time for the reasons outlined in those emails, however, that should you wish you send it, notwithstanding the legal advice, to take into account Marlia's changes (to preserve privilege and manage any contempt issues) in the email below.

~

We had thought you may have already sent it and don't believe the terms of reference being released prevents you from sending it, should you wish to do so notwithstanding the legal advice.

~

Kind regards,

Tasha

~

~

Tasha Smithies

Sr Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Lisa Wilkinson <[REDACTED]>

Sent: Wednesday, 1 February 2023 12:10 PM

To: Saunders, Marlia <[REDACTED]>

225

Cc: Tasha Smithies <[REDACTED]>; Nick Fordham <[REDACTED]>
 Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

\~

Dear Marlia/Tasha,

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According to press reports of last night and this morning...

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<https://www.news.com.au/national/nsw-act/news/retired-judge-walter-sofronoff-kc-to-head-inquiry-following-bruce-lehrmann-trial/news-story/fb8436c416d093c94360a09b36acfdc2>

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Kind regards,

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Lisa.

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226

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Please let us know if you'd still like to have a call to discuss this, however Tasha is not available until Wednesday of this week.

\~

Kind regards

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Marlia

\~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

\~

From: Lisa Wilkinson <[REDACTED]>

Sent: Saturday, 28 January 2023 12:44 PM

To: Saunders, Marlia <[REDACTED]>

Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>

Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

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Kind regards

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Marlia

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Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | [\[REDACTED\]@tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

\\~

From: Lisa Wilkinson <[REDACTED]>

Sent: Friday, 27 January 2023 11:33 AM

To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>

Cc: Nick Fordham <[REDACTED]>

Subject: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

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 #####

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Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

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To: Tasha Smithies <[REDACTED]>
Cc: "Saunders, Marlia" <[REDACTED]>; Nick Fordham <[REDACTED]>
Date: Wed, 01 Feb 2023 17:12:58 +1100
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We had thought you may have already sent it and don't believe the terms of reference being released prevents you from sending it, should you wish to do so notwithstanding the legal advice.

Tasha Smithies
Sr Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, 1 February 2023 12:10 PM
To: Saunders, Marlia <[REDACTED]>

413

Cc: Tasha Smithies <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

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414

the Inquiry, it may mean that any subsequent letter has less impact. Further, any leak of the letter may not be reported on favourably by the media.

Please let us know if you'd still like to have a call to discuss this, however Tasha is not available until Wednesday of this

Marlia Saunders |
THOMSON GEER
T | M
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] tglaw.com.au

Advice | Transactions | Disputes

From: Lisa Wilkinson <[REDACTED]>
Sent: Saturday, 28 January 2023 12:44 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

Thanks so much for getting back to me Marlia.

My strong feeling remains however, that I want the arrival of this letter to sit within the time frame of his current three month post-trial silence (ie. post his conversations and assertions to you, and before the release of the terms of reference). And while I agree with you, and totally expect that he won't respond, the timing of its arrival really matters to me, and I believe, the eventual clearing of my name on the public record. It is something I refuse to give up on.

Once the terms of reference are released, the caravan will have rapidly moved on for Drumgold, and he will use THAT timing of my letter arriving after the terms of reference have been released, as his excuse for no response - as opposed to his current position, which is his three-month-refusal-through-silence to deliver on his two previous commitments to you to clear my name, post-trial, on the public record.

His commitments to me existed LONG before any Inquiry was called. And I want as much as possible for the two not to be conflated and confused, or my situation deemed as no longer relevant. Particularly if there is nothing in the terms of reference that touch on anything to do with me and my involvement in the case.

Can I suggest we (you, me, Tasha and Nick) jump on a zoom call at a time to suit everyone before lunch on Monday, to work through any issues, so I can send the letter by 5PM Monday afternoon.

Again, with thanks,

Sent from my iPad

415

On 27 Jan 2023, at 12:48 pm, Saunders, Marlia <[REDACTED]>

Thanks for sending through your draft letter – I've got some suggested changes, but would like to discuss them with Tasha and she is on leave today. We'll come back to you on Monday.

Otherwise, just a note that my mind has not changed since our call last week – I don't think the release of the terms of reference for the Inquiry changes the position in any way. Whether or not the terms of reference have been announced, Drumgold will be restricted in what he can say/do in response to your letter.

The terms of reference will merely inform us as to the topics that will be covered during the Inquiry, including whether it will deal with the publicity surrounding the trial or any contempt of court issues, but they don't change the fact that Drumgold will not want to release any public statements relating to the matter until the Inquiry has concluded.

That doesn't mean you shouldn't send your letter, but it unfortunately means he is unlikely to respond.

Let's speak further on Monday.

Marlia Saunders |
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Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

From: Lisa Wilkinson <[REDACTED]>
Sent: Friday, 27 January 2023 11:33 AM
To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>
Cc: [REDACTED]
Subject: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

Dear Marlia/Tasha,

Thanks for getting back to me. To be honest Marlia, I disagree that we should wait on sending this personal letter from me, and I'm not sure what has changed your mind since our phone call regarding the Inquiry last week.

Right now we are still in that window where the main game is the commitment Shane Drumgold gave to you in June, and again in October, to correct the public record regarding our pre-Logies meeting of June 15 and therefore restore my reputation, and address the glaring issue of his subsequent three month silence and refusal to engage and honour his commitment since the trial finished. That window of opportunity is about to close shut.

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This is a personal letter from me, and I want this letter to arrive while this window is still open, and while the timing clearly sits in his mis-handling, his silence, and non-action around us.

Once the terms of reference for the Inquiry are announced, the whole game shifts: our concerns will appear irrelevant, we will look like we aren't keeping up with the main game, he could easily argue that his silence is due to the announcement of the terms of reference, and the whole thing will be lost in a torrent of new headlines, where we know the tabloid press will once again use my name, and my image to dredge up the whole defamatory narrative around me again. And again. And again.

When they get half a chance I continue to be click bait for outlets like News Corp and Daily Mail, and it is hard to imagine that calls for me being charged with contempt of court won't surface again once their commentators and headline writers start speculating about the Inquiry.

Marlia, the last seven months have been a complete nightmare for me, and it is not over. I refuse to just limp away from this situation professionally - and personally - defeated, with my reputation as an ethical journalist who deeply respects the legal system still not restored, and us not pushing for the outcome that I hope you agree I genuinely deserve.

I have copied in Nick for his thoughts as well as he has been involved on these issues from the start.

Meantime, here is the personal letter I would like to send to Shane Drumgold today. Look forward to your thoughts.

With thanks,

Lisa.

Sent from my iPad

 This e-mail is for the use of the intended recipient(s) only. If you have received this e-mail in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not use, disclose or distribute this e-mail without the author's permission. We have taken precautions to minimise the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this e-mail. We cannot accept liability for any loss or damage caused by software viruses.
 #####

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RE: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>; Tasha Smithies <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <[REDACTED]>
Date: Wed, 01 Feb 2023 17:24:22 +1100

Hi Lisa

I apologise that I did not make clearer that Tasha had reviewed and was in agreement with the changes to your letter which I sent to you on Monday. I had assumed it was clear since I said in my email on Friday that I wanted to check the changes past Tasha and we would respond on Monday, but I should have been more explicit about that in my email on Monday.

The terms of reference for the Inquiry which were released today are set out here: <https://www.justice.act.gov.au/justice-programs-and-initiatives/board-of-inquiry> - they do not include any topics relating to media coverage or the delay of the trial.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

[Advice](#) | [Transactions](#) | [Disputes](#)

From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, 1 February 2023 5:13 PM
To: Tasha Smithies <[REDACTED]>
Cc: Saunders, Marlia <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

Hi Tasha,

Apologies if I didn't make my last email clear.

At all times, going right back to the beginning of my involvement with the Brittany Higgins story, the approval of the Logies speech, our June 15 meeting with the DPP, Justice McCallum's decision to delay the trial, and Shane Drumgold's disappointing refusal to engage since the trial's conclusion - indeed, over the course of my entire employment with Network Ten, and in particular whenever legal matters have arisen - I have always proceeded on the full advice, knowledge and approval of yourself and Network Ten management.

My understanding regarding your advice to me on sending a personal email to Mr Drumgold (as outlined in your email of 16/12/22 to my agent Nick Fordham), was: "Marlia and I don't see any downside to a personal email from Lisa [to Drumgold] which reattaches the letter as sent."

In that same email you also warned that when it comes to any issues regarding Drumgold's behaviour, "not enough time has passed, particularly in circumstances where the DPP would say any delay was due to the fact that they have had a number of matters to deal with since announcing not to proceed with a trial...many of which have had a greater urgency than this."

Taking into account that advice, and with Christmas fast approaching, it was decided to wait until the New Year to send any letter to Drumgold, when all interested parties would be back at work...during which time, as it turns out, defamation issues around Mr Lehrmann suddenly took a significant turn, particularly in relation to developments in Toowoomba.

Waiting three months to send the letter - ie. after the trial had finished, and before any announcements were made about the Inquiry - felt like the right timing. It indicated patience on our part.

Then, in your email to me of 25/1/23 in response to me seeking to once again confirm approval to send the letter to Drumgold, you said "Happy to be guided by you Marlia as to timing of any letter from Lisa. I wonder though if he will respond while the inquiry is running therefore if it is better to wait until the inquiry is completed? Lisa, I would suggest you run any letter by us before sending." There was no advice in that email not to send a letter to Drumgold.

218

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Tasha, I hope you know that I would never send such a letter without your approval - and as Nick indicated in his email to you and Marlia of last Friday (27/1), "awaiting your greenlight".

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Drumgold will be restricted in what he can say/do in response to your letter.

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As previously mentioned though, I felt that once details of the Inquiry started being announced, the window would close on the letter having even the slightest chance of getting any cut-through with Drumgold.

Now, yesterday's announcement of Retired Judge Walter Sofronoff as leading the Inquiry, and the terms of reference about to be released, that chance is gone, and the whole caravan really has moved on.

Anyway, this is where we are.

Meantime, I would sincerely appreciate any information you might receive regarding the terms of reference should they include anything regarding the trial delay, and which may therefore require me to appear at the Inquiry.

With thanks to you both for your ongoing help,

Lisa.

Sent from my iPad

On 1 Feb 2023, at 1:34 pm, Tasha Smithies <[REDACTED]> wrote:

Hi Lisa,

Apologies but I am a bit confused by your email. It has been (as expressed in the various emails) and remains both Marlia and my legal view that any letter from you should not be sent at this time for the reasons outlined in those emails, however, that should you wish you send it, notwithstanding the legal advice, to take into account Marlia's changes (to preserve privilege and manage any contempt issues) in the email below.

We had thought you may have already sent it and don't believe the terms of reference being released prevents you from sending it, should you wish to do so notwithstanding the legal advice.

Kind regards,
Tasha

Tasha Smithies
 Sr Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, 1 February 2023 12:10 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

Dear Marlia/Tasha,

According to press reports of last night and this morning...

<https://www.news.com.au/national/nsw-act/news/retired-judge-walter-sofronoff-kc-to-head-inquiry-following-bruce-lehrmann-trial/news-story/fb8436c416d093c94360a09b36acfdc2>

<https://thenewdaily.com.au/news/2023/02/01/bruce-lehrmann-trial-inquiry-walter-sofronoff/>

....the terms of reference for the Lehrmann Trial Inquiry are being released today.

I am extremely disappointed to say that that small window of opportunity I had to send my personal letter to Shane Drumgold whilst waiting for the Network sign-off has now closed.

I won't be sending it.

Kind regards,

Lisa.

Sent from my iPad

On 30 Jan 2023, at 10:49 am, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

Further to my last email, please see my recommended changes to your letter in the **attached** version. The changes are primarily directed to:

1. ensuring privilege is not waived over legal advice and communications; and
2. avoiding the risk of 'scandalising the court' in your comments about Chief Justice McCallum, which is a type of contempt.

I am also conscious that the letter may become public at some stage, and may be reported on, so the changes have been drafted with that in mind.

Subject to these changes, it is a matter for you whether to send this out now. As previously advised, our view from a legal perspective remains that Drumgold is unlikely to respond, and he has a legitimate basis for declining to respond, while the Inquiry is underway. While sending the letter now doesn't prevent you from sending another letter after the conclusion of the Inquiry, it may mean that any subsequent letter has less impact. Further, any leak of the letter may not be reported on favourably by the media.

Please let us know if you'd still like to have a call to discuss this, however Tasha is not available until Wednesday of this week.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

From: Lisa Wilkinson <[REDACTED]>
Sent: Saturday, 28 January 2023 12:44 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

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Let's speak further on Monday.

Kind regards

Marlia

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Marlia Saunders | Partner
THOMSON GEER

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Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

~

From: Lisa Wilkinson <[REDACTED]>
Sent: Friday, 27 January 2023 11:33 AM
To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Subject: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

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Dear Marlia/Tasha,

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With thanks,

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RE: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>; Tasha Smithies <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Date: Wed, 01 Feb 2023 17:24:22 +1100

Hi Lisa

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[Advice](#) | [Transactions](#) | [Disputes](#)

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To: Tasha Smithies <[REDACTED]>
Cc: Saunders, Marlia <[REDACTED]>; Nick Fordham <[REDACTED]>
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 Sr Litigation Counsel
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To: Saunders, Marlia <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

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<https://thenewdaily.com.au/news/2023/02/01/bruce-lehrmann-trial-inquiry-walter-sofronoff/>

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1. 1. ensuring privilege is not waived over legal advice and communications; and
2. 2. avoiding the risk of 'scandalising the court' in your comments about Chief Justice McCallum, which is a type of contempt.

I am also conscious that the letter may become public at some stage, and may be reported on, so the changes have been drafted with that in mind.

Subject to these changes, it is a matter for you whether to send this out now. As previously advised, our view from a legal perspective remains that Drumgold is unlikely to respond, and he has a legitimate basis for declining to respond, while the Inquiry is underway. While sending the letter now doesn't prevent you from sending another letter after the conclusion of the Inquiry, it may mean that any subsequent letter has less impact. Further, any leak of the letter may not be reported on favourably by the media.

Please let us know if you'd still like to have a call to discuss this, however Tasha is not available until Wednesday of this week.

232

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | lglaw.com.au

Advice | Transactions | Disputes

From: Lisa Wilkinson <[REDACTED]>
Sent: Saturday, 28 January 2023 12:44 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

Thanks so much for getting back to me Marlia.

My strong feeling remains however, that I want the arrival of this letter to sit within the time frame of his current three month post-trial silence (ie. post his conversations and assertions to you, and before the release of the terms of reference). And while I agree with you, and totally expect that he won't respond, the timing of its arrival really matters to me, and I believe, the eventual clearing of my name on the public record. It is something I refuse to give up on.

Once the terms of reference are released, the caravan will have rapidly moved on for Drumgold, and he will use THAT timing of my letter arriving after the terms of reference have been released, as his excuse for no response - as opposed to his current position, which is his three-month-refusal-through-silence to deliver on his two previous commitments to you to clear my name, post-trial, on the public record.

His commitments to me existed LONG before any Inquiry was called. And I want as much as possible for the two not to be conflated and confused, or my situation deemed as no longer relevant. Particularly if there is nothing in the terms of reference that touch on anything to do with me and my involvement in the case.

Can I suggest we (you, me, Tasha and Nick) jump on a zoom call at a time to suit everyone before lunch on Monday, to work through any issues, so I can send the letter by 5PM Monday afternoon.

Again, with thanks,

Lisa.

Sent from my iPad

On 27 Jan 2023, at 12:48 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

Thanks for sending through your draft letter – I've got some suggested changes, but would like to discuss them with Tasha and she is on leave today. We'll come back to you on Monday.

Otherwise, just a note that my mind has not changed since our call last week – I don't think the release of the terms of reference for the Inquiry changes the position in any way. Whether or not the terms of reference have been announced, Drumgold will be restricted in what he can say/do in response to your letter.

The terms of reference will merely inform us as to the topics that will be covered during the Inquiry, including whether it will deal with the publicity surrounding the trial or any contempt of court issues, but they don't change the fact that Drumgold will not want to release any public statements relating to the matter until the Inquiry has concluded.

That doesn't mean you shouldn't send your letter, but it unfortunately means he is unlikely to respond.

Let's speak further on Monday.

Kind regards

Marlia

233

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

From: Lisa Wilkinson <[REDACTED]>
Sent: Friday, 27 January 2023 11:33 AM
To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Subject: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

Dear Marlia/Tasha,

Thanks for getting back to me. To be honest Marlia, I disagree that we should wait on sending this personal letter from me, and I'm not sure what has changed your mind since our phone call regarding the Inquiry last week.

Right now we are still in that window where the main game is the commitment Shane Drumgold gave to you in June, and again in October, to correct the public record regarding our pre-Logies meeting of June 15 and therefore restore my reputation, and address the glaring issue of his subsequent three month silence and refusal to engage and honour his commitment since the trial finished. That window of opportunity is about to close shut.

This is a personal letter from me, and I want this letter to arrive while this window is still open, and while the timing clearly sits in his mis-handling, his silence, and non-action around us.

Once the terms of reference for the Inquiry are announced, the whole game shifts: our concerns will appear irrelevant, we will look like we aren't keeping up with the main game, he could easily argue that his silence is due to the announcement of the terms of reference, and the whole thing will be lost in a torrent of new headlines, where we know the tabloid press will once again use my name, and my image to dredge up the whole defamatory narrative around me again. And again. And again.

When they get half a chance I continue to be click bait for outlets like News Corp and Daily Mail, and it is hard to imagine that calls for me being charged with contempt of court won't surface again once their commentators and headline writers start speculating about the Inquiry.

Marlia, the last seven months have been a complete nightmare for me, and it is not over. I refuse to just limp away from this situation professionally - and personally - defeated, with my reputation as an ethical journalist who deeply respects the legal system still not restored, and us not pushing for the outcome that I hope you agree I genuinely deserve.

I have copied in Nick for his thoughts as well as he has been involved on these issues from the start.

Meantime, here is the personal letter I would like to send to Shane Drumgold today. Look forward to your thoughts.

With thanks,

Lisa.

Sent from my iPad

 This e-mail is for the use of the intended recipient(s) only. If you have received this e-mail in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not use, disclose or distribute this e-mail without the author's permission. We have taken precautions to minimise the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this e-mail. We cannot accept liability for any loss or damage caused by software viruses.
 #####

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234

RE: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>; Tasha Smithies <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <[REDACTED]>
Date: Wed, 01 Feb 2023 17:24:22 +1100

Hi Lisa

I apologise that I did not make clearer that Tasha had reviewed and was in agreement with the changes to your letter which I sent to you on Monday. I had assumed it was clear since I said in my email on Friday that I wanted to check the changes past Tasha and we would respond on Monday, but I should have been more explicit about that in my email on Monday.

The terms of reference for the Inquiry which were released today are set out here: <https://www.justice.act.gov.au/justice-programs-and-initiatives/board-of-inquiry> - they do not include any topics relating to media coverage or the delay of the trial.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
tglaw.com.au

[Advice](#) | [Transactions](#) | [Disputes](#)

From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, 1 February 2023 5:13 PM
To: Tasha Smithies <[REDACTED]>
Cc: Saunders, Marlia <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

Apologies if I didn't make my last email clear.

...mes, going right back to the beginning of my involvement with the Bri any Higgins story, the approval of the Logies speech, our June 15 meeting with the DPP, Justice McCallum's decision to delay the trial, and Shane Drumgold's disappointment to engage since the trial's conclusion - indeed, over the course of my entire employment with Network Ten, and in particular whenever legal matters have arisen - I have always proceeded on the full advice, knowledge and approval of yourself and Network Ten management.

My understanding regarding your advice to me on sending a personal email to Mr Drumgold (as outlined in your email of 16/12/22 to my agent Nick Fordham), was: "Marlia and I don't see any downside to a personal email from Lisa [to Drumgold]"

In that same email you also warned that when it comes to any issues regarding Drumgold's behaviour, "not enough particularly in circumstances where the DPP would say any delay was due to the fact that they have had a number of errors to deal with since announcing not to proceed with a trial...many of which have had a greater urgency than this."

Taking into account that advice, and with Christmas fast approaching, it was decided to wait until the New Year to send any letter to Drumgold, when all interested parties would be back at work...during which time, as it turns out, defamation around Mr Lehrmann suddenly took a significant turn particularly in relation to developments in Toowoomba.

...ing three months to send the letter, I finished, and before any announcements were made about the Inquiry - felt like the right timing. It indicated patience on our part.

Then, in your email to me of 25/1/23 in response to me seeking to once again confirm approval to send the letter to Drumgold, you said "Happy to be guided by you Marlia as to timing of any letter from Lisa. I wonder though if he will respond while the inquiry is running therefore if it is before the inquiry is completed? Lisa, I would suggest you run any letter before sending." There was no advice in that email not to send a letter to Drumgold.

407

So that is exactly how I have proceeded. Marlia and I have had a number of exchanges over the last week in regards to changes, and even though I remain incredibly frustrated by the situation I find myself in after all the effort that has been put in, I fully understood the importance of taking all of those legal considerations Marlia suggested, on board. And of course, as requested, running the letter by you.

In Marlia's email of Monday, she mentioned that you would not be available until today to review the final version of the letter I was proposing to send.

Tasha, I hope you know that I would never send such a letter without your approval - and as Nick indicated in his email to you and Marlia of last Friday (27/1), "awaiting your greenlight".

Unless I have somehow missed one of your emails, this is the first I knew that your position was now that I should not send a personal email to Drumgold. Even Marlia's of 27/1 stated...

Drumgold will be restricted in what he can say/do in response to your letter.

The terms of reference will merely inform us as to the topics that will be covered during the Inquiry, including whether it will deal with the publicity surrounding the trial or any contempt of court issues, but they don't change the fact that Drumgold will not want to release any public statements relating to the matter until the Inquiry has concluded.

That doesn't mean you shouldn't send your letter, but it unfortunately means he is unlikely to respond.

I fully understood that Drumgold was unlikely to respond. For me, it was more about finding a small moment when he would be more likely to take on board the effect this whole nightmare has had on me professionally - and personally. It was my chance to make a personal, private appeal that may prompt him to act honourably, and in line with his previous comments to Marlia in their phone conversations, at some point down the track when it was legally appropriate.

As previously mentioned though, I felt that once details of the Inquiry started being announced, the window would close on the letter having even the slightest chance of getting any cut-through with Drumgold.

Now, yesterday's announcement of Retired Judge Walter Sofronoff as leading the Inquiry, and the terms of reference about to be released, that chance is gone, and the whole caravan really has moved on.

Anyway, this is where we are.

Meantime, I would sincerely appreciate any information you might receive regarding the terms of reference should they include anything regarding the trial delay, and which may therefore require me to appear at the Inquiry.

With thanks to you both for your ongoing help,

Lisa.

Sent from my iPad

On 1 Feb 2023, at 1:34 pm, Tasha Smithies [REDACTED] wrote:

Hi Lisa,

Apologies but I am a bit confused by your email. It has been (as expressed in the various emails) and remains both Marlia and my legal view that any letter from you should not be sent at this time for the reasons outlined in those emails, however, that should you wish you send it, notwithstanding the legal advice, to take into account Marlia's changes (to preserve privilege and manage any contempt issues) in the email below.

We had thought you may have already sent it and don't believe the terms of reference being released prevents you from sending it, should you wish to do so notwithstanding the legal advice.

Kind regards,
Tasha

Tasha Smithies
Sr Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, 1 February 2023 12:10 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

Dear Marlia/Tasha,

According to press reports of last night and this morning...

<https://www.news.com.au/national/nsw-act/news/retired-judge-walter-sofronoff-kc-to-head-inquiry-following-bruce-lehrmann-trial/news-story/fb8436c416d093c94360a09b36acfdc2>

<https://thenewdaily.com.au/news/2023/02/01/bruce-lehrmann-trial-inquiry-walter-sofronoff/>

....the terms of reference for the Lehrmann Trial Inquiry are being released today.

I am extremely disappointed to say that that small window of opportunity I had to send my personal le Drumgold whilst waiting for the Network sign-o

I won't be sending it.

Sent from my iPad

On 30 Jan 2023, at 10:49 am, Saunders, Marlia <[REDACTED]>

Hi Lisa

~

Further to my last email, please see my recommended changes to your letter in the **attached** version. The changes are primarily directed to:

~

1. ensuring privilege is not waived over legal advice and communications; and
2. avoiding the risk of 'scandalising the court' in your comments about Chief Justice McCallum, which is a type of contempt.

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I am also conscious that the letter may become public at some stage, and may be reported on, so the changes have been drafted with that in mind.

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409

Please let us know if you'd still like to have a call to discuss this, however Tasha is not available until Wednesday of this week.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

~

From: Lisa Wilkinson <[REDACTED]>

Sent: Saturday, 28 January 2023 12:44 PM

To: Saunders, Marlia <[REDACTED]>

Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>

Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

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Once the terms of reference are released, the caravan will have rapidly moved on for Drumgold, and he will use THAT timing of my letter after the terms of reference have been released, as his excuse for no response - as opposed to his current position, which is his three-month-refusal-through-silence to deliver on his two previous commitments to you to clear my name, post-trial, on the public record.

His commitments to me existed LONG before any Inquiry was called. And I want as much as possible for the two not to be outdated and confused, or my situation deemed as no longer relevant. Particularly if there is nothing in the terms of reference that touch on anything to do with me and my involvement in the case.

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Again, with thanks,

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Let's speak further on Monday.

Kind regards

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Marlia

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Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

~

From: Lisa Wilkinson <[REDACTED]>

Sent: Friday, 27 January 2023 11:33 AM

To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>

Cc: [REDACTED]

Subject: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

Dear Marlia/Tasha,

Thanks for getting back to me. To be honest Marlia, I disagree that we should wait on sending this personal letter from me, and I'm not sure what has changed your mind since our phone call regarding the Inquiry last week.

Right now we are still in that window where the main game is the commitment Shane Drumgold gave to you in June, and again in October, to correct the public record regarding our pre-Logies meeting of June 15 and therefore restore my reputation, and address the glaring issue of his subsequent three month silence and refusal to engage and honour his commitment since the trial finished. That window of opportunity is about to close shut.

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Meantime, here is the personal letter I would like to send to Shane Drumgold today. Look forward to your thoughts.

Sent from my iPad

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#####

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411

Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

From: Lisa Wilkinson <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Nick Fordham <[REDACTED]>
Date: Wed, 01 Feb 2023 18:08:28 +1100

Thanks getting back to me with those Inquiry details Marlia.

It says the board will hand down their findings on June 30th.

Yet another date to put in the diary.

Kind regards,

Lisa.

Sent from my iPad

On 1 Feb 2023, at 5:24 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

\~

I apologise that I did not make clearer that Tasha had reviewed and was in agreement with the changes to your letter which I sent to you on Monday. I had assumed it was clear since I said in my email on Friday that I wanted to check the changes past Tasha and we would respond on Monday, but I should have been more explicit about that in my email on Monday.

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\~

Kind regards

\~

Marlia

\~

Marlia Saunders | Partner
THOMSON GEER
T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

\~

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Sent: Wednesday, 1 February 2023 5:13 PM
To: Tasha Smithies <[REDACTED]>
Cc: Saunders, Marlia <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

235

~

Hi Tasha,

~

Apologies if I didn't make my last email clear.

~

At all times, going right back to the beginning of my involvement with the Brittany Higgins story, the approval of the Logies speech, our June 15 meeting with the DPP, Justice McCallum's decision to delay the trial, and Shane Drumgold's disappointing refusal to engage since the trial's conclusion - indeed, over the course of my entire employment with Network Ten, and in particular whenever legal matters have arisen - I have always proceeded on the full advice, knowledge and approval of yourself and Network Ten management.

~

My understanding regarding your advice to me on sending a personal email to Mr Drumgold (as outlined in your email of 16/12/22 to my agent Nick Fordham), was: "Marlia and I don't see any downside to a personal email from Lisa [to Drumgold] which reattaches the letter as sent."

~

In that same email you also warned that when it comes to any issues regarding Drumgold's behaviour, "not enough time has passed, particularly in circumstances where the DPP would say any delay was due to the fact that they have had a number of matters to deal with since announcing not to proceed with a trial...many of which have had a greater urgency than this."

~

Taking into account that advice, and with Christmas fast approaching, it was decided to wait until the New Year to send any letter to Drumgold, when all interested parties would be back at work...during which time, as it turns out, defamation issues around Mr Lehmann suddenly took a significant turn, particularly in relation to developments in Toowoomba.

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Waiting three months to send the letter - ie. after the trial had finished, and before any announcements were made about the Inquiry - felt like the right timing. It indicated patience on our part.

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Then, in your email to me of 25/1/23 in response to me seeking to once again confirm approval to send the letter to Drumgold, you said "Happy to be guided by you Marlia as to timing of any letter from Lisa. I wonder though if he will respond while the inquiry is running therefore if it is better to wait until the inquiry is completed? Lisa, I would suggest you run any letter by us before sending." There was no advice in that email not to send a letter to Drumgold.

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So that is exactly how I have proceeded. Marlia and I have had a number of exchanges over the last week in regards to changes, and even though I remain incredibly frustrated by the situation I find myself in after all the effort that has been put in, I fully understood the importance of taking all of those legal considerations Marlia suggested, on board. And of course, as requested, running the letter by you.

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Drumgold will be restricted in what he can say/do in response to your letter.

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Now, yesterday's announcement of Retired Judge Walter Sofronoff as leading the Inquiry, and the terms of reference about to be released, that chance is gone, and the whole caravan really has moved on.

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Anyway, this is where we are.

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Meantime, I would sincerely appreciate any information you might receive regarding the terms of reference should they include anything regarding the trial delay, and which may therefore require me to appear at the Inquiry.

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With thanks to you both for your ongoing help,

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Lisa.

Sent from my iPad

On 1 Feb 2023, at 1:34 pm, Tasha Smithies <[REDACTED]> wrote:

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We had thought you may have already sent it and don't believe the terms of reference being released prevents you from sending it, should you wish to do so notwithstanding the legal advice.

Kind regards,

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Tasha

Tasha Smithies

Sr Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

||

From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, 1 February 2023 12:10 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

\~

Dear Marlia/Tasha,

\~

According to press reports of last night and this morning...

\~

<https://www.news.com.au/national/nsw-act/news/retired-judge-walter-sofronoff-kc-to-head-inquiry-following-bruce-lehrmann-trial/news-story/fb8436c416d093c94360a09b36acfdc2>

\~

<https://thenewdaily.com.au/news/2023/02/01/bruce-lehrmann-trial-inquiry-walter-sofronoff/>

\~

....the terms of reference for the Lehrmann Trial Inquiry are being released today.

\~

I am extremely disappointed to say that that small window of opportunity I had to send my personal letter to Shane Drumgold whilst waiting for the Network sign-off has now closed.

\~

I won't be sending it.

\~

Kind regards,

\~

Lisa.

Sent from my iPad

On 30 Jan 2023, at 10:49 am, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

\~

Further to my last email, please see my recommended changes to your letter in the **attached** version. The changes are primarily directed to:

\~

1. ensuring privilege is not waived over legal advice and communications; and
2. avoiding the risk of 'scandalising the court' in your comments about Chief Justice McCallum, which is a type of contempt.

\~

I am also conscious that the letter may become public at some stage, and may be reported on, so the changes have been drafted with that in mind.

\~

Subject to these changes, it is a matter for you whether to send this out now. As previously advised, our view from a legal perspective remains that Drumgold is unlikely to respond, and he has a legitimate basis for declining to respond, while the Inquiry is underway. While sending the letter now doesn't prevent you from sending another letter after the conclusion of the Inquiry, it may mean that any subsequent letter has less impact. Further, any leak of the letter may not be reported on favourably by the media.

\~

Please let us know if you'd still like to have a call to discuss this, however Tasha is not available until Wednesday of this week.

\~

Kind regards

\~

Marlia

\~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

\~

From: Lisa Wilkinson <[REDACTED]>

Sent: Saturday, 28 January 2023 12:44 PM

To: Saunders, Marlia <[REDACTED]>

Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>

Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

\~

Thanks so much for getting back to me Marlia.

\~

My strong feeling remains however, that I want the arrival of this letter to sit within the time frame of his current three month post-trial silence (ie. post his conversations and assertions to you, and before the release of the terms of reference). And while I agree with you, and totally expect that he won't respond, the timing of its arrival really matters to me, and I believe, the eventual clearing of my name on the public record. It is something I refuse to give up on.

239

~

Once the terms of reference are released, the caravan will have rapidly moved on for Drumgold, and he will use THAT timing of my letter arriving after the terms of reference have been released, as his excuse for no response - as opposed to his current position, which is his three-month-refusal-through-silence to deliver on his two previous commitments to you to clear my name, post-trial, on the public record.

~

His commitments to me existed LONG before any Inquiry was called. And I want as much as possible for the two not to be conflated and confused, or my situation deemed as no longer relevant. Particularly if there is nothing in the terms of reference that touch on anything to do with me and my involvement in the case.

~

Can I suggest we (you, me, Tasha and Nick) jump on a zoom call at a time to suit everyone before lunch on Monday, to work through any issues, so I can send the letter by 5PM Monday afternoon.

~

Again, with thanks,

~

Lisa.

~

Sent from my iPad

~

On 27 Jan 2023, at 12:48 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

~

Thanks for sending through your draft letter – I've got some suggested changes, but would like to discuss them with Tasha and she is on leave today. We'll come back to you on Monday.

~

Otherwise, just a note that my mind has not changed since our call last week – I don't think the release of the terms of reference for the Inquiry changes the position in any way. Whether or not the terms of reference have been announced, Drumgold will be restricted in what he can say/do in response to your letter.

~

The terms of reference will merely inform us as to the topics that will be covered during the Inquiry, including whether it will deal with the publicity surrounding the trial or any contempt of court issues, but they don't change the fact that Drumgold will not want to release any public statements relating to the matter until the Inquiry has concluded.

~

That doesn't mean you shouldn't send your letter, but it unfortunately means he is unlikely to respond.

~

Let's speak further on Monday.

~

Kind regards

~

Marlia

~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

~

From: Lisa Wilkinson <[REDACTED]>

Sent: Friday, 27 January 2023 11:33 AM

To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal <[REDACTED]>

Cc: Nick Fordham <[REDACTED]>

Subject: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

~

Dear Marlia/Tasha,

Thanks for getting back to me. To be honest Marlia, I disagree that we should wait on sending this personal letter from me, and I'm not sure what has changed your mind since our phone call regarding the Inquiry last week.

Right now we are still in that window where the main game is the commitment Shane Drumgold gave to you in June, and again in October, to correct the public record regarding our pre-Logies meeting of June 15 and therefore restore my reputation, and address the glaring issue of his subsequent three month silence and refusal to engage and honour his commitment since the trial finished. That window of opportunity is about to close shut.

This is a personal letter from me, and I want this letter to arrive while this window is still open, and while the timing clearly sits in his mis-handling, his silence, and non-action around us.

Once the terms of reference for the Inquiry are announced, the whole game shifts: our concerns will appear irrelevant, we will look like we aren't keeping up with the main game, he could easily argue that his silence is due to the announcement of the terms of reference, and the whole thing will be lost in a torrent of new headlines, where we know the tabloid press will once again use my name, and my image to dredge up the whole defamatory narrative around me again. And again. And again.

When they get half a chance I continue to be click bait for outlets like News Corp and Daily Mail, and it is hard to imagine that calls for me being charged with contempt of court won't surface again once their commentators and headline writers start speculating about the Inquiry.

Marlia, the last seven months have been a complete nightmare for me, and it is not over. I refuse to just limp away from this situation professionally - and personally - defeated, with my reputation as an ethical journalist who deeply respects the legal system still not restored, and us not pushing for the outcome that I hope you agree I genuinely deserve.

I have copied in Nick for his thoughts as well as he has been involved on these issues from the start.

Meantime, here is the personal letter I would like to send to Shane Drumgold today. Look forward to your thoughts.

With thanks,

Lisa.

Sent from my iPad

This e-mail is for the use of the intended recipient(s) only. If you have received this e-mail in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not use, disclose or distribute this e-mail without the author's permission. We have taken precautions to minimise the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this e-mail. We cannot accept liability for any loss or damage caused by software viruses.
#####

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|

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Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

From: Lisa Wilkinson <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Nick Fordham <[REDACTED]>
Date: Wed, 01 Feb 2023 18:08:28 +1100

Thanks getting back to me with those Inquiry details Marlia.
It says the board will hand down their findings on June 30th.
Yet another date to put in the diary.

Sent from my iPad

On 1 Feb 2023, at 5:24 pm, Saunders, Marlia <[REDACTED]> wrote:

I apologise that I did not make clearer that Tasha had reviewed and was in agreement with the changes to your letter which I sent to you on Monday. I had assumed it was clear since I said in my email on Friday that I wanted to check the changes past Tasha and we would respond on Monday, but I should have been more explicit about that in my email on Monday.

The terms of reference for the Inquiry which were released today are set out here: <https://www.justice.act.gov.au/justice-programs-and-initiatives/board-of-inquiry> - they do not include any topics relating to media coverage or the delay of the trial.

Marlia Saunders |
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[REDACTED] [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)
Advice | Transactions | Disputes

From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, 1 February 2023 5:13 PM
To: Tasha Smithies <[REDACTED]>
Cc: Saunders, Marlia <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

418

~

Hi Tasha,

~

Apologies if I didn't make my last email clear.

~

At all times, going right back to the beginning of my involvement with the Brittany Higgins story, the approval of the Logies speech, our June 15 meeting with the DPP, Justice McCallum's decision to delay the trial, and Shane Drumgold's disappointing refusal to engage since the trial's conclusion - indeed, over the course of my entire employment with Network Ten, and in particular whenever legal matters have arisen - I have always proceeded on the full advice, knowledge and approval of yourself and Network Ten management.

~

My understanding regarding your advice to me on sending a personal email to Mr Drumgold (as outlined in your email of 16/12/22 to my agent Nick Fordham), was: "Marlia and I don't see any downside to a personal email from Lisa [to Drumgold] which reattaches the letter as sent."

~

In that same email you also warned that when it comes to any issues regarding Drumgold's behaviour, "not enough time has passed, particularly in circumstances where the DPP would say any delay was due to the fact that they have had a number of matters to deal with since announcing not to proceed with a trial...many of which have had a greater urgency than this."

~

Taking into account that advice, and with Christmas fast approaching, it was decided to wait until the New Year to send any letter to Drumgold, when all interested parties would be back at work...during which time, as it turns out, defamation issues around Mr Lehmann suddenly took a significant turn, particularly in relation to developments in Toowoomba.

~

Waiting three months to send the letter - ie, after the trial had finished, and before any announcements were made about the Inquiry - felt like the right timing. It indicated patience on our part.

~

Then, in your email to me of 25/1/23 in response to me seeking to once again confirm approval to send the letter to Drumgold, you said "Happy to be guided by you Marlia as to timing of any letter from Lisa. I wonder though if he will respond while the inquiry is running therefore if it is better to wait until the inquiry is completed? Lisa, I would suggest you run any letter by us before sending." There was no advice in that email not to send a letter to Drumgold.

,

So that is exactly how I have proceeded. Marlia and I have had a number of exchanges over the last week in regards to changes, and even though I remain incredibly frustrated by the situation I find myself in after all the effort that has been put in, I fully understood the importance of taking all of those legal considerations Marlia suggested, on board. And of course, as requested, running the letter by you.

~

In Marlia's email of Monday, she mentioned that you would not be available until today to review the final version of the letter I was proposing to send.

~

Tasha, I hope you know that I would never send such a letter without your approval - and as Nick indicated in his email to you and Marlia of last Friday (27/1), "awaiting your greenlight".

~

Unless I have somehow missed one of your emails, this is the first I knew that your position was now that I should not send a personal email to Drumgold. Even Marlia's of 27/1 stated...

~

Drumgold will be restricted in what he can say/do in response to your letter.

~

The terms of reference will merely inform us as to the topics that will be covered during the Inquiry, including whether it will deal with the publicity surrounding the trial or any contempt of court issues, but they don't change the fact that Drumgold will not want to release any public statements relating to the matter until the Inquiry has concluded.

~

That doesn't mean you shouldn't send your letter, but it unfortunately means he is unlikely to respond.

~

I fully understood that Drumgold was unlikely to respond. For me, it was more about finding a small moment when he would be more likely to take on board the effect this whole nightmare has had on me professionally - and personally. It was my chance to make a personal, private appeal that may prompt him to act honourably, and in line with his previous comments to Marlia in their phone conversations, at some point down the track when it was legally appropriate.

~

As previously mentioned though, I felt that once details of the Inquiry started being announced, the window would close on the letter having even the slightest chance of getting any cut-through with Drumgold.

~

Now, yesterday's announcement of Retired Judge Walter Sofronoff as leading the Inquiry, and the terms of reference about to be released, that chance is gone, and the whole caravan really has moved on.

~

Anyway, this is where we are.

~

Meantime, I would sincerely appreciate any information you might receive regarding the terms of reference should they include anything regarding the trial delay, and which may therefore require me to appear at the Inquiry.

~

With thanks to you both for your ongoing help,

~

Lisa.

Sent from my iPad

On 1 Feb 2023, at 1:34 pm, Tasha Smithies [REDACTED] wrote:

Hi Lisa,

Apologies but I am a bit confused by your email. It has been (as expressed in the various emails) and remains both Marlia and my legal view that any letter from you should not be sent at this time for the reasons outlined in those emails, however, that should you wish you send it, notwithstanding the legal advice, to take into account Marlia's changes (to preserve privilege and manage any contempt issues) in the email below.

We had thought you may have already sent it and don't believe the terms of reference being released prevents you from sending it, should you wish to do so notwithstanding the legal advice.

Kind regards,

420

Tasha Smithies
Sr Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

||

From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, 1 February 2023 12:10 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

Dear Marlia/Tasha,

According to press reports of last night and this morning...

<https://www.news.com.au/national/nsw-act/news/retired-judge-walter-sofronoff-kc-to-head-inquiry-following-bruce-lehrmann-trial/news-story/fb8436c416d093c94360a09b36acfdc2>

<https://thenewdaily.com.au/news/2023/02/01/bruce-lehrmann-trial-inquiry-walter-sofronoff/>

....the terms of reference for the Lehrmann Trial Inquiry are being released today.

I am extremely disappointed to say that that small window of opportunity I had to send my personal letter to Shane Drumgold whilst waiting for the Network sign-off has now closed.

I won't be sending it.

Sent from my iPad

421

On 30 Jan 2023, at 10:49 am, Saunders, Marlia [REDACTED]

Further to my last email, please see my recommended changes to your letter in the **attached** version. The changes are primarily directed to:

1. ensuring privilege is not waived over legal advice and communications; and
2. avoiding the risk of 'scandalising the court' in your comments about Chief Justice McCallum, which is a type of contempt.

I am also conscious that the letter may become public at some stage, and may be reported on, so the changes have been drafted with that in mind.

Subject to these changes, it is a matter for you whether to send this out now. As previously advised, our view from a legal perspective remains that Drumgold is unlikely to respond, and he has a legitimate basis for declining to respond, while the Inquiry is underway. While sending the letter now doesn't prevent you from sending another letter after the conclusion of the Inquiry, it may mean that any subsequent letter has less impact. Further, any leak of the letter may not be reported on favourably by the media.

Please let us know if you'd still like to have a call to discuss this, however Tasha is not available until Wednesday of

Marlia Saunders |
THOMSON GEER
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Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

From: Lisa Wilkinson [REDACTED]
Sent: Saturday, 28 January 2023 12:44 PM
To: Saunders, Marlia [REDACTED]
Cc: Tasha Smithies - Ten Legal [REDACTED]; Nick Fordham [REDACTED]
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

Thanks so much for getting back to me Marlia.

My strong feeling remains however, that I want the arrival of this letter to sit within the time frame of his current three month post-trial silence (ie. post his conversations and assertions to you, and before the release of the terms of reference). And while I agree with you, and totally expect that he won't respond, the timing of its arrival really matters to me, and I believe, the eventual clearing of my name on the public record. It is something I refuse to give up on.

422

Once the terms of reference are released, the caravan will have rapidly moved on for Drumgold, and he will use THAT timing of my letter arriving after the terms of reference have been released, as his excuse for no response - as opposed to his current position, which is his three-month-refusal-through-silence to deliver on his two previous commitments to you to clear my name, post-trial, on the public record.

His commitments to me existed LONG before any Inquiry was called. And I want as much as possible for the two not to be conflated and confused, or my situation deemed as no longer relevant. Particularly if there is nothing in the terms of reference that touch on anything to do with me and my involvement in the case.

Can I suggest we (you, me, Tasha and Nick) jump on a zoom call at a time to suit everyone before lunch on Monday, to work through any issues, so I can send the letter by 5PM Monday afternoon.

Again, with thanks,

Sent from my iPad

On 27 Jan 2023, at 12:48 pm, Saunders, Marlia [REDACTED]

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Otherwise, just a note that my mind has not changed since our call last week – I don't think the release of the terms of reference for the Inquiry changes the position in any way. Whether or not the terms of reference have been announced, Drumgold will be restricted in what he can say/do in response to your letter.

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That doesn't mean you shouldn't send your letter, but it unfortunately means he is unlikely to respond.

Let's speak further on Monday.

Marlia Saunders |
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Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] tglaw.com.au

Advice | Transactions | Disputes

From: Lisa Wilkinson [REDACTED]
Sent: Friday, 27 January 2023 11:33 AM
To: Saunders, Marlia [REDACTED]; Tasha Smithies - Ten Legal <[REDACTED]>
Cc: [REDACTED]
Subject: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

Dear Marlia/Tasha,

Thanks for getting back to me. To be honest Marlia, I disagree that we should wait on sending this personal letter from me, and I'm not sure what has changed your mind since our phone call regarding the Inquiry last week.

Right now we are still in that window where the main game is the commitment Shane Drumgold gave to you in June, and again in October, to correct the public record regarding our pre-Logies meeting of June 15 and therefore restore my reputation, and address the glaring issue of his subsequent three month silence and refusal to engage and honour his commitment since the trial finished. That window of opportunity is about to close shut.

This is a personal letter from me, and I want this letter to arrive while this window is still open, and while the timing clearly sits in his mis-handling, his silence, and non-action around us.

Once the terms of reference for the Inquiry are announced, the whole game shifts: our concerns will appear irrelevant, we will look like we aren't keeping up with the main game, he could easily argue that his silence is due to the announcement of the terms of reference, and the whole thing will be lost in a torrent of new headlines, where we know the tabloid press will once again use my name, and my image to dredge up the whole defamatory narrative around me again. And again. And again.

When they get half a chance I continue to be click bait for outlets like News Corp and Daily Mail, and it is hard to imagine that calls for me being charged with contempt of court won't surface again once their commentators and headline writers start speculating about the Inquiry.

Marlia, the last seven months have been a complete nightmare for me, and it is not over. I refuse to just limp away from this situation professionally - and personally - defeated, with my reputation as an ethical journalist who deeply respects the legal system still not restored, and us not pushing for the outcome that I hope you agree I genuinely

I have copied in Nick for his thoughts as well as he has been involved on these issues from the start.

Meantime, here is the personal letter I would like to send to Shane Drumgold today. Look forward to your thoughts.

Sent from my iPad

This e-mail is for the use of the intended recipient(s) only. If you have received this e-mail in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not use, disclose or distribute this e-mail without the author's permission. We have taken precautions to minimise the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this e-mail. We cannot accept liability for any loss or damage caused by software viruses.
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RE: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>
Cc: "Smithies Tasha ([REDACTED])" <[REDACTED]>; Nick Fordham <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <[REDACTED]>
Date: Thu, 02 Feb 2023 18:00:55 +1100

Hi Lisa

~
 We understand how disappointing this is for you.

~
 With any legal matter, the strategy and recommended approach needs to change as circumstances change. Here, there have been a number of hurdles to you achieving your desired outcome, being the impending trial, the trial being conducted, Drumgold not responding to our calls and emails, Drumgold facing criticism and calls for his resignation, and now the upcoming Inquiry.

~
 Despite these hurdles, we feel that we have taken every opportunity possible to try to get a result for you, including:

- Speaking to Drumgold on 22 June 2022 and encouraging him to correct the record immediately in open court the following day.
- Speaking to Drumgold on 24 October 2022 and conveying your concerns/distress to him, at which time he said he would give consideration to what he could say once the trial concluded.
- Attempting to contact Drumgold via phone and sending him an email on 1 December 2022, the evening prior to him withdrawing the charges against Lehrmann, and encouraging him to say something about you during his media statement the following day.
- Sending another email to Drumgold on 6 December 2022 asking to have a discussion with him about your situation.
- Sending a formal letter to Drumgold on 13 December 2022.
- Attempting to contact Drumgold via phone on 15 December 2022 to follow up about the letter. We advised on 16 December 2022 that we saw no downside in you emailing Drumgold personally, reattaching the letter for his attention.
- The Inquiry was then announced on 21 December 2022.

~
 As previously advised, at no point have we been in a position to compel Drumgold to respond or to act in response to our requests.

~
 As per Tasha's email yesterday, once the Inquiry was announced on 21 December 2022, Drumgold has been unable to take any action on this. Since he would have been aware for weeks beforehand that the Inquiry was going to be announced, and was facing heavy public criticism during this time, he was similarly unable to take any action during that period. For this reason, our legal view has been that any further correspondence should not be sent to him – but we said that if you still wanted to go ahead with a personal letter, that was a matter for you and we could review it and provide input. We don't consider that the release of the terms of reference for the Inquiry changes that position.

~
 It has now come to light that Drumgold has been the subject of a professional misconduct complaint by Lehrmann to the ACT Bar Council: <https://www.theaustralian.com.au/nation/lehrmann-alleges-professional-misconduct/news-story/d5f0c6ffd78d2a6b465e6f81e8b6c0a3>. In his complaint, Lehrmann specifically refers the lack of warning given to you prior to the Logies speech:

~
Mr Lehrmann also alleges a failure by Mr Drumgold to provide sufficient warning to prospective witnesses that any public comment could undermine the integrity of the trial.

~
He notes that an apology letter from Channel 10 to the Supreme Court alluded to insufficient warning by the director to Lisa Wilkinson about her Logies speech, which ultimately resulted in the trial being delayed for several months.

~
 This suggests that Drumgold's conduct in allegedly failing to properly instruct and manage witnesses will be a matter dealt with by the Inquiry, and it's likely the issues you encountered will be raised during the Inquiry's processes.

~
 Kind regards

~
 Marlia

~
Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

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~

From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, 1 February 2023 6:08 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

~
 Thanks getting back to me with those Inquiry details Marlia.

~
 It says the board will hand down their findings on June 30th.

~
 Yet another date to put in the diary.

~
 Kind regards,

~
 Lisa.

~

Sent from my iPad

~

On 1 Feb 2023, at 5:24 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

~

I apologise that I did not make clearer that Tasha had reviewed and was in agreement with the changes to your letter which I sent to you on Monday. I had assumed it was clear since I said in my email on Friday that I wanted to check the changes past Tasha and we would respond on Monday, but I should have been more explicit about that in my email on Monday.

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 The terms of reference for the Inquiry which were released today are set out here: <https://www.justice.act.gov.au/justice-programs-and-initiatives/board-of-inquiry> - they do not include any topics relating to media coverage or the delay of the trial.

~
 Kind regards

~

Marlia

~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | **M** [REDACTED]
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From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, 1 February 2023 5:13 PM
To: Tasha Smithies <[REDACTED]>
Cc: Saunders, Marlia <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

~

Hi Tasha,

~

Apologies if I didn't make my last email clear.

~

At all times, going right back to the beginning of my involvement with the Brittany Higgins story, the approval of the Logies speech, our June 15 meeting with the DPP, Justice McCallum's decision to delay the trial, and Shane Drumgold's disappointing refusal to engage since the trial's conclusion - indeed, over the course of my entire employment with Network Ten, and in particular whenever legal matters have arisen - I have always proceeded on the full advice, knowledge and approval of yourself and Network Ten management.

~

My understanding regarding your advice to me on sending a personal email to Mr Drumgold (as outlined in your email of 16/12/22 to my agent Nick Fordham), was: "Marlia and I don't see any downside to a personal email from Lisa [to Drumgold] which reattaches the letter as sent."

~

In that same email you also warned that when it comes to any issues regarding Drumgold's behaviour, "not enough time has passed, particularly in circumstances where the DPP would say any delay was due to the fact that they have had a

244

number of matters to deal with since announcing not to proceed with a trial...many of which have had a greater urgency than this."

\~
Taking into account that advice, and with Christmas fast approaching, it was decided to wait until the New Year to send any letter to Drumgold, when all interested parties would be back at work...during which time, as it turns out, defamation issues around Mr Lehrmann suddenly took a significant turn, particularly in relation to developments in Toowoomba.

\~
Waiting three months to send the letter - ie. after the trial had finished, and before any announcements were made about the Inquiry - felt like the right timing. It indicated patience on our part.

\~
Then, in your email to me of 25/1/23 in response to me seeking to once again confirm approval to send the letter to Drumgold, you said "Happy to be guided by you Marlia as to timing of any letter from Lisa. I wonder though if he will respond while the inquiry is running therefore if it is better to wait until the inquiry is completed? Lisa, I would suggest you run any letter by us before sending." There was no advice in that email not to send a letter to Drumgold.

So that is exactly how I have proceeded. Marlia and I have had a number of exchanges over the last week in regards to changes, and even though I remain incredibly frustrated by the situation I find myself in after all the effort that has been put in, I fully understood the importance of taking all of those legal considerations Marlia suggested, on board. And of course, as requested, running the letter by you.

\~
In Marlia's email of Monday, she mentioned that you would not be available until today to review the final version of the letter I was proposing to send.

\~
Tasha, I hope you know that I would never send such a letter without your approval - and as Nick indicated in his email to you and Marlia of last Friday (27/1), "awaiting your greenlight".

\~
Unless I have somehow missed one of your emails, this is the first I knew that your position was now that I should not send a personal email to Drumgold. Even Marlia's of 27/1 stated...

Drumgold will be restricted in what he can say/do in response to your letter.

\~
The terms of reference will merely inform us as to the topics that will be covered during the Inquiry, including whether it will deal with the publicity surrounding the trial or any contempt of court issues, but they don't change the fact that Drumgold will not want to release any public statements relating to the matter until the Inquiry has concluded.

\~
That doesn't mean you shouldn't send your letter, but it unfortunately means he is unlikely to respond.

\~
I fully understood that Drumgold was unlikely to respond. For me, it was more about finding a small moment when he would be more likely to take on board the effect this whole nightmare has had on me professionally - and personally. It was my chance to make a personal, private appeal that may prompt him to act honourably, and in line with his previous comments to Marlia in their phone conversations, at some point down the track when it was legally appropriate.

\~
As previously mentioned though, I felt that once details of the Inquiry started being announced, the window would close on the letter having even the slightest chance of getting any cut-through with Drumgold.

\~
Now, yesterday's announcement of Retired Judge Walter Sofronoff as leading the Inquiry, and the terms of reference about to be released, that chance is gone, and the whole caravan really has moved on.

\~
Anyway, this is where we are.

\~
Meantime, I would sincerely appreciate any information you might receive regarding the terms of reference should they include anything regarding the trial delay, and which may therefore require me to appear at the Inquiry.

\~
With thanks to you both for your ongoing help,

\~
Lisa.

Sent from my iPad

On 1 Feb 2023, at 1:34 pm, Tasha Smithies <[REDACTED]> wrote:

Hi Lisa,

Apologies but I am a bit confused by your email. It has been (as expressed in the various emails) and remains both Marlia and my legal view that any letter from you should not be sent at this time for the reasons outlined in those emails, however, that should you wish you send it, notwithstanding the legal advice, to take into account Marlia's changes (to preserve privilege and manage any contempt issues) in the email below.

We had thought you may have already sent it and don't believe the terms of reference being released prevents you from sending it, should you wish to do so notwithstanding the legal advice.

Kind regards,
Tasha

Tasha Smithies

Sr Litigation Counsel

O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

||

From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, 1 February 2023 12:10 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

Dear Marlia/Tasha,

According to press reports of last night and this morning...

<https://www.news.com.au/national/nsw-act/news/retired-judge-walter-sofronoff-kc-to-head-inquiry-following-bruce-lehrmann-trial/news-story/fb8436c416d093c94360a09b36acfdc2>

<https://thenewdaily.com.au/news/2023/02/01/bruce-lehrmann-trial-inquiry-walter-sofronoff/>

....the terms of reference for the Lehrmann Trial Inquiry are being released today.

I am extremely disappointed to say that that small window of opportunity I had to send my personal letter to Shane Drumgold whilst waiting for the Network sign-off has now closed.

I won't be sending it.

Kind regards,

Lisa.

Sent from my iPad

On 30 Jan 2023, at 10:49 am, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

Further to my last email, please see my recommended changes to your letter in the **attached** version. The changes are primarily directed to:

1. ensuring privilege is not waived over legal advice and communications; and
2. avoiding the risk of 'scandalising the court' in your comments about Chief Justice McCallum, which is a type of contempt.

I am also conscious that the letter may become public at some stage, and may be reported on, so the changes have been drafted with that in mind.

Subject to these changes, it is a matter for you whether to send this out now. As previously advised, our view from a legal perspective remains that Drumgold is unlikely to respond, and he has a legitimate basis for declining to respond, while the Inquiry is underway. While sending the letter now doesn't prevent you from sending another letter after the conclusion of the Inquiry, it may mean that any subsequent letter has less impact. Further, any leak of the letter may not be reported on favourably by the media.

Please let us know if you'd still like to have a call to discuss this, however Tasha is not available until Wednesday of this week.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

From: Lisa Wilkinson <[REDACTED]>
Sent: Saturday, 28 January 2023 12:44 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Tasha Smithies - Ten Legal <[REDACTED]>; Nick Fordham <[REDACTED]>
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

Thanks so much for getting back to me Marlia.

My strong feeling remains however, that I want the arrival of this letter to sit within the time frame of his current three month post-trial silence (ie. post his conversations and assertions to you, and before the release of the terms of reference). And while I agree with you, and totally expect that he won't respond, the timing of its arrival really matters to me, and I believe, the eventual clearing of my name on the public record. It is something I refuse to give up on.

Once the terms of reference are released, the caravan will have rapidly moved on for Drumgold, and he will use THAT timing of my letter arriving after the terms of reference have been released, as his excuse for no response - as opposed to his current position, which is his three-month-refusal-through-silence to deliver on his two previous commitments to you to clear my name, post-trial, on the public record.

His commitments to me existed LONG before any Inquiry was called. And I want as much as possible for the two not to be conflated and confused, or my situation deemed as no longer relevant. Particularly if there is nothing in the terms of reference that touch on anything to do with me and my involvement in the case.

Can I suggest we (you, me, Tasha and Nick) jump on a zoom call at a time to suit everyone before lunch on Monday, to work through any issues, so I can send the letter by 5PM Monday afternoon.

Again, with thanks,

Lisa.

Sent from my iPad

On 27 Jan 2023, at 12:48 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

247

Thanks for sending through your draft letter – I've got some suggested changes, but would like to discuss them with Tasha and she is on leave today. We'll come back to you on Monday.

~

Otherwise, just a note that my mind has not changed since our call last week – I don't think the release of the terms of reference for the Inquiry changes the position in any way. Whether or not the terms of reference have been announced, Drumgold will be restricted in what he can say/do in response to your letter.

~

The terms of reference will merely inform us as to the topics that will be covered during the Inquiry, including whether it will deal with the publicity surrounding the trial or any contempt of court issues, but they don't change the fact that Drumgold will not want to release any public statements relating to the matter until the Inquiry has concluded.

~

That doesn't mean you shouldn't send your letter, but it unfortunately means he is unlikely to respond.

~

Let's speak further on Monday.

~

Kind regards

~

Marlia

~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

~

From: Lisa Wilkinson <[REDACTED]>

Sent: Friday, 27 January 2023 11:33 AM

To: Saunders, Marlia <[REDACTED]>; Tasha Smithies - Ten Legal

<[REDACTED]>

Cc: Nick Fordham <[REDACTED]>

Subject: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

~

Dear Marlia/Tasha,

Thanks for getting back to me. To be honest Marlia, I disagree that we should wait on sending this personal letter from me, and I'm not sure what has changed your mind since our phone call regarding the Inquiry last week.

Right now we are still in that window where the main game is the commitment Shane Drumgold gave to you in June, and again in October, to correct the public record regarding our pre-Logies meeting of June 15 and therefore restore my reputation, and address the glaring issue of his subsequent three month silence and refusal to engage and honour his commitment since the trial finished. That window of opportunity is about to close shut.

This is a personal letter from me, and I want this letter to arrive while this window is still open, and while the timing clearly sits in his mis-handling, his silence, and non-action around us.

Once the terms of reference for the Inquiry are announced, the whole game shifts: our concerns will appear irrelevant, we will look like we aren't keeping up with the main game, he could easily argue that his silence is due to the announcement of the terms of reference, and the whole thing will be lost in a torrent of new headlines, where we know the tabloid press will once again use my name, and my image to dredge up the whole defamatory narrative around me again. And again. And again.

When they get half a chance I continue to be click bait for outlets like News Corp and Daily Mail, and it is hard to imagine that calls for me being charged with contempt of court won't surface again once their commentators and headline writers start speculating about the Inquiry.

Marlia, the last seven months have been a complete nightmare for me, and it is not over. I refuse to just limp away from this situation professionally - and personally - defeated, with my reputation as an ethical journalist who deeply respects the legal system still not restored, and us not pushing for the outcome that I hope you agree I genuinely deserve.

I have copied in Nick for his thoughts as well as he has been involved on these issues from the start.

Meantime, here is the personal letter I would like to send to Shane Drumgold today. Look forward to your thoughts.

With thanks,

Lisa.

Sent from my iPad

 This e-mail is for the use of the intended recipient(s) only. If you have received this e-mail in error, please
 notify the sender immediately and then delete it. If you are not the intended recipient, you must not use, disclose
 or distribute this e-mail without the author's permission. We have taken precautions to minimise the risk of
 transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this
 e-mail. We cannot accept liability for any loss or damage caused by software viruses.
 #####

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 named addressee. If you receive it in error, please let us know by reply e-mail, delete it from your system and destroy
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 you have any doubts about the authenticity of an e-mail purportedly sent by us, please contact us immediately.

RE: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>
Cc: "Smithies Tasha" <[REDACTED]> <[REDACTED]>; Nick Fordham <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <[REDACTED]>
Date: Thu, 02 Feb 2023 18:00:55 +1100

We understand how disappointing this is for you.

With any legal matter, the strategy and recommended approach needs to change as circumstances change. Here, there have been a number of hurdles to you achieving your desired outcome, being the impending trial, the trial being conducted, Drumgold not responding to our calls and emails, Drumgold facing criticism and calls for his resignation, and now the upcoming Inquiry.

Despite these hurdles, we feel that we have taken every opportunity possible to try to get a result for you, including:

- Speaking to Drumgold on 22 June 2022 and encouraging him to correct the record immediately in open court the following day.
- Speaking to Drumgold on 24 October 2022 and conveying your concerns/distress to him, at which time he said he would give consideration to what he could say once the trial concluded.
- Attempting to contact Drumgold via phone and sending him an email on 1 December 2022, the evening prior to him withdrawing the charges against Lehrmann, and encouraging him to say something about you during his media statement the following day.
- Sending another email to Drumgold on 6 December 2022 asking to have a discussion with him about your situation.
- Sending a formal letter to Drumgold on 13 December 2022.
- Attempting to contact Drumgold via phone on 15 December 2022 to follow up about the letter. We advised on 16 December 2022 that we saw no downside in you emailing Drumgold personally, reattaching the letter for his attention.
- The Inquiry was then announced on 21 December 2022.

As previously advised, at no point have we been in a position to compel Drumgold to respond or to act in response to our

As per Tasha's email yesterday, once the Inquiry was announced on 21 December 2022, Drumgold has been unable to take any

Since he would have been aware for weeks beforehand that the Inquiry was going to be announced, and was facing heavy public criticism during this time, he was similarly unable to take any action during that period. For this reason, our legal view has been that any further correspondence should not be sent to him – but we said that if you still wanted to go ahead with a personal letter, that was a matter for you and we could review it and provide input. We don't consider that the release of the terms of reference for the Inquiry changes that position.

It has now come to light that Drumgold has been the subject of a professional misconduct complaint by Lehrmann to the ACT <https://www.theaustralian.com.au/nation/lehrmann-alleges-professional-misconduct/news-story/d5f0c6ffd78d2a6b465e6f81e8b6c0a3> In his complaint, Lehrmann specifically refers the lack of warning given to you prior to the Logies speech:

Mr Lehrmann also alleges a failure by Mr Drumgold to provide sufficient warning to prospective witnesses that any public comment could undermine the integrity of the trial.

He notes that an apology letter from Channel 10 to the Supreme Court alluded to insufficient warning by the director to Lisa Wilkinson about her Logies speech, which ultimately resulted in the trial being delayed for several months.

This suggests that Drumgold's conduct in allegedly failing to properly instruct and manage witnesses will be a matter dealt with by the Inquiry, and it's likely the issues you encountered will be raised during the Inquiry's processes.

~
Marlia Saunders | Partner
THOMSON GEER
T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

425

~

From: Lisa Wilkinson [REDACTED]
Sent: Wednesday, 1 February 2023 6:08 PM
To: Saunders, Marlia [REDACTED]
Cc: Tasha Smithies [REDACTED]; Nick Fordham [REDACTED]
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

ng back to me with those Inquiry details Marlia.

It says the board will hand down their findings on June 30th.

Yet another date to put in the diary.

Sent from my iPad

On 1 Feb 2023, at 5:24 pm, Saunders, Marlia [REDACTED]

Hi Lisa

~

I apologise that I did not make clearer that Tasha had reviewed and was in agreement with the changes to your letter which I sent to you on Monday. I had assumed it was clear since I said in my email on Friday that I wanted to check the changes past Tasha and we would respond on Monday, but I should have been more explicit about that in my email on Monday.

~

The terms of reference for the Inquiry which were released today are set out here: <https://www.justice.act.gov.au/justice-programs-and-initiatives/board-of-inquiry> - they do not include any topics relating to media coverage or the delay of the trial.

~

Kind regards

~

Marlia

~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] **M** [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

~

From: Lisa Wilkinson [REDACTED]
Sent: Wednesday, 1 February 2023 5:13 PM
To: Tasha Smithies [REDACTED]
Cc: Saunders, Marlia [REDACTED]; Nick Fordham [REDACTED]
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

Apologies if I didn't make my last email clear.

mes, going right back to the beginning of my involvement with the Bri any Higgins story, the approval of the Logies speech, our June 15 meeting with the DPP, Justice McCallum's decision to delay the trial, and Shane Drumgold's refusal to engage since the trial's conclusion - indeed, over the course of my entire employment with Network Ten, and in particular whenever legal matters have arisen - I have always proceeded on the full advice, knowledge and approval of yourself and Network Ten management.

My understanding regarding your advice to me on sending a personal email to Mr Drumgold (as outlined in your email of 16/12/22 to my agent Nick Fordham), was: "Marlia and I don't see any downside to a personal email from Lisa [to Drumgold] which rea

In that same email you also warned that when it comes to any issues regarding Drumgold's behaviour, "not enough has passed, particularly in circumstances where the DPP would say any delay was due to the fact that they have had a

number of matters to deal with since announcing not to proceed with a trial...many of which have had a greater urgency than this."

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Taking into account that advice, and with Christmas fast approaching, it was decided to wait until the New Year to send any letter to Drumgold, when all interested parties would be back at work...during which time, as it turns out, defamation issues around Mr Lehrmann suddenly took a significant turn, particularly in relation to developments in Toowoomba.

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Waiting three months to send the letter - ie. after the trial had finished, and before any announcements were made about the Inquiry - felt like the right timing. It indicated patience on our part.

\~
Then, in your email to me of 25/1/23 in response to me seeking to once again confirm approval to send the letter to Drumgold, you said "Happy to be guided by you Marlia as to timing of any letter from Lisa. I wonder though if he will respond while the inquiry is running therefore if it is better to wait until the inquiry is completed? Lisa, I would suggest you run any letter by us before sending." There was no advice in that email not to send a letter to Drumgold.

So that is exactly how I have proceeded. Marlia and I have had a number of exchanges over the last week in regards to changes, and even though I remain incredibly frustrated by the situation I find myself in after all the effort that has been put in, I fully understood the importance of taking all of those legal considerations Marlia suggested, on board. And of course, as requested, running the letter by you.

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Tasha, I hope you know that I would never send such a letter without your approval - and as Nick indicated in his email to you and Marlia of last Friday (27/1), "awaiting your greenlight".

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Drumgold will be restricted in what he can say/do in response to your letter.

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As previously mentioned though, I felt that once details of the Inquiry started being announced, the window would close on the letter having even the slightest chance of getting any cut-through with Drumgold.

\~
Now, yesterday's announcement of Retired Judge Walter Sofronoff as leading the Inquiry, and the terms of reference about to be released, that chance is gone, and the whole caravan really has moved on.

\~
Anyway, this is where we are.

\~
Meantime, I would sincerely appreciate any information you might receive regarding the terms of reference should they include anything regarding the trial delay, and which may therefore require me to appear at the Inquiry.

\~
With thanks to you both for your ongoing help,

\~
Lisa.

Sent from my iPad

On 1 Feb 2023, at 1:34 pm, Tasha Smithies <[REDACTED]> wrote:

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We had thought you may have already sent it and don't believe the terms of reference being released prevents you from sending it, should you wish to do so notwithstanding the legal advice.

Tasha Smithies

Sr Litigation Counsel

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Lisa Wilkinson [REDACTED]

Sent: Wednesday, 1 February 2023 12:10 PM

To: Saunders, Marlia [REDACTED]

Cc: Tasha Smithies [REDACTED]; Nick Fordham [REDACTED]

Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

Dear Marlia/Tasha,

According to press reports of last night and this morning...

<https://www.news.com.au/national/nsw-act/news/retired-judge-walter-sofronoff-kc-to-head-inquiry-following-bruce-lehrmann-trial/news-story/fb8436c416d093c94360a09b36acfdc2>

<https://thenewdaily.com.au/news/2023/02/01/bruce-lehrmann-trial-inquiry-walter-sofronoff/>

....the terms of reference for the Lehrmann Trial Inquiry are being released today.

I am extremely disappointed to say that that small window of opportunity I had to send my personal le Drumgold whilst waiting for the Network sign-o

I won't be sending it.

Sent from my iPad

On 30 Jan 2023, at 10:49 am, Saunders, Marlia [REDACTED]

Hi Lisa
~

428

Further to my last email, please see my recommended changes to your letter in the **attached** version. The changes are primarily directed to:

1. ensuring privilege is not waived over legal advice and communications; and
2. avoiding the risk of 'scandalising the court' in your comments about Chief Justice McCallum, which is a type of contempt.

I am also conscious that the letter may become public at some stage, and may be reported on, so the changes have been drafted with that in mind.

Subject to these changes, it is a matter for you whether to send this out now. As previously advised, our view from a legal perspective remains that Drumgold is unlikely to respond, and he has a legitimate basis for declining to respond, while the Inquiry is underway. While sending the letter now doesn't prevent you from sending another letter after the conclusion of the Inquiry, it may mean that any subsequent letter has less impact. Further, any leak of the letter may not be reported on favourably by the media.

Please let us know if you'd still like to have a call to discuss this, however Tasha is not available until Wednesday of this week.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

From: Lisa Wilkinson [REDACTED]
Sent: Saturday, 28 January 2023 12:44 PM
To: Saunders, Marlia [REDACTED]
Cc: Tasha Smithies - Ten Legal [REDACTED]; Nick Fordham [REDACTED]
Subject: Re: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD [TGLAW-Legal.FID3680207]

Thanks so much for getting back to me Marlia.

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His commitments to me existed LONG before any Inquiry was called. And I want as much as possible for the two matters to be clarified and confused, or my situation deemed as no longer relevant. Particularly if there is nothing in the terms of reference that touch on anything to do with me and my involvement in the case.

Can I suggest we (you, me, Tasha and Nick) jump on a zoom call at a time to suit everyone before lunch on Monday, to work through any issues, so I can send the letter by 5PM Monday afternoon.

Again, with thanks,

Sent from my iPad

On 27 Jan 2023, at 12:48 pm, Saunders, Marlia [REDACTED]

Hi Lisa
~

429

Thanks for sending through your draft letter – I've got some suggested changes, but would like to discuss them with Tasha and she is on leave today. We'll come back to you on Monday.

Otherwise, just a note that my mind has not changed since our call last week – I don't think the release of the terms of reference for the Inquiry changes the position in any way. Whether or not the terms of reference have been announced, Drumgold will be restricted in what he can say/do in response to your letter.

The terms of reference will merely inform us as to the topics that will be covered during the Inquiry, including whether it will deal with the publicity surrounding the trial or any contempt of court issues, but they don't change the fact that Drumgold will not want to release any public statements relating to the matter until the Inquiry has concluded.

That doesn't mean you shouldn't send your letter, but it unfortunately means he is unlikely to respond.

Let's speak further on Monday.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED]@tglaw.com.au

Advice | Transactions | Disputes

From: Lisa Wilkinson <[REDACTED]>
Sent: Friday, 27 January 2023 11:33 AM
To: Saunders, Marlia [REDACTED]; Tasha Smithies - Ten Legal
[REDACTED]
Cc: [REDACTED]
Subject: PRIVILEGED AND CONFIDENTIAL - DRUMGOLD

Dear Marlia/Tasha,

Thanks for getting back to me. To be honest Marlia, I disagree that we should wait on sending this personal letter from me, and I'm not sure what has changed your mind since our phone call regarding the Inquiry last

Right now we are still in that window where the main game is the commitment Shane Drumgold gave to you in June, and again in October, to correct the public record regarding our pre-Logies meeting of June 15 and therefore restore my reputation, and address the glaring issue of his subsequent three month silence and refusal to engage and honour his commitment since the trial finished. That window of opportunity is about to

This is a personal letter from me, and I want this letter to arrive while this window is still open, and while the timing clearly sits in his mis-handling, his silence, and non-action around us.

Once the terms of reference for the Inquiry are announced, the whole game shifts: our concerns will appear irrelevant, we will look like we aren't keeping up with the main game, he could easily argue that his silence is due to the announcement of the terms of reference, and the whole thing will be lost in a torrent of new headlines, where we know the tabloid press will once again use my name, and my image to dredge up the whole defamatory narrative around me again. And again. And again.

When they get half a chance I continue to be click bait for outlets like News Corp and Daily Mail, and it is hard to imagine that calls for me being charged with contempt of court won't surface again once their commentators and headline writers start speculating about the Inquiry.

Marlia, the last seven months have been a complete nightmare for me, and it is not over. I refuse to just limp away from this situation professionally - and personally - defeated, with my reputation as an ethical journalist who deeply respects the legal system still not restored, and us not pushing for the outcome that I hope you agree I genuinely deserve.

I have copied in Nick for his thoughts as well as he has been involved on these issues from the start.

Meantime, here is the personal letter I would like to send to Shane Drumgold today. Look forward to your

Lisa.

Sent from my iPad

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Lehmann Inquiry

From: Nick Fordham <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Cc: "Saunders, Marlia" <[REDACTED]>; "Lisa Wilkinson ([REDACTED])" <[REDACTED]>
Date: Fri, 03 Feb 2023 08:17:18 +1100

Hi Tasha,

I have been discussing this ongoing saga with Lisa and wish to raise and reiterate the following:

1. As you and Marlia can no doubt appreciate, Lisa continues to be, quite frankly, devastated that since the Logies speech her professional reputation has been severely damaged through absolutely no fault of her own.
2. She also remains very frustrated and concerned that any real prospect of being able to adequately restore her reputation seems to be rapidly disappearing, given the limited options that she now has left open to her.
3. Further, at this stage I see no real utility in revisiting the issues surrounding the proposed draft email to Drumgold, which I confirm, after taking your legal advice, has not been dispatched by Lisa.
4. In the meantime, Lisa and I have carefully reviewed the terms of reference released for the Board of Inquiry to be chaired by Mr Sofronoff KC.
5. As has been reported, the terms of reference have been cast quite widely, and as such we are seeking your opinion as to whether or not Network Ten should be making an urgent submission to extend the terms of reference to include the delay in the trial and Drumgold's conduct in failing to correct the public record relating to his instructions to Lisa as well as what was (and wasn't) said at the 15 June 2022 meeting.
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7. Additionally, can you please provide guidance on whether Network Ten should consider making a formal complaint to the Bar Association of the ACT (as Lehrmann has now done) in relation to Drumgold's conduct before, during and after the trial.

I look forward to your response.

Regards,

Nick

THE
FORDHAM
 COMPANY

NICK FORDHAM
 CEO
 13-15 Little Burton Street
 DARLINGHURST NSW 2010
 AUSTRALIA
 T [REDACTED]
www.thefordhamcompany.com.au


Lehmann Inquiry

From: Nick Fordham <[REDACTED]>
To: Tasha Smithies <[REDACTED]>
Cc: "Saunders, Marlia" <[REDACTED]>; "Lisa Wilkinson" <[REDACTED]>
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COMPANY

NICK FORDHAM

13-15 Little Burton Street
DARLINGHURST NSW 2010

T [REDACTED]

www.thefordhamcompany.com.au



From: Tasha Smithie [REDACTED]
Date: 3 February 2023 at 5:14:33 pm AEDT
To: Nick Fordham [REDACTED]
Cc: Marlia Saunder [REDACTED] Lisa Wilkinson
Externa [REDACTED]
Subject: RE: Lehmann Inquiry

Dear Nick,

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Kind regards,

Tasha

Tasha Smithies

Sr Litigation Counsel

1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Nick Fordham [REDACTED]
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Externa [REDACTED]
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O [REDACTED] M [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Nick Fordham <[REDACTED]>
Sent: Friday, 3 February 2023 8:17 AM
To: Tasha Smithies <[REDACTED]>
Cc: Marlia Saunders <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Subject: Lehmann Inquiry

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RE: Lehmann Inquiry

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To: Nick Fordham <[REDACTED]>
Cc: "Saunders, Marlia" <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Date: Fri, 03 Feb 2023 17:14:21 +1100
Attachments: Unnamed Attachment (68 bytes)

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O [REDACTED] M [REDACTED]
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From: Nick Fordham <[REDACTED]>
Sent: Friday, 3 February 2023 8:17 AM
To: Tasha Smithies <[REDACTED]>

433

Cc: Marlia Saunders [REDACTED]; Lisa Wilkinson External [REDACTED]
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FW: Lehmann Inquiry [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehmann _Litigation_ _5142487 _ E_Mail <[REDACTED]>
Date: Mon, 06 Feb 2023 09:06:00 +1100

Hi Lisa

Please let me know if you'd like to discuss this further today or tomorrow.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

[Advice](#) | [Transactions](#) | [Disputes](#)

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We trust this new approach will streamline communications and roles, and better assist Lisa in pursuing a course of action that is preferred.

Kind regards,
 Tasha

253

~
 ~
Tasha Smithies
 Sr Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait
 Islander peoples as the first people of the nation and the traditional
 custodians of the lands where we live, learn and work.

~
From: Nick Fordham <[REDACTED]>
Sent: Friday, 3 February 2023 8:17 AM
To: Tasha Smithies <[REDACTED]>
Cc: Marlia Saunders <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Subject: Lehmann Inquiry

~
 Hi Tasha,

~
 I have been discussing this ongoing saga with Lisa and wish to raise and reiterate the following:

1. ~ As you and Marlia can no doubt appreciate, Lisa continues to be, quite frankly, devastated that since the Logies speech her professional reputation has been severely damaged through absolutely no fault of her own.
2. ~ She also remains very frustrated and concerned that any real prospect of being able to adequately restore her reputation seems to be rapidly disappearing, given the limited options that she now has left open to her.
3. ~ Further, at this stage I see no real utility in revisiting the issues surrounding the proposed draft email to Drumgold, which I confirm, after taking your legal advice, has not been dispatched by Lisa.
4. ~ In the meantime, Lisa and I have carefully reviewed the terms of reference released for the Board of Inquiry to be chaired by Mr Sofronoff KC.
5. ~ As has been reported, the terms of reference have been cast quite widely, and as such we are seeking your opinion as to whether or not Network Ten should be making an urgent submission to extend the terms of reference to include the delay in the trial and Drumgold's conduct in failing to correct the public record relating to his instructions to Lisa as well as what was (and wasn't) said at the 15 June 2022 meeting.
6. ~ If you and Marlia do not consider it appropriate (or legally viable) to seek to extend the terms of reference, would you please then explain as to what positive steps Network Ten can and will take in order to have Mr Drumgold's conduct pertaining to Lisa and the June 15 meeting brought to the attention of Mr Sofronoff KC to ensure that is duly considered and dealt with at the Board of Inquiry.
7. ~ Additionally, can you please provide guidance on whether Network Ten should consider making a formal complaint to the Bar Association of the ACT (as Lehmann has now done) in relation to Drumgold's conduct before, during and after the trial.

~
 I look forward to your response.

~
 Regards,

~
 Nick

~
 ~

~
 THE
FORDHAM
 COMPANY

NICK FORDHAM
 CEO
 13-15 Little Burton Street
 DARLINGHURST NSW 2010 AUSTRALIA
 T [REDACTED]
www.thefordhamcompany.com.au



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RE: Lehmann Inquiry [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>
Date: Tue, 07 Feb 2023 19:24:20 +1100

Hi Lisa

We made enquiries with the ACT government today about the process of making a submission to the Inquiry.

They confirmed it's not possible to make a submission yet – once they confirm the process, it will be communicated on the website: <https://www.parliament.act.gov.au/parliamentary-business/in-committees/inquiries>. We will continue to monitor the website for further details.

There's therefore no rush to prepare a submission just yet.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

[Advice](#) | [Transactions](#) | [Disputes](#)

From: Lisa Wilkinson <[REDACTED]>
Sent: Tuesday, 7 February 2023 12:24 PM
To: Saunders, Marlia <[REDACTED]>
Subject: Re: Lehmann Inquiry [TGLAW-Legal.FID3680207]

Hi Marlia,

Yes, I saw it. Thank you. Can I give you a call at 1pm today to discuss?

With thanks,

Lisa.

Sent from my iPad

On 7 Feb 2023, at 9:57 am, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

Did you see this DailyMail article this morning?

<https://www.dailymail.co.uk/news/article-11717173/The-Lisa-Wilkinson-apology-letter-Brittany-Higgins-Logies-trial-debacle-exposed.html>

They have run the letter which was sent by Ten to the court and DPP on your behalf last June, which was 'leaked' to them.

Let me know if you'd like to discuss.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]

261

Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | [tglaw.com.au](mailto:info@tglaw.com.au)

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From: Saunders, Marlia
Sent: Monday, 6 February 2023 9:06 AM
To: 'Lisa Wilkinson' <[REDACTED]>
Subject: FW: Lehmann Inquiry [TGLAW-Legal.FID3680207]

Hi Lisa

Please let me know if you'd like to discuss this further today or tomorrow.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | [tglaw.com.au](mailto:info@tglaw.com.au)

[Advice](#) | [Transactions](#) | [Disputes](#)

From: Tasha Smithies <[REDACTED]>
Sent: Friday, 3 February 2023 5:14 PM
To: Nick Fordham <[REDACTED]>
Cc: Saunders, Marlia <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Subject: RE: Lehmann Inquiry

Dear Nick,

Thanks for your email.

We appreciate that you have had different views from the network concerning the most appropriate and effective pathway to correct the public misstatements that have been made (and further exaggerated in hostile media) concerning the nature of advice given by Drumgold to Lisa, and related matters. We do, however, respect those different views and confirm that we have no desire to obstruct actions that Lisa may wish to take in that regard. Good and reasonable minds can have different views on how to best to approach these matters.

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We trust this new approach will streamline communications and roles, and better assist Lisa in pursuing a course of action that is preferred.

Kind regards,
 Tasha

Tasha Smithies
 Sr Litigation Counsel
 O [REDACTED] M [REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Nick Fordham <[REDACTED]>
Sent: Friday, 3 February 2023 8:17 AM
To: Tasha Smithies <[REDACTED]>
Cc: Marlia Saunders <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>
Subject: Lehmann Inquiry

Hi Tasha,

I have been discussing this ongoing saga with Lisa and wish to raise and reiterate the following:

1. As you and Marlia can no doubt appreciate, Lisa continues to be, quite frankly, devastated that since the Logies speech her professional reputation has been severely damaged through absolutely no fault of her own.
1. She also remains very frustrated and concerned that any real prospect of being able to adequately restore her reputation seems to be rapidly disappearing, given the limited options that she now has left open to her.
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1. Additionally, can you please provide guidance on whether Network Ten should consider making a formal complaint to the Bar Association of the ACT (as Lehrmann has now done) in relation to Drumgold's conduct before, during and after the trial.

I look forward to your response.

Regards,

Nick

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#####

RE: Lehmann Inquiry [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehmann _Litigation_ _5142487 _ E_Mail <[REDACTED]>
Date: Tue, 07 Feb 2023 19:24:20 +1100

Hi Lisa

We made enquiries with the ACT government today about the process of making a submission to the Inquiry.

They confirmed it's not possible to make a submission yet – once they confirm the process, it will be communicated on the website: <https://www.parliament.act.gov.au/parliamentary-business/in-committees/inquiries>. We will continue to monitor the website for further details.

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Kind regards

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THOMSON GEER

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Advice | Transactions | Disputes

From: Lisa Wilkinson <[REDACTED]>
Sent: Tuesday, 7 February 2023 12:24 PM
To: Saunders, Marlia <[REDACTED]>
Subject: Re: Lehmann Inquiry [TGLAW-Legal.FID3680207]

Hi Marlia,

Yes, I saw it. Thank you. Can I give you a call at 1pm today to discuss?

With thanks,

Lisa.

Sent from my iPad

On 7 Feb 2023, at 9:57 am, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

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They have run the letter which was sent by Ten to the court and DPP on your behalf last June, which was 'leaked' to them.

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Cc: Saunders, Marlia <[REDACTED]>; Lisa Wilkinson External <[REDACTED]>

Subject: RE: Lehmann Inquiry

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257

Tasha

Tasha Smithies

Sr Litigation Counsel

O [REDACTED] M [REDACTED]
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Subject: Lehmann Inquiry

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I look forward to your response.

Regards,

Nick

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CEO
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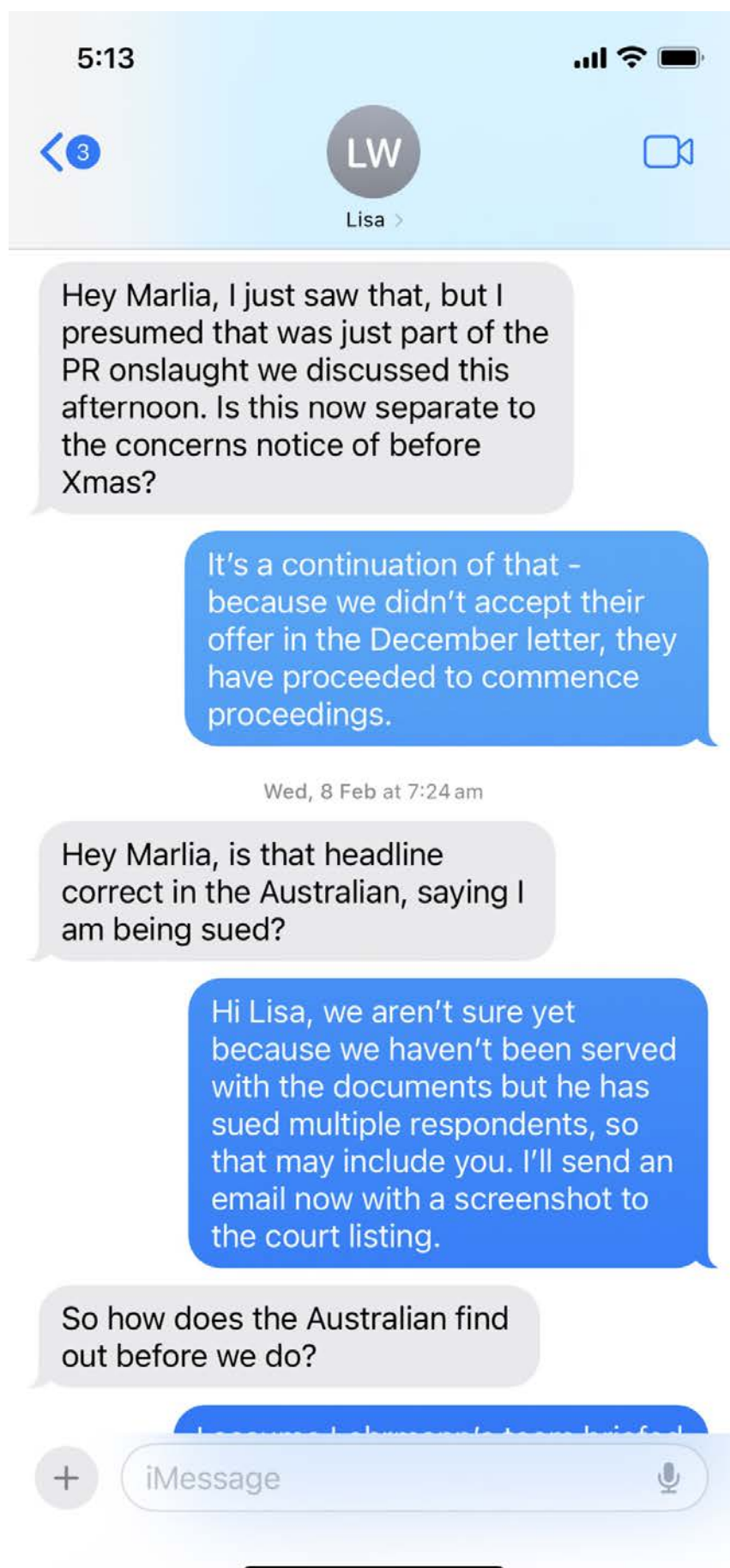
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#####







File note of T/A on Lisa Wilkinson re letter to Court/DPP [TGLAW-Legal.FID3680207]

From: "Saunders, Marlia" <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Bcc: Lisa Wilkinson re_ Lehrmann _Litigation_ _5142487 _ E_Mail <[REDACTED]>
Date: Tue, 07 Feb 2023 16:52:55 +1100

Lisa doesn't want to provide further comment to The Australian – happy with the "no comment" from Ten, with the backgrounding. Very pleased with the backgrounding information being provided.

\~

Could not be more grateful for the effort I've gone to with Drumgold – could not have done anything more.

\~

Would like to make a written submission to the inquiry – was given false hope by Drumgold's recognition that I had been treated unfairly in the media and he would think about how he could correct the record in open court, but failed to do so.

\~

She will draft a submissions and send to me for review.

\~

\~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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\~

Re: Bruce Lehrmann [TGLAW-Legal.FID3626446]

From: Tasha Smithies <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: "O'Beirne, Conor" <[REDACTED]>
Date: Tue, 07 Feb 2023 18:33:52 +1100

Thanks Marlia and Conor,
Yes if could call Lisa - we have already received a press query so they have moved fast!

Tasha Smithies
Senior Litigation Counsel
Paramount ANZ
M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009

On 7 Feb 2023, at 5:50 pm, Saunders, Marlia <[REDACTED]> wrote:

FYI – we are not proposing to respond this evening. We'll write back tomorrow and confirm we have instructions to accept

Would you like me to call Lisa to let her know?

Marlia Saunders |
THOMSON GEER
T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)
Advice | Transactions | Disputes

From: Paul Svilans <[REDACTED]>
Sent: Tuesday, 7 February 2023 5:33 PM
To: O'Beirne, Conor <[REDACTED]>
Cc: Saunders, Marlia <[REDACTED]>; Nygh, Jessie <[REDACTED]>; Mark O'Brien <[REDACTED]>
Subject: RE: Bruce Lehrmann

Dear Ms O'Beirne

435

We refer to your letter to us of 20 January 2023.

We advise that our client has now instituted Federal Court defamation proceedings as against Network Ten Pty Limited and Ms Lisa Wilkinson, and we request your advice as to whether you are instructed to accept service of process.

Paul Svilans

Principal | Mark O'Brien Legal



Level 19, 68 Pitt Street, Sydney NSW 2000 Australia

T [redacted] | M [redacted]

[redacted]

www.markobrienlegal.com.au

~

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From: O'Beirne, Conor <[redacted]>
Sent: Friday, 20 January 2023 4:18 PM
To: [redacted]; Mark O'Brien <[redacted]>
Cc: Saunders, Marla <[redacted]>; Nygh, Jessie <[redacted]>
Subject: Bruce Lehrmann [TGLAW-Legal.FID3782978]

Dear Colleagues

attached correspondence.

Conor O'Beirne | Senior Associate
THOMSON GEER
T [redacted] | M [redacted]
Level 23, Rialto South Tower, 525 Collins Street, Melbourne VIC 3000 Australia
[redacted] tglaw.com.au

Advice | Transactions | Disputes

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Date: Tue, 07 Feb 2023 18:33:52 +1100

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 M~[REDACTED]
 1 Saunders Street Pyrmont, Sydney, NSW 2009

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Kind regards

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Marlia

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\~

From: Paul Svilans <[REDACTED]>
Sent: Tuesday, 7 February 2023 5:33 PM
To: O'Beirne, Conor <[REDACTED]>
Cc: Saunders, Marlia <[REDACTED]>; Nygh, Jessie <[REDACTED]>; Mark O'Brien <[REDACTED]>
Subject: RE: Bruce Lehrmann

\~

Dear Ms O'Beirne

265

~

We refer to your letter to us of 20 January 2023.

~

We advise that our client has now instituted Federal Court defamation proceedings as against Network Ten Pty Limited and Ms Lisa Wilkinson, and we request your advice as to whether you are instructed to accept service of process.

~

Regards

~

Paul Svilans

Principal | Mark O'Brien Legal

~



Level 19, 68 Pitt Street, Sydney NSW 2000 Australia

T [REDACTED] | M [REDACTED]

E [REDACTED]

W [REDACTED]

~

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~

From: O'Beirne, Conor <[REDACTED]>
Sent: Friday, 20 January 2023 4:18 PM
To: Paul Svilans <[REDACTED]>; Mark O'Brien <[REDACTED]>
Cc: Saunders, Marlia <[REDACTED]>; Nygh, Jessie <[REDACTED]>
Subject: Bruce Lehrmann [TGLAW-Legal.FID3782978]

~

Dear Colleagues

~

See **attached** correspondence.

~

Regards

~

Conor O'Beirne | Senior Associate
THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 23, Rialto South Tower, 525 Collins Street, Melbourne VIC 3000 Australia

[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

~

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On 8 Feb 2023, at 7:29 am, Lisa Wilkinson
[REDACTED] wrote:

Dear Tasha and Marlia,

Is this headline in the Australian correct? That I am
now being sued?

<https://www.theaustralian.com.au/nation/reckless-y-indifferent-to-truth-bruce-lehrmann-sues-lisa-wilkinson-for-damages/news-story/3ca4994cfdc5fd58d80c57f74b0f1e11>

Sent from my iPad

Today's headlines

From: Lisa Wilkinson <[REDACTED]>
To: Tasha Smithies - Ten Legal <[REDACTED]>; "Saunders, Marlia" <[REDACTED]>; Nick Fordham <[REDACTED]>
Date: Wed, 08 Feb 2023 07:29:26 +1100

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Sent from my iPad

From: Nick Fordham [REDACTED]
Sent: Wednesday, February 8, 2023 7:40 AM
To: Lisa Wilkinson External [REDACTED]
Cc: Tasha Smithie [REDACTED] Marlia
Saunders [REDACTED] Beverley McGarvey
[REDACTED] Catherine Donovan
Subject: Re: Today's headlines

Hi all,

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Date: Wed, 08 Feb 2023 07:39:48 +1100

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CHIEF EXECUTIVE OFFICER

THE FORDHAM COMPANY

www.thefordhamcompany.com.au

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Date: Wed, 08 Feb 2023 07:46:38 +1100

We have not yet seen the actual claim document, its likely its been provided to press before being served. From what we can tell it's likely that you may have also been named as a Defendant separately and In addition to N10. Marlia was going to call you yesterday, but you may not have had the opportunity to speak. We are also speculating that also Chris Bendall and 7pm company may also have been named.

Tasha Smithies
Sr Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

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www.thefordhamcompany.com.au

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From: Beverley McGarvey <[REDACTED]>
Date: 10 February 2023 at 8:13:59 am AEDT
To: Nick Fordham <[REDACTED]>, Lisa Wilkinson External
<[REDACTED]>
Cc: Tasha Smithies <[REDACTED]>, Marlia Saunders <[REDACTED]>,
Catherine Donovan <[REDACTED]>
Subject: RE: Today's headlines

Hi Nick,

Just an note from me to say all the relevant parties remain very committed to managing this but as we had said many times now this is a legal matter and therefore we are taking guidance from our lawyers.

The ongoing implication that our Comms team are not doing their job is unfair, we are taking our legal obligations very seriously. Also, we cannot control publications who clearly have their own agendas, we do not like how they are representing the situation but we cannot change their narrative.

I was due to meet Lisa on Wednesday but given how the day played out that felt unwise and she suggested the 3 of us meet. I am more than happy to do so but in order for us to have proper conversations we should have our legal advisors attend as well and Lisa and I can meet for a catch up later in the month.

I appreciate this is a very challenging period and none of us like the brand damage but we are going to have to work through the process.

Kind regards,

Bev

Beverley McGarvey

EVP & Chief Content Officer, Paramount ANZ

O [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009

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EVP & Chief Content Officer, Paramount ANZ

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Date: Wed, 08 Feb 2023 07:45:51 +1100

We haven't been served with the documents yet but the online court listing indicates that Network Ten and other respondents have been sued - you can see that from "and ors" which means "and

We should receive the documents this morning so will update you further.

7:42



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Name	File Number	File Title	Application	Filing Date	Registry	Status
LEHRMANN, BRUCE	NSD103/2023	BRUCE LEHRMANN v NETWORK TEN PTY LIMITED ACN <u>052 515 250</u> AND ORS	Miscellaneous	07-Feb-2023	NSW	Open
LEHRMANN, BRUCE	NSD104/2023	BRUCE LEHRMANN v NEWS LIFE MEDIA PTY LTD & ANOR	Miscellaneous	07-Feb-2023	NSW	Open

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☐ Partial

Filing date - From:



To:



Court:

File status:

Registry:

Application Type:

440

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--tgsignature--

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Sent from my iPad

274

Wed, 8 Feb at 9:25 am

Hi Lisa,

Let's reschedule our lunch today, I want to make time today to get across all the events of yesterday as I am sure you do and turns out to not be the best day for either of us. I will get Ruby to check your avails in a few weeks. Maybe the last week of Feb if you are in town? I would like to catch up. Kind regards, Bev

Wed, 8 Feb at 10:38 am

Hi Bev, totally understand.

I think we both have a lot to get our heads around now.

I am away from this weekend and not back on deck until March 14.

Given the events of this week, and an urgent need to have a proper strategised plan going forward on a number of fronts, Nick has suggested that the three of us meet privately at his place in Woolahra on Friday. I'm good any time after 12. Let me know if that works for

983



4G 95%

New iMessage

Cancel

To: Beverly McGarvey |



of us meet privately at his place in Woolahra on Friday. I'm good any time after 12. Let me know if that works for you.

Best regards, Lisa.

Wed, 8 Feb at 12:23 pm

Hi Lisa,
I'll reply to Nick but any meeting will have to have lawyers there to give us proper advice. Let me sort. Bev

Ok, thanks Bev. I will leave to you and Nick to sort.

‘Recklessly indifferent to truth’: Bruce Lehrmann sues Lisa Wilkinson for damages

By JANET ALBRECHTSEN
COLUMNIST
Follow [@jkalbrechtsen](#)

and REMY VARGA
NSW REPORTER
Follow [@RemyVarga](#)

10:22AM FEBRUARY 8, 2023

Former Liberal staffer Bruce Lehrmann is suing Channel 10 and its star Lisa Wilkinson for defamation, accusing them of seeking to exploit allegations of sexual assault against him for personal and professional gain.

Mr Lehrmann, who has consistently denied raping former colleague Brittany Higgins, has launched defamation proceedings against Network Ten and News Life Media Pty Ltd – an arm of News Corp Australia – in Federal Court.

Wilkinson, former co-host of The Project, and Samantha Maiden, political editor for news.com.au, are understood to be second respondents in proceedings.

Mr Lehrmann further claims Wilkinson and Network Ten were “recklessly indifferent to the truth or falsity” when they alleged he raped Ms Higgins on the couch in the ministerial office of then defence industry minister Linda Reynolds in the early hours of March 23, 2019.

The statement of claims references Ms Higgins’ evidence from the aborted trial against Mr Lehrmann before the ACT Supreme Court when the former staffer said Maiden and Wilkinson had fought for the exclusive publication of her alleged story.

The statements of claim said it could be inferred that Wilkinson “was seeking to exploit the false allegations of sexual assault as made by Ms Higgins for her own personal and professional gain”.

Mr Lehrmann further claims that Wilkinson and Network Ten were “recklessly indifferent to the truth or falsity of the imputations.”

Brittany Higgins took to Twitter on Wednesday to repost a tweet she had published on December 7, with the words “A timely reminder”.

The December tweet read: “Following recent developments, I feel the need to make it clear if required I am willing to defend the truth as a witness in any potential civil cases brought about by Mr Lehrmann.”

Mr Lehrmann is being represented by defamation specialists Mark O'Brien Legal. It is understood defamation expert Matthew Richardson SC and barrister Steven Whybrow SC, who represented Mr Lehrmann during the trial, have been retained to run matters together.

The Project and news.com.au published Ms Higgins' allegations in broadcasts and online stories on February 15 in 2021. The original reports did not name Mr Lehrmann. The former staffer is claiming he was easily identified by a description as a senior staffer in Senator Reynolds's office.

“By reason of publication of the matters complained of, the applicant has been greatly injured in his personal and professional reputation and has been and will be brought into public disrepute, odium, ridicule and contempt.”

Ms Higgins alleged Mr Lehrmann raped her on a couch in Senator Reynolds's office in the early hours of March 23, 2019, after a night out.

The high-profile trial was aborted in October 2022 due to juror misconduct.

Mr Lehrmann pleaded not guilty at his trial and has at all times denied the allegations.

The DPP has now withdrawn the charges, with ACT director of public prosecutions Shane Drumgold citing concern for Ms Higgins's mental health.

The Australian approached Network Ten and Wilkinson for comment.

JANET ALBRECHTSEN, COLUMNIST

Janet Albrechtsen is an opinion columnist with The Australian. She has worked as a solicitor in commercial law, and attained a Doctorate of Juridical Studies from the University of Sydney. She has written for numer... [Read more](#)



REMY VARGA, NSW REPORTER

Remy Varga is the NSW Reporter for The Australian newspaper and covers crime, politics, and art. She can be contacted on remy.varga@theaustralian.com.au or remyvarga@protonmail.com.... [Read more](#)



TRENDING

'No apology': Dreyfus explodes over detainees

By RHIANNON DOWN



'Brittany's good looking, call her,' said Lehrmann

By ELLIE DUDLEY



'Thanks gorgeous!': Ombudsman calls out lack of 'boundaries'

By RACHEL BAXENDALE



The Black Friday boom was nation defining

By ROBERT GOTTLIEBSEN



Reality star's widow sues CASA and Outback Wrangler Matt Wright

By KRISTIN SHORTEN



'Dan had same number of private staff as PM and NSW premier combined'

By DAMON JOHNSTON



10/0000000000

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WEDNESDAY
February 8, 2023
Printed 6:00pm

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PAUL KELLY (P1)
**LESSON
OF PELL'S
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COMMENTARYLIFETIMES
**NEW ERA OF
ZAMPATTI**
Filling an icon's huge shoes (P12)WORLD (P9)
**DIG OF THE
DESPERATE**
Quake toll could hit 20,000

'Indoctrination' claim as schools take voice to classrooms

EXCLUSIVE

(11/11/0000000000)

Victims will back the Indigenous voice being given to schools as part of the state's "journey to Treaty", as schools across the nation submit students to meet with the Uru Statement, the NSW Education Department's voice advisory committee to speak in assemblies and

work the referendum into classroom lessons.

South Australia's Education Department is also 'supportive of the Uru Statement, the Indigenous voice ... and the referendum' being taught and discussed in schools, while the Queensland government has encouraged open discussion with students about the referendum.

NSW teachers, however, will be restricted to teaching within

current programs. Most schools intend to educate children on the referendum and the Education Department of the biggest Labor state has been 'important' to discuss in classrooms.

"Conversations about the proposed Indigenous voice to parliament at school are important for students understanding the referendum journey to Treaty and the important work of the Victorian Justice Commission," a Victorian

Education Department spokesman said.

State Education Minister Nicola Hocking said it was 'normal and important' for students to talk about current affairs in class.

Victoria supports the Uru Statement and we've committed to supporting the voice to parliament along with all other states and territories in Australia," Mr Hocking said.

"The voice referendum will be a

defining moment in our nation's history, and classroom conversations around major current affairs are an essential and important part of students' understanding and engagement."

A South Australian Education Department spokesman said teaching students about 'important public issues along with how society and government address these issues' was a specific focus of humanities and social sciences

within the curriculum. "The voice referendum was opportunistically for students to learn about how society engages with and resolves issues of national significance," the spokesman said.

However, while they were supportive of the voice being taught in schools, teachers must ensure students are provided with balanced and objective information to form their own critical analysis.

Queensland will support open discussion of the voice in schools, and help teachers to ensure students have the skills and knowledge to become active and informed citizens.

"The Uru Statement and proposed constitutional recognition of an Aboriginal and Torres Strait Islander voice in the Australian parliament would be taught for students to explore as part of our resolute-based learning activities,"

a Queensland Education Department spokesman said. "The Queensland government, through a minister of parliament, has never supported the Uru Statement and voice to parliament."

The NSW Education Department has taken a more conservative approach, with teachers

Continued on Page 6

LABOR CAUGHT IN COST-OF-LIVING CRISIS

RBA's rate rises 'to run for months'

PATRICK COMBES
ANALYST
COMBES@COMBES.COM

Reserve Bank governor Philip Lowe has warned homeowners to expect more rate rises "to run for months" as the central bank steps up efforts to bring inflation down, leaving the RBA's new government dogged by a cost-of-living crisis.

After the RBA hiked its cash rate to 4.35 per cent, lifting the cost rate to 3.75 per cent, Mr Lowe said the board was realistic in its determination to return inflation to the bank's 2.5 per cent target range and would "do what is necessary to achieve that".

Mr Lowe committed the board to a steady rise, with the peak at 3.75 per cent by April, rather than 10 per cent.

The RBA board believes the task of bringing inflation down, which is running at a 35-year high of 7.8 per cent, has become more pressing since it met in December and that the path to achieving a soft landing remains narrow.

Mr Lowe acknowledged the "painful squeeze" on household budgets as families struggled to deal with climbing interest rates and said he recognised "the full effect of the cumulative increase in interest rates is yet to be felt in mortgage payments".

A housing mortgage rate of 6.5 per cent is set to force 800,000 households off cheap fixed-rate loans, and into more expensive variable rates over the course of 2023.

Once passed on to borrowers, the RBA's decision will add a further \$14 to the monthly repayment on a \$750,000 mortgage. Since the board started hiking in May, last year a borrower with that sized loan has seen their in-

terest bill rise by \$100 a month, or more than \$600 a year, according to RateCity analysis.

Mr Lowe said the board was realistic in its determination to return inflation to the bank's 2.5 per cent target range and would "do what is necessary to achieve that".

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PM will start to blame for mortgage pain

Reserve Bank governor Philip Lowe has warned homeowners to expect more rate rises "to run for months" as the central bank steps up efforts to bring inflation down, leaving the RBA's new government dogged by a cost-of-living crisis.

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'Recklessly indifferent to truth': Lehrmann sues Lisa for damages



Channel 10 presenter Lisa Lehrmann has been named in a defamation suit by former Liberal staffer Bruce Lehrmann

JANEY ALLRED
JANEY@JANEY.COM

Former Liberal staffer Bruce Lehrmann is suing Channel 10 and its star Lisa Lehrmann for defamation, accusing them of seeking to exploit allegations of sexual assault against him for their own financial gain.

Mr Lehrmann, who has consistently denied raping former colleague Brittany Higgins, has launched a defamation proceedings against Network 10 and News Life 10, an arm of News Corp Australia, in federal court.

Mr Lehrmann, former co-host of The Project, and Samantha Maiden, political editor for news.com.au, are understood to be second respondents in proceedings.

Mr Lehrmann further claims that Higgins and Network 10 were "recklessly indifferent to the truth or falsity of the allegations".

Mr Lehrmann is being represented by defamation specialist Mark O'Brien legal. It is understood that Higgins' claim against Mr Lehrmann was filed in the early hours of March 23, 2021.

The statement of claim alleges that Higgins' evidence from the short trial against Mr Lehrmann before the ACT Supreme Court when the former staffer said Maiden and Higgins had sought to exploit the allegations for their own financial gain.

Mr Lehrmann further claims that Higgins and Network 10 were "recklessly indifferent to the truth or falsity of the allegations".

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Revealed: alleged crimes of principal

ANNE H. CROFT

Police allege former Jewish school principal Marka Lehrmann committed a litany of sexual offences against students, including at a school camp, in a school office, at the library and at her home between 2005 and 2007, police criminal law specialist says.

Details of accusations against Mr Lehrmann, located in Victoria's west, were revealed in a indictment returned by County Court judge Mark Gambale after a jury was empanelled on Tuesday.

Mr Lehrmann, 56, has been charged with 24 offences that allegedly occurred when he was the principal of the elite Orthodox Jewish school in Thornbury, located in Victoria's west, between 2005 and 2007.

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THE AUSTRALIAN
For the informed Australian

‘Recklessly indifferent to truth’: Bruce Lehrmann sues Lisa Wilkinson for damages

By JANET ALBRECHTSEN
COLUMNIST
Follow [@jkalbrechtsen](#)

and REMY VARGA
NSW REPORTER
Follow [@RemyVarga](#)

10:22AM FEBRUARY 8, 2023

Former Liberal staffer Bruce Lehrmann is suing Channel 10 and its star Lisa Wilkinson for defamation, accusing them of seeking to exploit allegations of sexual assault against him for personal and professional gain.

Mr Lehrmann, who has consistently denied raping former colleague Brittany Higgins, has launched defamation proceedings against Network Ten and News Life Media Pty Ltd – an arm of News Corp Australia – in Federal Court.

Wilkinson, former co-host of The Project, and Samantha Maiden, political editor for news.com.au, are understood to be second respondents in proceedings.

Mr Lehrmann further claims Wilkinson and Network Ten were “recklessly indifferent to the truth or falsity” when they alleged he raped Ms Higgins on the couch in the ministerial office of then defence industry minister Linda Reynolds in the early hours of March 23, 2019.

The statement of claims references Ms Higgins’ evidence from the aborted trial against Mr Lehrmann before the ACT Supreme Court when the former staffer said Maiden and Wilkinson had fought for the exclusive publication of her alleged story.

The statements of claim said it could be inferred that Wilkinson “was seeking to exploit the false allegations of sexual assault as made by Ms Higgins for her own personal and professional gain”.

Mr Lehrmann further claims that Wilkinson and Network Ten were “recklessly indifferent to the truth or falsity of the imputations.”

Brittany Higgins took to Twitter on Wednesday to repost a tweet she had published on December 7, with the words “A timely reminder”.

The December tweet read: “Following recent developments, I feel the need to make it clear if required I am willing to defend the truth as a witness in any potential civil cases brought about by Mr Lehrmann.”

Mr Lehrmann is being represented by defamation specialists Mark O'Brien Legal. It is understood defamation expert Matthew Richardson SC and barrister Steven Whybrow SC, who represented Mr Lehrmann during the trial, have been retained to run matters together.

The Project and news.com.au published Ms Higgins' allegations in broadcasts and online stories on February 15 in 2021. The original reports did not name Mr Lehrmann. The former staffer is claiming he was easily identified by a description as a senior staffer in Senator Reynolds's office.

“By reason of publication of the matters complained of, the applicant has been greatly injured in his personal and professional reputation and has been and will be brought into public disrepute, odium, ridicule and contempt.”

Ms Higgins alleged Mr Lehrmann raped her on a couch in Senator Reynolds's office in the early hours of March 23, 2019, after a night out.

The high-profile trial was aborted in October 2022 due to juror misconduct.

Mr Lehrmann pleaded not guilty at his trial and has at all times denied the allegations.

The DPP has now withdrawn the charges, with ACT director of public prosecutions Shane Drumgold citing concern for Ms Higgins's mental health.

The Australian approached Network Ten and Wilkinson for comment.

JANET ALBRECHTSEN, COLUMNIST

Janet Albrechtsen is an opinion columnist with The Australian. She has worked as a solicitor in commercial law, and attained a Doctorate of Juridical Studies from the University of Sydney. She has written for numer... [Read more](#)



REMY VARGA, NSW REPORTER

Remy Varga is the NSW Reporter for The Australian newspaper and covers crime, politics, and art. She can be contacted on remy.varga@theaustralian.com.au or remyvarga@protonmail.com.... [Read more](#)



TRENDING

'No apology': Dreyfus explodes over detainees

By RHIANNON DOWN



'Brittany's good looking, call her,' said Lehrmann

By ELLIE DUDLEY



'Thanks gorgeous!': Ombudsman calls out lack of 'boundaries'

By RACHEL BAXENDALE



The Black Friday boom was nation defining

By ROBERT GOTTLIEBSEN



Reality star's widow sues CASA and Outback Wrangler Matt Wright

By KRISTIN SHORTEN



'Dan had same number of private staff as PM and NSW premier combined'

By DAMON JOHNSTON



From: O'Beirne, Conor <[REDACTED]>
Sent: Wednesday, 8 February 2023 11:48 AM
To: Paul Svilans
Cc: Saunders, Marlia; Nygh, Jessie; Mark O'Brien
Subject: RE: Bruce Lehrmann [TGLAW-Legal.FID3782978]

Dear Mr Svilans

We hold instructions to accept service on behalf of Network Ten Pty Limited and Ms Lisa Wilkinson.

Regards

Conor O'Beirne | Senior Associate

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 23, Rialto South Tower, 525 Collins Street, Melbourne VIC 3000 Australia

[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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From: Paul Svilans <[REDACTED]>
Sent: Tuesday, 7 February 2023 5:33 PM
To: O'Beirne, Conor <[REDACTED]>
Cc: Saunders, Marlia <[REDACTED]>; Nygh, Jessie <[REDACTED]>; Mark O'Brien <[REDACTED]>
Subject: RE: Bruce Lehrmann

Dear Ms O'Beirne

We refer to your letter to us of 20 January 2023.

We advise that our client has now instituted Federal Court defamation proceedings as against Network Ten Pty Limited and Ms Lisa Wilkinson, and we request your advice as to whether you are instructed to accept service of process.

Regards

Paul Svilans

Principal | Mark O'Brien Legal



Level 19, 68 Pitt Street, Sydney NSW 2000 Australia

T [REDACTED] | M [REDACTED]

E [REDACTED]

W [REDACTED]

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From: O'Beirne, Conor <[REDACTED]>
Sent: Friday, 20 January 2023 4:18 PM
To: Paul Svilans <[REDACTED]>; Mark O'Brien <[REDACTED]>

Cc: Saunders, Marlia <[REDACTED]>; Nygh, Jessie <[REDACTED]>
Subject: Bruce Lehrmann [TGLAW-Legal.FID3782978]

Dear Colleagues

See **attached** correspondence.

Regards

Conor O'Beirne | Senior Associate

THOMSON GEER

T [REDACTED] | **M** [REDACTED]

Level 23, Rialto South Tower, 525 Collins Street, Melbourne VIC 3000 Australia

[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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[EXTERNAL] FW: Bruce Lehrmann [TGLAW-Legal.FID3626446]

From: O'Beirne, Conor <[REDACTED]>
Sent: Wednesday, February 8, 2023 12:24 PM
To: Tasha Smithies <[REDACTED]>; Saunders, Marlia <[REDACTED]>
Subject: RE: Bruce Lehrmann [TGLAW-Legal.FID3626446]

The OA and SOC just came through. See [attached](#).

Lisa is the second respondent.

Conor O'Beirne | Senior Associate

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 23, Rialto South Tower, 525 Collins Street, Melbourne VIC 3000 Australia

[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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From: Tasha Smithies <[REDACTED]>
Sent: Wednesday, 8 February 2023 12:17 PM
To: Saunders, Marlia <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>
Subject: RE: Bruce Lehrmann [TGLAW-Legal.FID3626446]

Hi Marlia and Conor,
Just wondering if we have received the claim? Just curious as the Court listing says 'Ors' so wonder who else is a named

444

Tasha Smithies
Sr Litigation Counsel
O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Saunders, Marlia <[REDACTED]>
Sent: Tuesday, 7 February 2023 5:51 PM
To: Tasha Smithies <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>
Subject: FW: Bruce Lehmann [TGLAW-Legal:FID3626446]

Hi Tasha

FYI – we are not proposing to respond this evening. We'll write back tomorrow and confirm we have instructions to accept service.

Would you like me to call Lisa to let her know?

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER
T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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From: [REDACTED]
Sent: Tuesday, 7 February 2023 5:33 PM
To: O'Beirne, Conor <[REDACTED]>
Cc: Saunders, Marlia <[REDACTED]>; Nygh, Jessie <[REDACTED]>
Subject: RE: Bruce Lehmann

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We advise that our client has now instituted Federal Court defamation proceedings as against Network Ten Pty Limited and Ms Lisa Wilkinson, and we request your advice as to whether you are instructed to accept service of process.

Principal | Mark O'Brien Legal



19, 68 Pitt Street, Sydney NSW 2000 Australia
T [REDACTED]
[REDACTED]
www.markobrienlegal.com.au

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From: O'Beirne, Conor <[REDACTED]>
Sent: Friday, 20 January 2023 4:18 PM
To: [REDACTED]; Mark O'Brien <[REDACTED]>
Cc: Saunders, Maria <[REDACTED]>; Nygn, Jessie <[REDACTED]>
Subject: Bruce Lehrmann [TGLAW-Legal.FID3782978]

Dear Colleagues

attached correspondence.

Conor O'Beirne | Senior Associate
THOMSON GEER
T [REDACTED] M [REDACTED]
Level 23, Rialto South Tower, 525 Collins Street, Melbourne VIC 3000 Australia
[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

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From: [Paul Svilans](#)
Sent: Wednesday, 8 February 2023 12:22 PM
To: O'Beirne, Conor
Cc: Saunders, Marlia; Nygh, Jessie; [Mark O'Brien](#)
Subject: RE: Bruce Lehrmann
Attachments: [Originating Application - Ten.pdf](#)
[Statement of Claim - Ten.pdf](#)
[Genuine Steps Statement - Ten.pdf](#)

Dear Ms O'Beirne

Thank you for your email below.

We note that you have agreed to accept service, and we therefore attach by way of service upon Network Ten Pty Limited and Ms Lisa Wilkinson the following:

- a. Originating application;
- b. Statement of claim;
- c. Genuine steps statement.

Regards

Paul Svilans
Principal | Mark O'Brien Legal



Level 19, 68 Pitt Street, Sydney NSW 2000 Australia
T [REDACTED] | M [REDACTED]
E [REDACTED]
W www.markobrienlegal.com.au

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Cc: Saunders, Marlia <[REDACTED]>; Nygh, Jessie <[REDACTED]>; Mark O'Brien <[REDACTED]>
Subject: RE: Bruce Lehrmann [TGLAW-Legal.FID3782978]

Dear Mr Svilans

We hold instructions to accept service on behalf of Network Ten Pty Limited and Ms Lisa Wilkinson.

Regards

Conor O'Beirne | Senior Associate
THOMSON GEER

T [REDACTED] | M +[REDACTED]

Level 23, Rialto South Tower, 525 Collins Street, Melbourne VIC 3000 Australia

[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

From: Paul Svilans <[REDACTED]>

Sent: Tuesday, 7 February 2023 5:33 PM

To: O'Beirne, Conor <[REDACTED]>

Cc: Saunders, Marlia <[REDACTED]>; Nygh, Jessie <[REDACTED]>; Mark O'Brien <[REDACTED]>

Subject: RE: Bruce Lehrmann

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Regards

Paul Svilans

Principal | Mark O'Brien Legal

**MARK
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LEGAL**
ABN 86 002 421 123

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<[REDACTED]>
Cc: Saunders, Marlia <[REDACTED]>; Nygh, Jessie <[REDACTED]>
Subject: Bruce Lehrmann [TGLAW-Legal.FID3782978]

Dear Colleagues

See **attached** correspondence.

Regards

Conor O'Beirne | Senior Associate
THOMSON GEER
T [REDACTED] | M +[REDACTED]
Level 23, Rialto South Tower, 525 Collins Street, Melbourne VIC 3000 Australia
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NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged:	Originating Application - Form 15 - Rule 8.01(1)
Court of Filing:	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	7/02/2023 3:18:42 PM AEDT
Date Accepted for Filing:	7/02/2023 4:30:39 PM AEDT
File Number:	NSD103/2023
File Title:	BRUCE LEHRMANN v NETWORK TEN PTY LIMITED ACN 052 515 250 AND ORS
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Originating application

No. of 2023

Federal Court of Australia
District Registry: New South Wales
Division: General

Bruce Lehrmann

Applicant

Network Ten Pty Limited ACN 052 515 250 and another named in the schedule

Respondents

To the Respondents

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing:

Place: Federal Court of Australia
Levels 17-22, Law Courts Building
Queens Square Sydney NSW 2000

The Court ordered that the time for serving this application be abridged to

Date:

Signed by an officer acting with the authority
of the District Registrar

Filed on behalf of (name & role of party) Bruce Lehrman, Applicant

Prepared by (name of person/lawyer) Paul Svilans

Law firm (if applicable) Mark O'Brien Legal

Tel [REDACTED] Fax [REDACTED]

Email [REDACTED]

Address for service Level 19, 68 Pitt Street, Sydney NSW 2000
(include state and postcode)

[Version 2 form approved 09/05/2013]

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**Details of claim**

On the grounds stated in the Statement of Claim, the Applicant claims:

1. That the limitation period for bringing this action be extended to 7 February 2023 pursuant to s.56A *Limitation Act* 1969 (NSW).
2. Damages, including general damages and aggravated damages.
3. An order that the Respondents be permanently restrained from publishing the matters complained of (as defined in the Statement of Claim) or any matter that does not differ in substance.
4. An order that the Respondents be permanently restrained from publishing any defamatory imputation of and concerning the Applicant as particularised by the Applicant in his Statement of Claim and found by the Court to be carried by the matters complained of.
5. Interest pursuant to sections 51A and 52 of the *Federal Court of Australia Act* 1976 (Cth) including interest on costs.
6. Costs pursuant to section 43 of the *Federal Court of Australia Act* 1976 (Cth).
7. Such further and other orders as the Court deems fit or thinks necessary.

Applicant's address

The Applicant's address for service is:

Place: c/- Mark O'Brien Legal, Level 19, 68 Pitt Street, Sydney NSW 2000.

Email: paul.svilans@markobrienlegal.com.au

The Applicant's address is 49 Kara View Court, Rangeville QLD 4350.

Service on the Respondents

It is intended to serve this application on all Respondents.

First Respondent's address is: 1 Saunders Street, Pyrmont NSW 2009;

Second Respondent's address is: 1 Saunders Street, Pyrmont NSW 2009.

Date: 7 February 2023

A handwritten signature in black ink, appearing to read "Paul Svilans", is written over a horizontal line.

Signed by Paul Svilans
Lawyer for the Applicant

**Schedule**

No. of 2023

Federal Court of Australia
District Registry: New South Wales
Division: General

Respondents

Second Respondent: Lisa Wilkinson

Date: 7 February 2023

NOTICE OF FILING

Details of Filing

Document Lodged:	Statement of Claim - Form 17 - Rule 8.06(1)(a)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	7/02/2023 3:18:42 PM AEDT
Date Accepted for Filing:	7/02/2023 4:30:59 PM AEDT
File Number:	NSD103/2023
File Title:	BRUCE LEHRMANN v NETWORK TEN PTY LIMITED ACN 052 515 250 AND ORS
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads "Sia Lagos".

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Statement of Claim

No. of 2023

Federal Court of Australia
District Registry: New South Wales
Division: General Division

Bruce Lehrmann

Applicant

Network Ten Pty Limited ACN 052 515 250 and another
Respondents

The Applicant relies on the following facts and assertions:

THE RESPONDENTS

1 The First Respondent is and was at all material times:

- (a) a company duly incorporated and liable to be sued in its own corporate name and style;
- (b) the holder of a commercial television broadcasting licence in respect of the television station known as 'Channel 10';
- (c) the broadcaster, and thereby the publisher, of the television programme called '*The Project*';
- (d) the distributor of the television programme called '*The Project*', which it distributed for broadcast by affiliated television stations in the States and Territories of Australia;
- (e) the owner and/or operator of the website located at the URL address www.10play.com.au (the **10 Play website**), and publisher of material on that website.

Filed on behalf of (name & role of party)	Bruce Lehrmann, Applicant
Prepared by (name of person/lawyer)	Paul Svilans
Law firm (if applicable)	Mark O'Brien Legal
Tel	[REDACTED] Fax -
Email	[REDACTED]
Address for service (include state and postcode)	Level 19, 68 Pitt Street, Sydney NSW 2000

[Form approved 01/08/2011]

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- (f) the administrator and operator of The Project's YouTube channel on the YouTube website at <https://www.youtube.com/@TheProjectTV/featured> and publisher of material on that channel.

- 2 The Second Respondent is a presenter and/or journalist employed by the First Respondent or one of its related corporations for whose conduct the First Respondent is and was vicariously liable.

FIRST MATTER COMPLAINED OF

- 3 On or about 15 February 2021, the Respondents published by television broadcast on 'The Project' words and images of and concerning the Applicant in the Australian Capital Territory and every other State and Territory of Australia (a transcript of which is set out at Annexure "A" hereto, and the Applicant relies upon the images and accompanying words and text)(the **first matter complained of**):

- (a) The first matter complained of was published during the First Respondents' television program 'The Project';
- (b) The Second Respondent was the interviewer of Ms Brittany Higgins and presenter of the segment containing the interview of Ms Higgins;
- (c) The Respondents published the first matter complained of to audiences in the service area of television station Channel 10, being Sydney and its environs;
- (d) The Respondents also published the first matter complained of by broadcasting the matter itself and/or distributing the matter to its affiliates for broadcast throughout the rest of Australia;
- (e) The first matter complained of was viewed by over 500,000 persons;
- (f) The Applicant relies on the grapevine effect in relation to the publication of the first matter complained of;
- (g) Further particulars of publication of the first matter complained of will be supplied following discovery and interrogatories.

- 4 The first matter complained of, in its natural and ordinary meaning, was defamatory of the Applicant and carried the following defamatory imputations of and concerning him:

- (a) *The Applicant raped Brittany Higgins in Defence Minister Linda Reynolds' office in 2019;*
- (b) *The Applicant continued to rape Brittany Higgins after she woke up mid-rape and was crying and telling him to stop at least half a dozen times;*
- (c) *The Applicant, whilst raping Brittany Higgins, crushed his leg against her leg so forcefully as to cause a large bruise;*
- (d) *After the Applicant finished raping Brittany Higgins, he left her on a couch in a state of undress with her dress up around her waist.*

Particulars of parts of the first matter complained of

The Applicant relies on the whole of the first matter complained of as giving rise to each of the imputations pleaded. In particular, the Applicant relies on the following parts of the first matter complained of, adopting the paragraph numbering in Annexure "A" hereto, as follows:

- (a) Imputation 4(a): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (b) Imputation 4(b): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (c) Imputation 4(c): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (d) Imputation 4(d): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 43, 45, 56, 64 - 70, 89, 96 - 107, 142, 143, 156 and 157.

Particulars of identification

- (a) The Applicant worked in the office of Minister Reynolds in a position senior to Ms Higgins;
- (b) The Applicant had attended Friday night drinks organised by Ms Higgins on 22 March 2019;
- (c) The Applicant had started packing up his belongings on the Tuesday morning following a meeting with Fiona Brown;

- (d) The Applicant was working in Sydney in February 2021;
- (e) The Applicant was the person alleged by Ms Higgins to have sexually assaulted her;
- (f) Viewers of the first matter complained of, or some of them, were aware of the matters set out in paragraphs (a) – (e) above;
- (g) By reason of the matters set out in paragraphs (a) – (f) above, the Applicant was identifiable and identified in the first matter complained of, and such identification was reasonable in the circumstances;
- (h) Further, and/or in the alternative to the above, the Applicant was identified by the following persons who viewed the first matter complained of at the time of its publication and reasonably identified the Applicant:
 - (i) Commonwealth politicians, political assistants and staffers, journalists and other persons who worked at Parliament House Canberra;
 - (ii) Family, friends and acquaintances of the Applicant;
- (i) Further, and/or in the alternative to the above, the first matter complained of invited readers to speculate about the identity of the person accused by Ms Higgins of sexually assaulting her from the time of first publication, and such readers had already read and/or subsequently read social media posts and articles published on the Internet which named the Applicant as being the person accused by Ms Higgins of sexually assaulting her, including:
 - (i) <https://kangarocourtsofaustralia.com/2021/02/27/were-young-women-sexually-assaulted-when-bruce-lehrmann-the-alleged-parliament-house-rapist-was-an-official-at-the-anu-un-conference/>
 - (ii) <https://twitter.com/blakandblack/status/1363106005404549121?lang=en>
 - (iii) <https://blotreport.com/2021/02/17/did-morrison-almost-tell-the-truth/>
 - (iv) <https://twitter.com/PeterWMurphy1/status/1362759012719026177>
 - (v) <https://www.clownworldau.com/story/brittany-higgins/>
 - (vi) <https://twitter.com/peakhourimages/status/1363960533964128256?lang=en>

- (vii) <https://www.clownworldau.com/story/bruce-lehrmann-david-sharaz/>
- (viii) <https://www.youtube.com/watch?v=xqUiBWw1q9c>
- (ix) <https://www.townsvillemaggie.com.au/unfriendly-fire-the-real-reason-behind-the-facebook-ban-morrison-s-lip-service-to-stiffen-rupert-s-business-end/> .

SECOND MATTER COMPLAINED OF

5 On or about 15 February 2021, the Respondents published of and concerning the Applicant on the 10 Play website words and images of and concerning the Applicant, in the Australian Capital Territory and every other State and Territory of Australia (a transcript of which is set out at Annexure "A" hereto, and the Applicant relies upon the images and accompanying words and text)(the **second matter complained of**):

- (a) The second matter complained of was published by the Respondents by uploading to and/or causing the uploading to, and thereby making the publication available and/or causing the publication to be made available for download and/or streaming to a large number of users in each State and Territory of Australia of the 10 Play website.
- (b) The Second Respondent was the interviewer of Ms Brittany Higgins and presenter of the segment containing the interview of Ms Higgins;
- (c) The publication was made available for download on and from 15 February 2021 at the web address <https://www.10play.com.au>;
- (d) The second matter complained of was in fact downloaded and/or streamed and viewed in each State and Territory of Australia;
- (e) The Applicant relies on the grapevine effect in relation to the publication of the second matter complained of;
- (f) Further particulars of publication of the second matter complained of will be supplied following discovery and interrogatories.

6 The second matter complained of, in its natural and ordinary meaning, was defamatory of the Applicant and carried the following defamatory imputations of and concerning him:

- (a) *The Applicant raped Brittany Higgins in Defence Minister Linda Reynolds' office in 2019;*
- (b) *The Applicant continued to rape Brittany Higgins after she woke up mid-rape and was crying and telling him to stop at least half a dozen times;*
- (c) *The Applicant, whilst raping Brittany Higgins, crushed his leg against her leg so forcefully as to cause a large bruise;*
- (d) *After the Applicant finished raping Brittany Higgins, he left her on a couch in a state of undress with her dress up around her waist.*

Particulars of parts of the second matter complained of

The Applicant relies on the whole of the second matter complained of as giving rise to each of the imputations pleaded. In particular, the Applicant relies on the following parts of the second matter complained of, adopting the paragraph numbering in Annexure "A" hereto, as follows:

- (a) Imputation 4(a): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (b) Imputation 4(b): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (c) Imputation 4(c): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (d) Imputation 4(d): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 43, 45, 56, 64 - 70, 89, 96 - 107, 142, 143, 156 and 157.

Particulars of identification

- (a) The Applicant worked in the office of Minister Reynolds in a position senior to Ms Higgins;
- (b) The Applicant had attended Friday night drinks organised by Ms Higgins on 22 March 2019;
- (c) The Applicant had started packing up his belongings on the Tuesday morning following a meeting with Fiona Brown;

- (d) The Applicant was working in Sydney in February 2021;
- (e) The Applicant was the person alleged by Ms Higgins to have sexually assaulted her;
- (f) Viewers of the second matter complained of, or some of them, were aware of the matters set out in paragraphs (a) – (e) above;
- (g) By reason of the matters set out in paragraphs (a) – (f) above, the Applicant was identifiable and identified in the second matter complained of, and such identification was reasonable in the circumstances;
- (h) Further, and/or in the alternative to the above, the Applicant was identified by the following persons who viewed the second matter complained of at the time of its publication and reasonably identified the Applicant:
 - (i) Commonwealth politicians, political assistants and staffers, journalists and other persons who worked at Parliament House Canberra;
 - (ii) Family, friends and acquaintances of the Applicant;
- (i) Further, and/or in the alternative to the above, the second matter complained of invited readers to speculate about the identity of the person accused by Ms Higgins of sexually assaulting her from the time of first publication, and such readers had already read and/or subsequently read social media posts and articles published on the Internet which named the Applicant as being the person accused by Ms Higgins of sexually assaulting her, including:
 - (i) <https://kangarocourtsofaustralia.com/2021/02/27/were-young-women-sexually-assaulted-when-bruce-lehrmann-the-alleged-parliament-house-rapist-was-an-official-at-the-anu-un-conference/>
 - (ii) <https://twitter.com/blakandblack/status/1363106005404549121?lang=en>
 - (iii) <https://blotreport.com/2021/02/17/did-morrison-almost-tell-the-truth/>
 - (iv) <https://twitter.com/PeterWMurphy1/status/1362759012719026177>
 - (v) <https://www.clownworldau.com/story/brittany-higgins/>
 - (vi) <https://twitter.com/peakhourimages/status/1363960533964128256?lang=en>

- (vii) <https://www.clownworldau.com/story/bruce-lehrmann-david-sharaz/>
- (viii) <https://www.youtube.com/watch?v=xqUjBWw1q9c>
- (ix) <https://www.townsvillemagpie.com.au/unfriendly-fire-the-real-reason-behind-the-facebook-ban-morrison-s-lip-service-to-stiffen-rupert-s-business-end/> .

THIRD MATTER COMPLAINED OF

7 On or about 15 February 2021 and thereafter the Respondents published of and concerning the Applicant, on The Project's YouTube channel on the YouTube website at the URL <https://www.youtube.com/@TheProjectTV/featured>, a video segment titled *"Former Liberal Staffer Speaks Up About her Alleged Rape in Parliament House"* containing words and images of and concerning the Applicant, in the Australian Capital Territory and every other State and Territory of Australia, (a transcript of which is set out at Annexure "A" hereto, and the Applicant relies upon the images and accompanying words and text)(the **third matter complained of**):

- (a) The third matter complained of was published by the Respondents by uploading to and/or causing the uploading to, and thereby making the publication available and/or causing the publication to be made available for downloading and/or viewing to a large number of viewers including subscribers of The Project's YouTube channel;
- (b) The Second Respondent was the interviewer of Ms Brittany Higgins and presenter of the segment containing the interview of Ms Higgins;
- (c) The publication was made available for downloading and/or viewing on and from 15 February 2021;
- (d) There were about 459,704 views of the third matter complained of;
- (e) The Applicant relies on the grapevine effect in relation to the publication of the third matter complained of;
- (f) Further particulars of publication of the third matter complained of will be supplied following discovery and interrogatories.

8 The third matter complained of, in its natural and ordinary meaning, was defamatory of the Applicant and carried the following defamatory imputations of and concerning him:

- (a) *The Applicant raped Brittany Higgins in Defence Minister Linda Reynolds' office in 2019;*
- (b) *The Applicant continued to rape Brittany Higgins after she woke up mid-rape and was crying and telling him to stop at least half a dozen times;*
- (c) *The Applicant, whilst raping Brittany Higgins, crushed his leg against her leg so forcefully as to cause a large bruise;*
- (d) *After the Applicant finished raping Brittany Higgins, he left her on a couch in a state of undress with her dress up around her waist.*

Particulars of parts of the third matter complained of

The Applicant relies on the whole of the third matter complained of as giving rise to each of the imputations pleaded. In particular, the Applicant relies on the following parts of the third matter complained of, adopting the paragraph numbering in Annexure "A" as follows:

- (a) Imputation 4(a): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (b) Imputation 4(b): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (c) Imputation 4(c): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (d) Imputation 4(d): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 43, 45, 56, 64 - 70, 89, 96 - 107, 142, 143, 156 and 157.

Particulars of identification

- (a) The Applicant worked in the office of Minister Reynolds in a position senior to Ms Higgins;
- (b) The Applicant had attended Friday night drinks organised by Ms Higgins on 22 March 2019;
- (c) The Applicant had started packing up his belongings on the Tuesday morning following a meeting with Fiona Brown;

- (d) The Applicant was working in Sydney in February 2021;
- (e) The Applicant was the person alleged by Ms Higgins to have sexually assaulted her;
- (f) Viewers of the second matter complained of, or some of them, were aware of the matters set out in paragraphs (a) – (e) above;
- (g) By reason of the matters set out in paragraphs (a) – (f) above, the Applicant was identifiable and identified in the third matter complained of, and such identification was reasonable in the circumstances;
- (h) Further, and/or in the alternative to the above, the Applicant was identified by the following persons who viewed the third matter complained of at the time of its publication and reasonably identified the Applicant:
 - (i) Commonwealth politicians, political assistants and staffers, journalists and other persons who worked at Parliament House Canberra;
 - (ii) Family, friends and acquaintances of the Applicant;
- (i) Further, and/or in the alternative to the above, the third matter complained of invited readers to speculate about the identity of the person accused by Ms Higgins of sexually assaulting her from the time of first publication, and such readers had already read and/or subsequently read social media posts and articles published on the Internet which named the Applicant as being the person accused by Ms Higgins of sexually assaulting her, including:
 - (i) <https://kangarocourtsofaustralia.com/2021/02/27/were-young-women-sexually-assaulted-when-bruce-lehrmann-the-alleged-parliament-house-rapist-was-an-official-at-the-anu-un-conference/>
 - (ii) <https://twitter.com/blakandblack/status/1363106005404549121?lang=en>
 - (iii) <https://blotreport.com/2021/02/17/did-morrison-almost-tell-the-truth/>
 - (iv) <https://twitter.com/PeterWMurphy1/status/1362759012719026177>
 - (v) <https://www.clownworldau.com/story/brittany-higgins/>
 - (vi) <https://twitter.com/peakhourimages/status/1363960533964128256?lang=en>

- (vii) <https://www.clownworldau.com/story/bruce-lehrmann-david-sharaz/>
- (viii) <https://www.youtube.com/watch?v=xgUjBWw1q9c>
- (ix) <https://www.townsvillemagpie.com.au/unfriendly-fire-the-real-reason-behind-the-facebook-ban-morrisons-lip-service-to-stiffen-ruperts-business-end/> .

DAMAGE

- 9 The Applicant's hurt and harm occasioned by the publication of the matters complained of was aggravated by his knowledge of the following:
- (a) The Respondents were recklessly indifferent to the truth or falsity of the imputations carried by the matters complained of in publishing the assertions and allegations giving rise to the imputations without giving the Applicant a reasonable opportunity to respond;
 - (b) The evidence of Ms Brittany Higgins in the ACT criminal proceedings brought against the Applicant to the effect that the Second Respondent was "fighting" with Ms Samantha Maiden, the Political Editor at news.com.au, over exclusive publication of Ms Higgins' claims of sexual assault for the purpose of winning a Walkley award, from which it is to be inferred that the Second Respondent was seeking to exploit the false allegations of sexual assault as made by Ms Higgins for her own personal and professional gain;
 - (c) The publication by the Second Respondent on her Instagram account of her interview with Ms Higgins;
 - (d) The false assertions in the letter from the solicitors for the First Respondent to the solicitors for the Applicant dated 20 January 2023 that the matters complained of "*consistently make clear*" that Ms Higgins' statements were "*claims*" or "*allegations*" rather than proven facts, despite the matters complained of containing factual assertions including the following:

Brittany Higgins: "The first thing that sort of awoke me was... I was in a pain. My leg was kind of being crushed. The senior staffer was on top of me. He was clearly almost finished [...] I woke up mid-rape essentially. I don't know why I knew he was almost finished but I'd felt like it had been

going on for a while or that he was almost done. He was sweaty. I couldn't get him off of me. At this point I started crying."

Lisa Wilkinson: "What did you say to him?"

Brittany Higgins: "I told him to stop."

Lisa Wilkinson: "Did he?"

Brittany Higgins: "No."

Lisa Wilkinson: "How many times would you estimate you said to him to stop?"

Brittany Higgins: "I felt like it was on a loop endlessly. At least half a dozen. I was crying the whole way through it."

...

Lisa Wilkinson: "What was her tone towards you until you told her that you had been raped?"

[...]

Brittany Higgins: "She asked me to recount the events of the night [...] that was sort of the first time I'd vocalised that I'd been raped. And I think as I was telling it, it was the first time I had sort of pieced it together myself what had happened was an assault..."

Lisa Wilkinson: "We now return to our interview with Brittany Higgins, the young Liberal staffer who tells us she was raped inside Parliament House."

Lisa Wilkinson: "So you had just told a senior advisor to Prime Minister Scott Morrison that you had been raped on Minister Reynold's couch in her private office?"

Brittany Higgins: "Yes."

Lisa Wilkinson: "That's a serious crime." [Emphasis added]

Brittany Higgins: "Yeah."

Brittany Higgins: "It felt like everyone had all this information on my own assault and I didn't have any..."

...

Lisa Wilkinson: "So what's happened to the man that you say raped you on Minister Reynold's couch?"

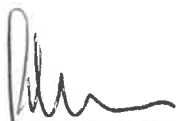
...

Lisa Wilkinson: "If everything that you say is true, it sounds to me like the easiest place in this country to rape a woman, and get away with it, is Parliament House in Canberra."

Brittany Higgins: "Yeah."

- (e) The encouragement by the First and Second Respondents for readers to read and/or share by social media the second and third matters complained of;
- (f) The conduct of the First and Second Respondents in presenting the publication of the matters complained of in an over-sensationalised manner indicating intent to injure the Applicant;
- (g) Further particulars of aggravated damages will be provided in due course.

Date: 7 February 2023



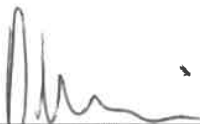
Signed by Paul Svilans
Lawyer for the Applicant

This pleading was prepared by Mark O'Brien and Paul Svilans, solicitors and Matthew Richardson SC and Steven Whybrow SC

Certificate of lawyer

I, Paul Svilans, certify to the Court that, in relation to the Statement of Claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 7 February 2023



Signed by Paul Svilans, Lawyer for the Applicant

“A”

1.		[Photograph of Brittany Higgins's Parliament of Australia identification card]
2.	LW	<p>Welcome back to this special edition of The Project.</p> <p>Tonight claims of rape, roadblocks to a police investigation and a young woman forced to choose between her career and the pursuit of justice, and it all happened right in the heart of our democracy.</p> <p>Brittany Higgins says the government betrayed her. I sat down with her for this exclusive television interview. And, a warning, this story contains confronting allegations.</p>
3.	LW	26-year-old Brittany Higgins has worked as a Media Advisor to three liberal ministers over the last two years. First, Steve Ciobo the Minister for Defence Industries, but he lost that portfolio.
4.	BH	So, on the basis of Steve being demoted, I immediately lost my job.
5.	LW	But Brittany was one of the fortunate few who found a place with new Minister Linda Reynolds.
6.	BH	I think three of us out of a team of twenty made it into Minister Reynolds' existing team.
7.	LW	Can you describe how you were treated professionally by one of the senior male advisors to Minister Reynolds?
8.	BH	Yeah. So immediately it became clear that this person was quite...um, had a special bond with the Minister. It was very clear that he was sort of her go-to person, and he was really quite territorial of that position. It was difficult, you know, I was just grateful to have a job. I didn't care. I was just gonna do it. I didn't, I didn't really care how they treated me I was just grateful.
9.	LW	So, he was a bit of a favourite of Minister Reynolds?
10.	BH	Yeah. Very much so. Um, he had been advising her in the home affairs portfolio prior to that. He had a lot of friends everywhere. He was considered one of the, sort of, rising stars.
11.	LW	On the 22 nd of March 2019, less than three weeks after she'd started in Linda Reynolds' office, Brittany organised Friday night drinks with contacts and colleagues in Defence.
12.	LW	So, how did this senior male colleague act towards you?
13.	BH	He was nice to me. I think, I think he was grateful that I invited him. I was kind of happy that I had an opportunity to, kind of, demonstrate some value to the team, I guess. I noticed that he was buying me a lot of drinks and I was kind of...I just, sort of... (unclear) job well done. I thought I was, kind of, broadly being rewarded in a weird way.
14.	LW	So would you say you were drunk when you decided to go home?

15.	BH	Oh, absolutely. I um, the, sort of, the thing that pre-empted me deciding that I had to go home, um, I fell over in front of people. I pretty much face-planted. Um, I had scuffed my knee and at that point I was like "okay. I'm really... I have to leave"
16.	LW	Did you at any point in that evening to the best of your knowledge indicate to him that you were in any way interested in him romantically or sexually?
17.	BH	No. Not at all. I started that night with a different date. Like. I wasn't there for him at all. Um, and I invited him in a professional context, so I just...no. My, uh, senior male colleague, he was actually quite a help in terms of getting me into a cab on the basis that I really couldn't walk. I mean, I don't specifically remember the exact conversation, but the general tone was "we live in the same direction, but I've gotta stop somewhere first"
18.	LW	Where was that somewhere?
19.	BH	Parliament. So he wanted to go to Parliament House.
20.	LW	Why?
21.	BH	He just had to pick something up. Some vague non-descript something. He paid the fare. He got out. It felt better to go into the building than stand outside in the dark by myself. I just remember we went through the Ministerial entrance, which is the back entrance. And it's the only entrance you can get into Parliament out of hours. And then you go through to another checkpoint, and this is where physical security guards are. It's like airport security, you've gotta, sort of, take off all your metal things, take off your shoes, go through. And I think at this point I remember him saying something to the effect of "just...just be quiet"
22.	LW	So once you passed through security, where did you go?
23.	BH	We went up the lift, into Minister Reynolds' suite.
24.	BH	I remember that he was taking a really long time with something so I got to the point where I don't know if he guided me there or if I went there myself, but I ended up laying down and passing out on the Minister's couch.
25.	LW	So what's the next thing that you remember happening?
26.	BH	The first thing that, sort of, awoke me, was I was in a pain, my leg was kind of being crushed. The senior staffer was on top of me. He was clearly almost finished. Um.
27.	LW	Sorry. Was there sexual intercourse going on?
28.	BH	Yeah. I was, I was. I woke up mid-rape, essentially. Um I, I don't know why I knew he was almost finished, but I, I'd felt like it had been going on for a while, or that he was almost done. He was sweaty, I couldn't get him off of me. At this point I started crying.
29.	LW	What did you say to him?

30.	BH	I told him to stop.
31.	LW	Did he?
32.	BH	No.
33.	LW	How many times would you estimate you said to him to stop?
34.	BH	I felt like it was like on a loop endlessly. Um, at least half a dozen. I was crying the whole way through it. And we, he didn't speak to me the entire time. I just remember him eventually...he stopped. And he got up. And he looked at me and I kind of looked at him, and I couldn't get up, and then he left.
35.		[Photograph of a leg with bruise on upper thigh – white circle indicating bruise]
36.	LW	You have a photo that you took of a bruise that developed from that night. What does that photograph show?
37.	BH	It's quite a large bruise. It's just the weight, obviously of his leg pinning me down.
38.	LW	So, you've since learned that a security guard did come into the room after the alleged rape took place.
39.	BH	Yeah
40.	LW	Can you understand how someone whose job it is to keep Parliament House secure would not call for medical help?
41.	BH	No. I wrestle with it myself all the time. Um. Yeah. I don't know.
42.	LW	So when you finally woke up...
43.	BH	They were sort of yelling out to the office, just checking, cause they broadly, sort of, had an understanding that something had happened. Um.
44.	LW	Can you describe what state you were in?
45.	BH	My dress was up around my waist, the straps were kind of down. I was pretty dishevelled. I was scared that I was at work. My first thought was "oh my god, I'm at work", um.
46.	LW	How many security guards did you see on the way out?
47.	BH	I saw the two gentleman at the, um, ministerial entrance on the way out.
48.	LW	Did any of those security guards ask if you were okay?
49.	BH	No...No.
50.	LW	What happened when you got back to your apartment?
51.	BH	My roommate thought it was kind of weird and I was acting weird. Um, but I just sat in my room all day and cried.

52.	LW	Monday morning, Brittany went to work as usual. So did her senior colleague, the alleged rapist, but no one raised the weekend security breach. That came on Tuesday morning.
53.	BH	So, immediately the tone in the office had changed and we had an acting manager, we call them Chiefs of Staff, named Fiona Brown and she had been seconded from the Prime Minister's office and she is the Director of Operations, so, um, she came in on the Tuesday morning and asked if the senior colleague and I would go into the office and speak with her. So, she originally brought in the senior colleague and they were probably in there for about 45 minutes.
54.	LW	So, this colleague came out.
55.	BH	Yeah. So he immediately walked out of the office and started packing up his things.
56.	LW	So what was her tone towards you, until you told her that you had been raped?
57.	BH	It was very procedural. It felt like a disciplinary meeting. It was... "we've been made aware of the events and that you guys were here after hours and you know that's not acceptable", um, and then she made me rescind this thing called the Ministerial Code of Conduct... and it's...
58.	LW	Why was that?
59.	BH	I don't really know. I think I guess because we were acting in a way that was out of...um, not in accordance with the code of conduct. She asked me to just recount the events of the night. I started from the start and I went all the way through. And that was sort of the first time I'd vocalised that I'd been raped, and I think as I was telling it, it was the first time I'd sort of pieced it together myself, what had happened was an assault and that was when the entire, sort of, tone changed I think. Yeah. Then she, sort of, moved into sort of, a different hat came on and she wasn't disciplining me, it was more about managing a situation.
60.	LW	What does that mean?
61.	BH	It felt like it became...this was like, immediately became sort of like the political problem. It felt like that immediately. It wasn't a staffing problem, it wasn't a HR problem, it wasn't a human problem, but it, it immediately was like "okay. We have an issue".
62.	LW	Coming up... How the government responded to Brittany's shocking claims and held a meeting in the same room that the alleged incident took place.
63.	BH	This is where it's happened, it's right there. It was unfathomable that they would put me in that space again.
[break]		
64.	LW	Welcome back. We now return to our interview with Brittany Higgins, the young liberal staffer who tells us she was raped inside Parliament House.
65.	LW	So, you had just told a senior advisor...

66.	BH	Yeah
67.	LW	...to Prime Minister Scott Morrison that you had been raped on Minister Reynolds' couch in her private office.
68.	BH	Yes
69.	LW	That's a serious crime.
70.	BH	Yeah.
71.	LW	What support were you given by Fiona Brown?
72.	BH	Um. We have an employee assistance program, and I remember she gave me a brochure for the employee assistance program, and I think she told me that day that I could take the rest of the day off. And I, I did.
73.	LW	So what was in the brochure that you left with?
74.	BH	Oh uh, A phone number. I, I did call it. Um, I think it was like a two month wait to speak to a psychologist.
75.	LW	Did she call the police?
76.	BH	She said internal mechanisms were already at play.
77.	LW	What does that mean?
78.	BH	Inside of Parliament House, it's its own unique AFP unit, and so they act independently from the ACT Police and they're a brand to the federal police. Apparently, it was this automatic sort of series of events that had been triggered on the basis that there'd been a breach of security in the Minister's office.
79.	LW	The fact is different rules apply in the building behind me. The internal police force answers to politicians, Parliament's presiding officers, rather than the bosses at the Australian Federal Police.
80.	GW	Parliament jealously guards its protections. It doesn't like outside interference. And as a result sets up systems and laws that preserve its ability to function free of interference.
81.	LW	Constitutional lawyer, Professor George Williams
82.	GW	It does mean we need to be weary sometimes, because there's a lot of vested self interest in making sure that politicians protect themselves, protect their party members and the like, and that can be an impediment to actually getting just outcomes on the law enforced properly.
83.	LW	Brittany was interviewed by the Parliament House police unit.
84.	LW	Did you ask to see the CCTV footage of you on that night into the morning?
85.	BH	Yeah.
86.	LW	Do you know how far that CCTV followed you?

87.	BH	It, it went from the very front entrance of uh where the taxi would have stopped, all the way through going through security, all the way up to suite.
88.	LW	Because at this point, you knew that quite a few people had seen this CCTV footage.
89.	BH	Yeah... Yeah. I knew that Fiona had seen it, um, I knew that, sort of, one of my other colleagues had seen it from Defence, and so it was this strange thing where it felt like everyone had all this information on my own assault and I didn't have any and I, I desperately wanted to. I asked at least half a dozen times to see that CCTV and um, she always said no.
90.	LW	Who's she?
91.	BH	Uh Fiona.
92.	LW	How did that make you feel?
93.	BH	Um. It hurt. It really hurt. It felt like a betrayal for them to, sort of, withhold this one really small thing that I, I needed just personally for myself to process, to move on. Um, Or just to understand what had happened to me. Um. Yeah, it really hurt. I don't know why. It really upset me.
94.	LW	So when did Minister Reynolds speak to you about what happened?
91A		[Video of Phone showing message chain, panning from Fiona Browns name and the date '31 Mar 2019' at the top of the screen to a message stating "Linda just wants to catch up with you to see how you are as you've not caught up, look forward to seeing you, a busy week ahead!!! Best, Fiona" sent at 4:06pm]
95.	BH	So I got a WhatsApp from Fiona Brown indicating that Minister Reynolds would like to have a meeting with me and Fiona on the following Monday and I kind of expected to walk into Fiona's office, where we'd been having all of our other meetings and um, we actually went into the room where it happened and, it was just like a white-out in my mind, cause it's the first time I'd ever had to go back there. And so, between, sort of, me and their table was the couch and I just remember feeling so... I'm sure they were saying words but I barely remember a single word they said during that entire process, cause I was just so cognisant of... this is where it's happened. It's right there. That's exactly where it... and it was just this loop playing in my mind of this trauma that I had just, sort of, come to terms with, and I just thought it was unfathomable that they would put me in that space again.
96.	LW	Did Minister Reynolds know that that was the couch that you alleged the rape happened on?
97.	BH	There's no way she wouldn't. She knew it was in her office. I, I felt like I was reliving it every second of being in that room.
98.	LW	So what did she say to you?
99.	BH	She was apologetic. She was, She was nice. She did say nice words. She was apologetic, she asked how I was, um, and then pretty quickly the conversation turned to sort of... the police. And if I chose to go to the police, we would support you and it was this sort of... it felt like a weird

		sort of HR ticking a box moment. It was never sort of, overtly stated but any sort of mental help leave or when I spoke about needing time off to go speak to the officer, it always became a quite a different sort of issue in the office. I could tell that it made Fiona uncomfortable. I could tell that...
100.	LW	It made Fiona Brown uncomfortable if you brought up anything that referred, at all...
101.	BH	To the incident.
102.	LW	...to the alleged rape.
103.	BH	Yeah...yeah. And so it became a topic that was really hard to raise with her and she was sort of my only point of contact in terms of HR or anything. She was my only sort of, person I could go to. The Minister clearly didn't want to hear about it anymore. She didn't broadly want to see me anymore. And so Fiona was like, my sort of, um, the only person I could talk to and it was dismissed. It was played down. And it was, it was made to feel it was my problem, and so I would....and so I would, I would try and raise it and I would try and bring it up and it was always...it always came back to sort of being a me issue, and if, if you can't deal with it then you can leave.
104.	LW	Coming up...the very different career outcomes for Brittany and her alleged rapist.
105.	LW	So what's happened to the man that you say raped you on Minister Reynolds' couch?
106.	BH	He's fine. I don't think he suffered any consequences for it at all.
[break]		
107.	LW	<p>This special edition of The Project. A Federal Government spokesman admits that the meeting between Brittany Higgins and Senator Reynolds should not have taken place in the office where the alleged assault occurred. But, he insists that Minister Reynolds and Fiona Brown encouraged Brittany to speak to the police and guaranteed there would be no impact on her career.</p> <p>Today the Prime Minister was questioned, questioned in Parliament about the assault and he endorsed the way the case had been handled by Government officers, including Fiona Brown.</p>
108.	SM	The Government has aimed to provide Ms Higgins with her agency. To provide support, to make decisions in her interests, and to respect her privacy. This offer of support and assistance continues.
109.	LW	But for Brittany, the alleged assault left her feeling she had to choose between her career and seeking justice.
110.	LW	Who called in the AFP?
111.	BH	The internal Parliament House decided to elevate it to them. So that's when the Belconnen, um, Sexual Assault Crimes Unit got involved.

112.	AFP	Oh, hi Brittany it's ***** from AFP. We're just trying to organise an appointment for tomorrow probably after 11am when our detectives will be available.
113.	BH	And they actually came and picked me up from Parliament House and that was the first time I had a real counsellor. I had a lady from the Canberra Rape Crisis Centre there with me, and I had two officers there, and they were very proactive. They had already started acquiring footage from the venues we'd been at earlier in the night, but immediately she raised the fact that she was already having difficulty with Parliament House, getting copies of the CCTV footage. She said that this would be a bit of a battle. She didn't know if she'd be able to get it.
114.	LW	And she was so concerned she elevated it to her superior.
115.	BH	Yeah. That's correct.
116.	LW	And did her superior have any luck getting that CCTV?
117.	BH	Not to my knowledge.
118.	LW	So this all happened just weeks before the Federal election of 2019 was called...
119.	BH	Yeah
120.	LW	... and I believe that Fiona Brown from the Prime Minister's office gave you two choices on how to proceed.
121.	BH	Essentially, I could... I could go home. They'd pay me. I would technically be employed. In six weeks' time our contracts were all going to expire anyway, and I could just sort of take leave and I could just sort of just process what had happened to me, and I could just go home.
122.	LW	To try and heal?
123.	BH	Yeah. Um. And I asked "so what's the process of coming back?" and she said "Well, you wouldn't" and that was the really clarifying moment for me where I fully sort of internalised that this is a political issue. My job is on the line for this, I don't really have a choice.
124.	LW	So what did you choose?
125.	BH	This is my dream job. I had worked my entire life to get here. I wanted this future. I wanted to be a part of it for my entire, sort of, working life. So yeah, I went to WA
126.	LW	What was in WA?
127.	BH	I was, sort of, just a part of Minister Reynolds', sort of, WA-based team in this... up in a hotel room, but we were sort of working seven days a week. I was pretty suicidal, to be honest, at the time. Because you're just alone. It's really hard.
128.	LW	Did you think it was a curious option to send someone, who had just alleged rape, to the other side of the country with no support network around her at all?

129.	BH	Yeah. I thought it felt intentional. Sorry.
130.	LW	How did Minister Reynolds treat you during those six weeks?
131.	BH	I mean, she was never outright rude to me but um she did sort of actively try and avoid me as much as possible. She didn't like me coming to her events, she didn't like me going to things with her. I think I made her uncomfortable.
132.	LW	Why did you decide not to pursue the case with the AFP at that point?
133.	BH	Because we were already coming up against so many blockades and I realised my job was on the line. I didn't feel like I had a choice.
134.	LW	Did you feel pressured in any way whatsoever not to proceed with the case with the police?
135.	BH	Oh, absolutely. There is a strange culture of silence in the parties and you just, you don't, the idea of sort of, speaking out on these sort of issues, especially around a campaign is just... it's like letting the team down. You're not a team player.
136.	LW	After the election, Brittany accepted a job from Employment Minister Michaelia Cash. In July 2019, Minister Cash was asked about two other claims of sexual assault within the Liberal Party.
137.	MC	These are serious allegations and I would say to the parties concerned, um, that they should be referred to the appropriate authorities.
138.	BH	I was actually down the hall from her when she'd said that. I was in the press gallery at the time. And yeah, it was hard to hear that because I knew that, you know, even if you go down the right pathway, they're not gonna.... they... the party isn't willing to help or support you.
139.	LW	Brittany believes Michaelia Cash found out about her experience three months after the remarks in the corridor, and that the information came directly from Linda Reynolds, breaching her privacy. Michaelia Cash's office disputes this, saying that she only recently found out the specifics.
140.	LW	Did Minister Cash have any words of advice on how you should deal with the trauma that you were going through?
141.	BH	Yeah. I was having difficulties actually coming through the entrance of Parliament House. It was that, that same entrance where the incident happened and so I felt, every time I'd walk through it I'd get quite panicky and I sort of, I said that I was having difficulties just coming in and at that point she was like "well you, you're just going to have to sort of suck it up" essentially. And it was, it's that same idea of "you deal with it, or you leave"
142.	LW	So, apart from Fiona Brown, has anyone else from the Prime Minister's office been in touch with you over the assault?
143.	BH	Yeah. So I've had, Yaron Finkelstein sort of broadly, in proximity around it during the actual week after the event.
144.	LW	Who is Yaron Finkelstein?

145.	BH	He is the Principal Secretary to the Prime Minister, I think is his official title, but essentially, he's sort of just the fixer. He fixes problems. Not just people, but other issues. But he's, he's the fixer.
146.	LW	Did you hear from Yaron Finkelstein after that initial period?
147.	BH	I did, I did. It was just like a, strange sort of, check in essentially. But those happened to me kind of pretty regularly.
148.	LW	And what was the timing of that check in?
149.	BH	There was some sort of story. But it was, it was another sort of liberal women issues Four Corners...
150.	LW	The Canberra Bubble story on Four Corners?
151.	BH	Yeah. That's correct.
152.	LW	And what did he say?
153.	BH	Just checking in.
154.	LW	Is it normal for a junior staffer to get a call from the Prime Minister's chief fixer?
155.	BH	No. No, it's not normal.
156.	LW	So what's happened to the man that you say raped you on Minister Reynolds' couch?
157.	BH	He's fine. He's working in Sydney, he's, he's got a good job. Everyone... people don't know why he left, and I don't think he suffered any consequences for it at all. I think he just kind of got to keep going.
158.	LW	Are you able to keep working in this environment?
159.	BH	No.
160.	LW	Have you resigned?
161.	BH	Yeah.
162.	LW	Are you at all concerned that maybe by resigning that you've just taken this problem out of your boss' hands? Out of the government's hands?
163.	BH	No. I think that resigning is the only thing I can personally do to sort of say that I don't think that anyone else should go through what I went through.
164.	LW	If everything that you say is true, it sounds to me like the easiest place in this country, to rape a woman and get away with it, is Parliament House in Canberra.
165.	BH	Yeah..... yeah...
166.		[Photograph of Ms Higgins's Parliament of Australia identification card]

167.	LW	<p>We of course approached all the people named in our story, and all our requests for interviews were declined. Those requests remain open. Full statements on behalf of the Prime Minister's office, Fiona Brown, Linda Reynolds, Michaelia Cash, and the Australian Federal Police can be seen on our website. But there is some good news for Brittany tonight, after almost two years, Parliament House authorities have finally told us the CCTV will be available to investigators.</p> <p>And of course, if this story has raised any issues for you, national 24 hour counselling and support can be found at 1800-RESPECT which is 1800-737-732 and of course, crisis support is available 24/7 through Lifeline on 131114.</p> <p>That's it for tonight's show, please join us again tomorrow night for more Project at 6:30. Goodnight.</p>
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NOTICE OF FILING

Details of Filing

Document Lodged:	Applicant's Genuine Steps Statement - Form 16 - Rule 8.02
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	7/02/2023 3:18:42 PM AEDT
Date Accepted for Filing:	7/02/2023 4:31:02 PM AEDT
File Number:	NSD103/2023
File Title:	BRUCE LEHRMANN v NETWORK TEN PTY LIMITED ACN 052 515 250 AND ORS
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads "Sia Lagos".

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Applicant's genuine steps statement

No. of 2023

Federal Court of Australia
District Registry: New South Wales
Division: General

Bruce Lehrmann

Applicant

Network Ten Pty Limited ACN 052 515 250 and another
Respondents

This genuine steps statement is required by section 6 of the *Civil Dispute Resolution Act 2011*.

Steps taken to try to resolve the issues in dispute

The following steps have been taken to try to resolve the issues in dispute between the Applicant and the Respondents in the proceeding:

- 1 By way of letter dated 16 December 2022 addressed to the First Respondent (being the employer of the Second Respondent, or a corporation related to the employer of the Second Respondent), the Applicant's solicitors advised that the first and third matters complained of in the proceedings were defamatory of the Applicant and offered to settle his claims for the terms specified in the letter, namely publication of an apology, payment of damages, and payment of the Applicant's reasonable costs.
- 2 By way of letter from the Solicitors for the First Respondent to the Applicant's solicitors dated 20 January 2023, issues including the limitation period, identification and defences of justification and qualified privilege were raised, the Applicant's offer of settlement was not accepted, and no Offer of Amends was made.

Filed on behalf of (name & role of party) Bruce Lehrmann

Prepared by (name of person/lawyer) Paul Svilans

Law firm (if applicable) Mark O'Brien Legal

Tel [REDACTED] Fax [REDACTED]

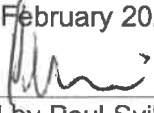
Email [REDACTED]

Address for service Level 19, 68 Pitt Street, Sydney NSW 2000
(include state and postcode)

[Form approved 01/08/2011]

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Date: 7 February 2023



Signed by Paul Svilans
Lawyer for the Applicant

Bruce Lehrmann - Court documents [TGLAW-Legal.FID3782978]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>
Cc: "O'Beirne, Conor" <[REDACTED]>
Bcc: Bruce Lehrmann – Defamation _Ten_ _5263490 _ E-Mail <[REDACTED]>
Date: Wed, 08 Feb 2023 12:25:57 +1100
Attachments: Originating Application - Ten.pdf (459.63 kB); Statement of Claim - Ten.pdf (1.62 MB); Genuine Steps Statement - Ten.pdf (425.02 kB)

Hi Lisa

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We've just received the court documents which are **attached**.

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We'll have a review of these and will give you a call to discuss them this afternoon.

\~

Kind regards

\~

Marlia

\~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

NOTICE OF FILING AND HEARING**Filing and Hearing Details**

Document Lodged: Originating Application - Form 15 - Rule 8.01(1)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 7/02/2023 3:18:42 PM AEDT
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File Number: NSD103/2023
File Title: BRUCE LEHRMANN v NETWORK TEN PTY LIMITED ACN 052 515 250
AND ORS
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: To Be Advised
Time and date for hearing: To Be Advised
Place: To Be Advised



A handwritten signature in blue ink that reads "Sia Lagos".

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 15
Rules 8.01(1); 8.04(1)

Originating application

No. of 2023

Federal Court of Australia
District Registry: New South Wales
Division: General

Bruce Lehrmann

Applicant

Network Ten Pty Limited ACN 052 515 250 and another named in the schedule

Respondents

To the Respondents

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing:

Place: Federal Court of Australia
Levels 17-22, Law Courts Building
Queens Square Sydney NSW 2000

The Court ordered that the time for serving this application be abridged to

Date:

Signed by an officer acting with the authority
of the District Registrar

Filed on behalf of (name & role of party) Bruce Lehrman, Applicant

Prepared by (name of person/lawyer) Paul Svilans

Law firm (if applicable) Mark O'Brien Legal

Tel [REDACTED] Fax [REDACTED]

Email [REDACTED]

Address for service Level 19, 68 Pitt Street, Sydney NSW 2000
(include state and postcode)

[Version 2 form approved 09/05/2013]

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Details of claim

On the grounds stated in the Statement of Claim, the Applicant claims:

1. That the limitation period for bringing this action be extended to 7 February 2023 pursuant to s.56A *Limitation Act* 1969 (NSW).
2. Damages, including general damages and aggravated damages.
3. An order that the Respondents be permanently restrained from publishing the matters complained of (as defined in the Statement of Claim) or any matter that does not differ in substance.
4. An order that the Respondents be permanently restrained from publishing any defamatory imputation of and concerning the Applicant as particularised by the Applicant in his Statement of Claim and found by the Court to be carried by the matters complained of.
5. Interest pursuant to sections 51A and 52 of the *Federal Court of Australia Act* 1976 (Cth) including interest on costs.
6. Costs pursuant to section 43 of the *Federal Court of Australia Act* 1976 (Cth).
7. Such further and other orders as the Court deems fit or thinks necessary.

Applicant's address

The Applicant's address for service is:

Place: c/- Mark O'Brien Legal, Level 19, 68 Pitt Street, Sydney NSW 2000.

Email: paul.svilans@markobrienlegal.com.au

The Applicant's address is 49 Kara View Court, Rangeville QLD 4350.


Service on the Respondents

It is intended to serve this application on all Respondents.

First Respondent's address is: 1 Saunders Street, Pyrmont NSW 2009;

Second Respondent's address is: 1 Saunders Street, Pyrmont NSW 2009.

Date: 7 February 2023



 Signed by Paul Svilans
 Lawyer for the Applicant

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**Schedule**

No. of 2023

Federal Court of Australia

District Registry: New South Wales

Division: General

Respondents

Second Respondent: Lisa Wilkinson

Date: 7 February 2023

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NOTICE OF FILING**Details of Filing**

Document Lodged: Statement of Claim - Form 17 - Rule 8.06(1)(a)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 7/02/2023 3:18:42 PM AEDT
Date Accepted for Filing: 7/02/2023 4:30:59 PM AEDT
File Number: NSD103/2023
File Title: BRUCE LEHRMANN v NETWORK TEN PTY LIMITED ACN 052 515 250
AND ORS
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink, reading "Sia Lagos".

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 17
Rule 8.05(1)(a)

Statement of Claim

No. of 2023

Federal Court of Australia
District Registry: New South Wales
Division: General Division

Bruce Lehrmann

Applicant

Network Ten Pty Limited ACN 052 515 250 and another

Respondents

The Applicant relies on the following facts and assertions:

THE RESPONDENTS

- 1 The First Respondent is and was at all material times:
 - (a) a company duly incorporated and liable to be sued in its own corporate name and style;
 - (b) the holder of a commercial television broadcasting licence in respect of the television station known as 'Channel 10';
 - (c) the broadcaster, and thereby the publisher, of the television programme called '*The Project*';
 - (d) the distributor of the television programme called '*The Project*', which it distributed for broadcast by affiliated television stations in the States and Territories of Australia;
 - (e) the owner and/or operator of the website located at the URL address www.10play.com.au (the **10 Play website**), and publisher of material on that website.

Filed on behalf of (name & role of party) Bruce Lehrmann, Applicant

Prepared by (name of person/lawyer) Paul Svilans

Law firm (if applicable) Mark O'Brien Legal

Tel [REDACTED] Fax -

Email [REDACTED]

Address for service Level 19, 68 Pitt Street, Sydney NSW 2000
(include state and postcode)

[Form approved 01/08/2011]

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- (f) the administrator and operator of The Project's YouTube channel on the YouTube website at <https://www.youtube.com/@TheProjectTV/featured> and publisher of material on that channel.

- 2 The Second Respondent is a presenter and/or journalist employed by the First Respondent or one of its related corporations for whose conduct the First Respondent is and was vicariously liable.

FIRST MATTER COMPLAINED OF

- 3 On or about 15 February 2021, the Respondents published by television broadcast on *'The Project'* words and images of and concerning the Applicant in the Australian Capital Territory and every other State and Territory of Australia (a transcript of which is set out at Annexure "A" hereto, and the Applicant relies upon the images and accompanying words and text)(the **first matter complained of**):
- (a) The first matter complained of was published during the First Respondents' television program *'The Project'*;
 - (b) The Second Respondent was the interviewer of Ms Brittany Higgins and presenter of the segment containing the interview of Ms Higgins;
 - (c) The Respondents published the first matter complained of to audiences in the service area of television station Channel 10, being Sydney and its environs;
 - (d) The Respondents also published the first matter complained of by broadcasting the matter itself and/or distributing the matter to its affiliates for broadcast throughout the rest of Australia;
 - (e) The first matter complained of was viewed by over 500,000 persons;
 - (f) The Applicant relies on the grapevine effect in relation to the publication of the first matter complained of;
 - (g) Further particulars of publication of the first matter complained of will be supplied following discovery and interrogatories.
- 4 The first matter complained of, in its natural and ordinary meaning, was defamatory of the Applicant and carried the following defamatory imputations of and concerning him:

- (a) *The Applicant raped Brittany Higgins in Defence Minister Linda Reynolds' office in 2019;*
- (b) *The Applicant continued to rape Brittany Higgins after she woke up mid-rape and was crying and telling him to stop at least half a dozen times;*
- (c) *The Applicant, whilst raping Brittany Higgins, crushed his leg against her leg so forcefully as to cause a large bruise;*
- (d) *After the Applicant finished raping Brittany Higgins, he left her on a couch in a state of undress with her dress up around her waist.*

Particulars of parts of the first matter complained of

The Applicant relies on the whole of the first matter complained of as giving rise to each of the imputations pleaded. In particular, the Applicant relies on the following parts of the first matter complained of, adopting the paragraph numbering in Annexure "A" hereto, as follows:

- (a) Imputation 4(a): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (b) Imputation 4(b): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (c) Imputation 4(c): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (d) Imputation 4(d): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 43, 45, 56, 64 - 70, 89, 96 - 107, 142, 143, 156 and 157.

Particulars of identification

- (a) The Applicant worked in the office of Minister Reynolds in a position senior to Ms Higgins;
- (b) The Applicant had attended Friday night drinks organised by Ms Higgins on 22 March 2019;
- (c) The Applicant had started packing up his belongings on the Tuesday morning following a meeting with Fiona Brown;

- (d) The Applicant was working in Sydney in February 2021;
- (e) The Applicant was the person alleged by Ms Higgins to have sexually assaulted her;
- (f) Viewers of the first matter complained of, or some of them, were aware of the matters set out in paragraphs (a) – (e) above;
- (g) By reason of the matters set out in paragraphs (a) – (f) above, the Applicant was identifiable and identified in the first matter complained of, and such identification was reasonable in the circumstances;
- (h) Further, and/or in the alternative to the above, the Applicant was identified by the following persons who viewed the first matter complained of at the time of its publication and reasonably identified the Applicant:
 - (i) Commonwealth politicians, political assistants and staffers, journalists and other persons who worked at Parliament House Canberra;
 - (ii) Family, friends and acquaintances of the Applicant;
- (i) Further, and/or in the alternative to the above, the first matter complained of invited readers to speculate about the identity of the person accused by Ms Higgins of sexually assaulting her from the time of first publication, and such readers had already read and/or subsequently read social media posts and articles published on the Internet which named the Applicant as being the person accused by Ms Higgins of sexually assaulting her, including:
 - (i) <https://kangarocourtsofaustralia.com/2021/02/27/were-young-women-sexually-assaulted-when-bruce-lehrmann-the-alleged-parliament-house-rapist-was-an-official-at-the-anu-un-conference/>
 - (ii) <https://twitter.com/blakandblack/status/1363106005404549121?lang=en>
 - (iii) <https://blotreport.com/2021/02/17/did-morrison-almost-tell-the-truth/>
 - (iv) <https://twitter.com/PeterWMurphy1/status/1362759012719026177>
 - (v) <https://www.clownworldau.com/story/brittany-higgins/>
 - (vi) <https://twitter.com/peakhourimages/status/1363960533964128256?lang=en>

- (vii) <https://www.clownworldau.com/story/bruce-lehrmann-david-sharaz/>
- (viii) <https://www.youtube.com/watch?v=xqUIBWw1q9c>
- (ix) <https://www.townsvillemagpie.com.au/unfriendly-fire-the-real-reason-behind-the-facebook-ban-morrisons-lip-service-to-stiffen-ruperts-business-end/> .

SECOND MATTER COMPLAINED OF

5 On or about 15 February 2021, the Respondents published of and concerning the Applicant on the 10 Play website words and images of and concerning the Applicant, in the Australian Capital Territory and every other State and Territory of Australia (a transcript of which is set out at Annexure "A" hereto, and the Applicant relies upon the images and accompanying words and text)(the **second matter complained of**):

- (a) The second matter complained of was published by the Respondents by uploading to and/or causing the uploading to, and thereby making the publication available and/or causing the publication to be made available for download and/or streaming to a large number of users in each State and Territory of Australia of the 10 Play website.
- (b) The Second Respondent was the interviewer of Ms Brittany Higgins and presenter of the segment containing the interview of Ms Higgins;
- (c) The publication was made available for download on and from 15 February 2021 at the web address <https://www.10play.com.au>;
- (d) The second matter complained of was in fact downloaded and/or streamed and viewed in each State and Territory of Australia;
- (e) The Applicant relies on the grapevine effect in relation to the publication of the second matter complained of;
- (f) Further particulars of publication of the second matter complained of will be supplied following discovery and interrogatories.

6 The second matter complained of, in its natural and ordinary meaning, was defamatory of the Applicant and carried the following defamatory imputations of and concerning him:

- (a) *The Applicant raped Brittany Higgins in Defence Minister Linda Reynolds' office in 2019;*
- (b) *The Applicant continued to rape Brittany Higgins after she woke up mid-rape and was crying and telling him to stop at least half a dozen times;*
- (c) *The Applicant, whilst raping Brittany Higgins, crushed his leg against her leg so forcefully as to cause a large bruise;*
- (d) *After the Applicant finished raping Brittany Higgins, he left her on a couch in a state of undress with her dress up around her waist.*

Particulars of parts of the second matter complained of

The Applicant relies on the whole of the second matter complained of as giving rise to each of the imputations pleaded. In particular, the Applicant relies on the following parts of the second matter complained of, adopting the paragraph numbering in Annexure "A" hereto, as follows:

- (a) Imputation 4(a): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (b) Imputation 4(b): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (c) Imputation 4(c): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (d) Imputation 4(d): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 43, 45, 56, 64 - 70, 89, 96 - 107, 142, 143, 156 and 157.

Particulars of identification

- (a) The Applicant worked in the office of Minister Reynolds in a position senior to Ms Higgins;
- (b) The Applicant had attended Friday night drinks organised by Ms Higgins on 22 March 2019;
- (c) The Applicant had started packing up his belongings on the Tuesday morning following a meeting with Fiona Brown;

- (d) The Applicant was working in Sydney in February 2021;
- (e) The Applicant was the person alleged by Ms Higgins to have sexually assaulted her;
- (f) Viewers of the second matter complained of, or some of them, were aware of the matters set out in paragraphs (a) – (e) above;
- (g) By reason of the matters set out in paragraphs (a) – (f) above, the Applicant was identifiable and identified in the second matter complained of, and such identification was reasonable in the circumstances;
- (h) Further, and/or in the alternative to the above, the Applicant was identified by the following persons who viewed the second matter complained of at the time of its publication and reasonably identified the Applicant:
 - (i) Commonwealth politicians, political assistants and staffers, journalists and other persons who worked at Parliament House Canberra;
 - (ii) Family, friends and acquaintances of the Applicant;
- (i) Further, and/or in the alternative to the above, the second matter complained of invited readers to speculate about the identity of the person accused by Ms Higgins of sexually assaulting her from the time of first publication, and such readers had already read and/or subsequently read social media posts and articles published on the Internet which named the Applicant as being the person accused by Ms Higgins of sexually assaulting her, including:
 - (i) <https://kangarocourtsofaustralia.com/2021/02/27/were-young-women-sexually-assaulted-when-bruce-lehrmann-the-alleged-parliament-house-rapist-was-an-official-at-the-anu-un-conference/>
 - (ii) <https://twitter.com/blakandblack/status/1363106005404549121?lang=en>
 - (iii) <https://blotreport.com/2021/02/17/did-morrison-almost-tell-the-truth/>
 - (iv) <https://twitter.com/PeterWMurphy1/status/1362759012719026177>
 - (v) <https://www.clownworldau.com/story/brittany-higgins/>
 - (vi) <https://twitter.com/peakhourimages/status/1363960533964128256?lang=en>

- (vii) <https://www.clownworldau.com/story/bruce-lehrmann-david-sharaz/>
- (viii) <https://www.youtube.com/watch?v=xgUjBWw1q9c>
- (ix) <https://www.townsvillemagpie.com.au/unfriendly-fire-the-real-reason-behind-the-facebook-ban-morrison-s-lip-service-to-stiffen-rupert-s-business-end/>.

THIRD MATTER COMPLAINED OF

7 On or about 15 February 2021 and thereafter the Respondents published of and concerning the Applicant, on The Project's YouTube channel on the YouTube website at the URL <https://www.youtube.com/@TheProjectTV/featured>, a video segment titled *"Former Liberal Staffer Speaks Up About her Alleged Rape in Parliament House"* containing words and images of and concerning the Applicant, in the Australian Capital Territory and every other State and Territory of Australia, (a transcript of which is set out at Annexure "A" hereto, and the Applicant relies upon the images and accompanying words and text)(the **third matter complained of**):

- (a) The third matter complained of was published by the Respondents by uploading to and/or causing the uploading to, and thereby making the publication available and/or causing the publication to be made available for downloading and/or viewing to a large number of viewers including subscribers of The Project's YouTube channel;
- (b) The Second Respondent was the interviewer of Ms Brittany Higgins and presenter of the segment containing the interview of Ms Higgins;
- (c) The publication was made available for downloading and/or viewing on and from 15 February 2021;
- (d) There were about 459,704 views of the third matter complained of;
- (e) The Applicant relies on the grapevine effect in relation to the publication of the third matter complained of;
- (f) Further particulars of publication of the third matter complained of will be supplied following discovery and interrogatories.

8 The third matter complained of, in its natural and ordinary meaning, was defamatory of the Applicant and carried the following defamatory imputations of and concerning him:

- (a) *The Applicant raped Brittany Higgins in Defence Minister Linda Reynolds' office in 2019;*
- (b) *The Applicant continued to rape Brittany Higgins after she woke up mid-rape and was crying and telling him to stop at least half a dozen times;*
- (c) *The Applicant, whilst raping Brittany Higgins, crushed his leg against her leg so forcefully as to cause a large bruise;*
- (d) *After the Applicant finished raping Brittany Higgins, he left her on a couch in a state of undress with her dress up around her waist.*

Particulars of parts of the third matter complained of

The Applicant relies on the whole of the third matter complained of as giving rise to each of the imputations pleaded. In particular, the Applicant relies on the following parts of the third matter complained of, adopting the paragraph numbering in Annexure "A" as follows:

- (a) Imputation 4(a): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (b) Imputation 4(b): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (c) Imputation 4(c): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 56, 64 - 70, 89, 96 - 106, 107, 142, 143, 156 and 157;
- (d) Imputation 4(d): 2, 26, 27, 28, 29, 30, 31, 32, 33, 34, 43, 45, 56, 64 - 70, 89, 96 - 107, 142, 143, 156 and 157.

Particulars of identification

- (a) The Applicant worked in the office of Minister Reynolds in a position senior to Ms Higgins;
- (b) The Applicant had attended Friday night drinks organised by Ms Higgins on 22 March 2019;
- (c) The Applicant had started packing up his belongings on the Tuesday morning following a meeting with Fiona Brown;

- (d) The Applicant was working in Sydney in February 2021;
- (e) The Applicant was the person alleged by Ms Higgins to have sexually assaulted her;
- (f) Viewers of the second matter complained of, or some of them, were aware of the matters set out in paragraphs (a) – (e) above;
- (g) By reason of the matters set out in paragraphs (a) – (f) above, the Applicant was identifiable and identified in the third matter complained of, and such identification was reasonable in the circumstances;
- (h) Further, and/or in the alternative to the above, the Applicant was identified by the following persons who viewed the third matter complained of at the time of its publication and reasonably identified the Applicant:
 - (i) Commonwealth politicians, political assistants and staffers, journalists and other persons who worked at Parliament House Canberra;
 - (ii) Family, friends and acquaintances of the Applicant;
- (i) Further, and/or in the alternative to the above, the third matter complained of invited readers to speculate about the identity of the person accused by Ms Higgins of sexually assaulting her from the time of first publication, and such readers had already read and/or subsequently read social media posts and articles published on the Internet which named the Applicant as being the person accused by Ms Higgins of sexually assaulting her, including:
 - (i) <https://kangarocourtsofaustralia.com/2021/02/27/were-young-women-sexually-assaulted-when-bruce-lehrmann-the-alleged-parliament-house-rapist-was-an-official-at-the-anu-un-conference/>
 - (ii) <https://twitter.com/blakandblack/status/1363106005404549121?lang=en>
 - (iii) <https://blotreport.com/2021/02/17/did-morrison-almost-tell-the-truth/>
 - (iv) <https://twitter.com/PeterWMurphy1/status/1362759012719026177>
 - (v) <https://www.clownworldau.com/story/brittany-higgins/>
 - (vi) <https://twitter.com/peakhourimages/status/1363960533964128256?lang=en>

- (vii) <https://www.clownworldau.com/story/bruce-lehrmann-david-sharaz/>
- (viii) <https://www.youtube.com/watch?v=xgUjBWw1q9c>
- (ix) <https://www.townsvillemagpie.com.au/unfriendly-fire-the-real-reason-behind-the-facebook-ban-morrisons-lip-service-to-stiffen-ruperts-business-end/>

DAMAGE

- 9 The Applicant's hurt and harm occasioned by the publication of the matters complained of was aggravated by his knowledge of the following:
- (a) The Respondents were recklessly indifferent to the truth or falsity of the imputations carried by the matters complained of in publishing the assertions and allegations giving rise to the imputations without giving the Applicant a reasonable opportunity to respond;
 - (b) The evidence of Ms Brittany Higgins in the ACT criminal proceedings brought against the Applicant to the effect that the Second Respondent was "fighting" with Ms Samantha Maiden, the Political Editor at news.com.au, over exclusive publication of Ms Higgins' claims of sexual assault for the purpose of winning a Walkley award, from which it is to be inferred that the Second Respondent was seeking to exploit the false allegations of sexual assault as made by Ms Higgins for her own personal and professional gain;
 - (c) The publication by the Second Respondent on her Instagram account of her interview with Ms Higgins;
 - (d) The false assertions in the letter from the solicitors for the First Respondent to the solicitors for the Applicant dated 20 January 2023 that the matters complained of "*consistently make clear*" that Ms Higgins' statements were "*claims*" or "*allegations*" rather than proven facts, despite the matters complained of containing factual assertions including the following:

Brittany Higgins: "The first thing that sort of awoke me was... I was in a pain. My leg was kind of being crushed. The senior staffer was on top of me. He was clearly almost finished [...] I woke up mid-rape essentially. I don't know why I knew he was almost finished but I'd felt like it had been

going on for a while or that he was almost done. He was sweaty. I couldn't get him off of me. At this point I started crying."

Lisa Wilkinson: "What did you say to him?"

Brittany Higgins: "I told him to stop."

Lisa Wilkinson: "Did he?"

Brittany Higgins: "No."

Lisa Wilkinson: "How many times would you estimate you said to him to stop?"

Brittany Higgins: "I felt like it was on a loop endlessly. At least half a dozen. I was crying the whole way through it."

Lisa Wilkinson: "What was her tone towards you until you told her that you had been raped?"

[...]

Brittany Higgins: "She asked me to recount the events of the night [...] that was sort of the first time I'd vocalised that I'd been raped. And I think as I was telling it, it was the first time I had sort of pieced it together myself what had happened was an assault..."

Lisa Wilkinson: "We now return to our interview with Brittany Higgins, the young Liberal staffer who tells us she was raped inside Parliament House."

Lisa Wilkinson: "So you had just told a senior advisor to Prime Minister Scott Morrison that you had been raped on Minister Reynold's couch in her private office?"

Brittany Higgins: "Yes."

Lisa Wilkinson: "That's a serious crime." [Emphasis added]

Brittany Higgins: "Yeah."

Brittany Higgins: "It felt like everyone had all this information on my own assault and I didn't have any..."

...

Lisa Wilkinson: "So what's happened to the man that you say raped you on Minister Reynold's couch?"

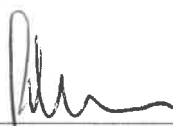
...

Lisa Wilkinson: "If everything that you say is true, it sounds to me like the easiest place in this country to rape a woman, and get away with it, is Parliament House in Canberra."

Brittany Higgins: "Yeah."

- (e) The encouragement by the First and Second Respondents for readers to read and/or share by social media the second and third matters complained of;
- (f) The conduct of the First and Second Respondents in presenting the publication of the matters complained of in an over-sensationalised manner indicating intent to injure the Applicant;
- (g) Further particulars of aggravated damages will be provided in due course.

Date: 7 February 2023




Signed by Paul Svilans
Lawyer for the Applicant

This pleading was prepared by Mark O'Brien and Paul Svilans, solicitors and Matthew Richardson SC and Steven Whybrow SC

Certificate of lawyer

I, Paul Svilans, certify to the Court that, in relation to the Statement of Claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 7 February 2023



Signed by Paul Svilans, Lawyer for the
Applicant

“A”

1.		[Photograph of Brittany Higgins's Parliament of Australia identification card]
2.	LW	<p>Welcome back to this special edition of The Project.</p> <p>Tonight claims of rape, roadblocks to a police investigation and a young woman forced to choose between her career and the pursuit of justice, and it all happened right in the heart of our democracy.</p> <p>Brittany Higgins says the government betrayed her. I sat down with her for this exclusive television interview. And, a warning, this story contains confronting allegations.</p>
3.	LW	26-year-old Brittany Higgins has worked as a Media Advisor to three liberal ministers over the last two years. First, Steve Ciobo the Minister for Defence Industries, but he lost that portfolio.
4.	BH	So, on the basis of Steve being demoted, I immediately lost my job.
5.	LW	But Brittany was one of the fortunate few who found a place with new Minister Linda Reynolds.
6.	BH	I think three of us out of a team of twenty made it into Minister Reynolds' existing team.
7.	LW	Can you describe how you were treated professionally by one of the senior male advisors to Minister Reynolds?
8.	BH	Yeah. So immediately it became clear that this person was quite...um, had a special bond with the Minister. It was very clear that he was sort of her go-to person, and he was really quite territorial of that position. It was difficult, you know, I was just grateful to have a job. I didn't care. I was just gonna do it. I didn't, I didn't really care how they treated me I was just grateful.
9.	LW	So, he was a bit of a favourite of Minister Reynolds?
10.	BH	Yeah. Very much so. Um, he had been advising her in the home affairs portfolio prior to that. He had a lot of friends everywhere. He was considered one of the, sort of, rising stars.
11.	LW	On the 22 nd of March 2019, less than three weeks after she'd started in Linda Reynolds' office, Brittany organised Friday night drinks with contacts and colleagues in Defence.
12.	LW	So, how did this senior male colleague act towards you?
13.	BH	He was nice to me. I think, I think he was grateful that I invited him. I was kind of happy that I had an opportunity to, kind of, demonstrate some value to the team, I guess. I noticed that he was buying me a lot of drinks and I was kind of...I just, sort of... (unclear) job well done. I thought I was, kind of, broadly being rewarded in a weird way.
14.	LW	So would you say you were drunk when you decided to go home?

15.	BH	Oh, absolutely. I um, the, sort of, the thing that pre-empted me deciding that I had to go home, um, I fell over in front of people. I pretty much face-planted. Um, I had scuffed my knee and at that point I was like "okay. I'm really... I have to leave"
16.	LW	Did you at any point in that evening to the best of your knowledge indicate to him that you were in any way interested in him romantically or sexually?
17.	BH	No. Not at all. I started that night with a different date. Like. I wasn't there for him at all. Um, and I invited him in a professional context, so I just... no. My, uh, senior male colleague, he was actually quite a help in terms of getting me into a cab on the basis that I really couldn't walk. I mean, I don't specifically remember the exact conversation, but the general tone was "we live in the same direction, but I've gotta stop somewhere first"
18.	LW	Where was that somewhere?
19.	BH	Parliament. So he wanted to go to Parliament House.
20.	LW	Why?
21.	BH	He just had to pick something up. Some vague non-descript something. He paid the fare. He got out. It felt better to go into the building than stand outside in the dark by myself. I just remember we went through the Ministerial entrance, which is the back entrance. And it's the only entrance you can get into Parliament out of hours. And then you go through to another checkpoint, and this is where physical security guards are. It's like airport security, you've gotta, sort of, take off all your metal things, take off your shoes, go through. And I think at this point I remember him saying something to the effect of "just... just be quiet"
22.	LW	So once you passed through security, where did you go?
23.	BH	We went up the lift, into Minister Reynolds' suite.
24.	BH	I remember that he was taking a really long time with something so I got to the point where I don't know if he guided me there or if I went there myself, but I ended up laying down and passing out on the Minister's couch.
25.	LW	So what's the next thing that you remember happening?
26.	BH	The first thing that, sort of, awoke me, was I was in a pain, my leg was kind of being crushed. The senior staffer was on top of me. He was clearly almost finished. Um.
27.	LW	Sorry. Was there sexual intercourse going on?
28.	BH	Yeah. I was, I was. I woke up mid-rape, essentially. Um I, I don't know why I knew he was almost finished, but I, I'd felt like it had been going on for a while, or that he was almost done. He was sweaty, I couldn't get him off of me. At this point I started crying.
29.	LW	What did you say to him?

30.	BH	I told him to stop.
31.	LW	Did he?
32.	BH	No.
33.	LW	How many times would you estimate you said to him to stop?
34.	BH	I felt like it was like on a loop endlessly. Um, at least half a dozen. I was crying the whole way through it. And we, he didn't speak to me the entire time. I just remember him eventually...he stopped. And he got up. And he looked at me and I kind of looked at him, and I couldn't get up, and then he left.
35.		[Photograph of a leg with bruise on upper thigh – white circle indicating bruise]
36.	LW	You have a photo that you took of a bruise that developed from that night. What does that photograph show?
37.	BH	It's quite a large bruise. It's just the weight, obviously of his leg pinning me down.
38.	LW	So, you've since learned that a security guard did come into the room after the alleged rape took place.
39.	BH	Yeah
40.	LW	Can you understand how someone whose job it is to keep Parliament House secure would not call for medical help?
41.	BH	No. I wrestle with it myself all the time. Um. Yeah. I don't know.
42.	LW	So when you finally woke up...
43.	BH	They were sort of yelling out to the office, just checking, cause they broadly, sort of, had an understanding that something had happened. Um.
44.	LW	Can you describe what state you were in?
45.	BH	My dress was up around my waist, the straps were kind of down. I was pretty dishevelled. I was scared that I was at work. My first thought was "oh my god, I'm at work", um.
46.	LW	How many security guards did you see on the way out?
47.	BH	I saw the two gentleman at the, um, ministerial entrance on the way out.
48.	LW	Did any of those security guards ask if you were okay?
49.	BH	No...No.
50.	LW	What happened when you got back to your apartment?
51.	BH	My roommate thought it was kind of weird and I was acting weird. Um, but I just sat in my room all day and cried.

52.	LW	Monday morning, Brittany went to work as usual. So did her senior colleague, the alleged rapist, but no one raised the weekend security breach. That came on Tuesday morning.
53.	BH	So, immediately the tone in the office had changed and we had an acting manager, we call them Chiefs of Staff, named Fiona Brown and she had been seconded from the Prime Minister's office and she is the Director of Operations, so, um, she came in on the Tuesday morning and asked if the senior colleague and I would go into the office and speak with her. So, she originally brought in the senior colleague and they were probably in there for about 45 minutes.
54.	LW	So, this colleague came out.
55.	BH	Yeah. So he immediately walked out of the office and started packing up his things.
56.	LW	So what was her tone towards you, until you told her that you had been raped?
57.	BH	It was very procedural. It felt like a disciplinary meeting. It was... "we've been made aware of the events and that you guys were here after hours and you know that's not acceptable", um, and then she made me rescind this thing called the Ministerial Code of Conduct... and it's...
58.	LW	Why was that?
59.	BH	I don't really know. I think I guess because we were acting in a way that was out of... um, not in accordance with the code of conduct. She asked me to just recount the events of the night. I started from the start and I went all the way through. And that was sort of the first time I'd vocalised that I'd been raped, and I think as I was telling it, it was the first time I'd sort of pieced it together myself, what had happened was an assault and that was when the entire, sort of, tone changed I think. Yeah. Then she, sort of, moved into sort of, a different hat came on and she wasn't disciplining me, it was more about managing a situation.
60.	LW	What does that mean?
61.	BH	It felt like it became... this was like, immediately became sort of like the political problem. It felt like that immediately. It wasn't a staffing problem, it wasn't a HR problem, it wasn't a human problem, but it, it immediately was like "okay. We have an issue".
62.	LW	Coming up... How the government responded to Brittany's shocking claims and held a meeting in the same room that the alleged incident took place.
63.	BH	This is where it's happened, it's right there. It was unfathomable that they would put me in that space again.
[break]		
64.	LW	Welcome back. We now return to our interview with Brittany Higgins, the young liberal staffer who tells us she was raped inside Parliament House.
65.	LW	So, you had just told a senior advisor...

66.	BH	Yeah
67.	LW	...to Prime Minister Scott Morrison that you had been raped on Minister Reynolds' couch in her private office.
68.	BH	Yes
69.	LW	That's a serious crime.
70.	BH	Yeah.
71.	LW	What support were you given by Fiona Brown?
72.	BH	Um. We have an employee assistance program, and I remember she gave me a brochure for the employee assistance program, and I think she told me that day that I could take the rest of the day off. And I, I did.
73.	LW	So what was in the brochure that you left with?
74.	BH	Oh uh, A phone number. I, I did call it. Um, I think it was like a two month wait to speak to a psychologist.
75.	LW	Did she call the police?
76.	BH	She said internal mechanisms were already at play.
77.	LW	What does that mean?
78.	BH	Inside of Parliament House, it's it's own unique AFP unit, and so they act independently from the ACT Police and they're a brand to the federal police. Apparently, it was this automatic sort of series of events that had been triggered on the basis that there'd been a breach of security in the Minister's office.
79.	LW	The fact is different rules apply in the building behind me. The internal police force answers to politicians, Parliament's presiding officers, rather than the bosses at the Australian Federal Police.
80.	GW	Parliament jealously guards its protections. It doesn't like outside interference. And as a result sets up systems and laws that preserve its ability to function free of interference.
81.	LW	Constitutional lawyer, Professor George Williams
82.	GW	It does mean we need to be weary sometimes, because there's a lot of vested self interest in making sure that politicians protect themselves, protect their party members and the like, and that can be an impediment to actually getting just outcomes on the law enforced properly.
83.	LW	Brittany was interviewed by the Parliament House police unit.
84.	LW	Did you ask to see the CCTV footage of you on that night into the morning?
85.	BH	Yeah.
86.	LW	Do you know how far that CCTV followed you?

87.	BH	It, it went from the very front entrance of uh where the taxi would have stopped, all the way through going through security, all the way up to suite.
88.	LW	Because at this point, you knew that quite a few people had seen this CCTV footage.
89.	BH	Yeah... Yeah. I knew that Fiona had seen it, um, I knew that, sort of, one of my other colleagues had seen it from Defence, and so it was this strange thing where it felt like everyone had all this information on my own assault and I didn't have any and I, I desperately wanted to. I asked at least half a dozen times to see that CCTV and um, she always said no.
90.	LW	Who's she?
91.	BH	Uh Fiona.
92.	LW	How did that make you feel?
93.	BH	Um. It hurt. It really hurt. It felt like a betrayal for them to, sort of, withhold this one really small thing that I, I needed just personally for myself to process, to move on. Um, Or just to understand what had happened to me. Um. Yeah, it really hurt. I don't know why. It really upset me.
94.	LW	So when did Minister Reynolds speak to you about what happened?
91A		[Video of Phone showing message chain, panning from Fiona Browns name and the date '31 Mar 2019' at the top of the screen to a message stating "Linda just wants to catch up with you to see how you are as you've not caught up, look forward to seeing you, a busy week ahead!!! Best, Fiona" sent at 4:06pm]
95.	BH	So I got a WhatsApp from Fiona Brown indicating that Minister Reynolds would like to have a meeting with me and Fiona on the following Monday and I kind of expected to walk into Fiona's office, where we'd been having all of our other meetings and um, we actually went into the room where it happened and, it was just like a white-out in my mind, cause it's the first time I'd ever had to go back there. And so, between, sort of, me and their table was the couch and I just remember feeling so... I'm sure they were saying words but I barely remember a single word they said during that entire process, cause I was just so cognisant of...this is where it's happened. It's right there. That's exactly where it...and it was just this loop playing in my mind of this trauma that I had just, sort of, come to terms with, and I just thought it was unfathomable that they would put me in that space again.
96.	LW	Did Minister Reynolds know that that was the couch that you alleged the rape happened on?
97.	BH	There's no way she wouldn't. She knew it was in her office. I, I felt like I was reliving it every second of being in that room.
98.	LW	So what did she say to you?
99.	BH	She was apologetic. She was, She was nice. She did say nice words. She was apologetic, she asked how I was, um, and then pretty quickly the conversation turned to sort of... the police. And if I chose to go to the police, we would support you and it was this sort of...it felt like a weird

		sort of HR ticking a box moment. It was never sort of, overtly stated but any sort of mental help leave or when I spoke about needing time off to go speak to the officer, it always became a quite a different sort of issue in the office. I could tell that it made Fiona uncomfortable. I could tell that...
100.	LW	It made Fiona Brown uncomfortable if you brought up anything that referred, at all...
101.	BH	To the incident.
102.	LW	...to the alleged rape.
103.	BH	Yeah...yeah. And so it became a topic that was really hard to raise with her and she was sort of my only point of contact in terms of HR or anything. She was my only sort of, person I could go to. The Minister clearly didn't want to hear about it anymore. She didn't broadly want to see me anymore. And so Fiona was like, my sort of, um, the only person I could talk to and it was dismissed. It was played down. And it was, it was made to feel it was my problem, and so I would....and so I would, I would try and raise it and I would try and bring it up and it was always...it always came back to sort of being a me issue, and if, if you can't deal with it then you can leave.
104.	LW	Coming up...the very different career outcomes for Brittany and her alleged rapist.
105.	LW	So what's happened to the man that you say raped you on Minister Reynolds' couch?
106.	BH	He's fine. I don't think he suffered any consequences for it at all.
[break]		
107.	LW	<p>This special edition of The Project. A Federal Government spokesman admits that the meeting between Brittany Higgins and Senator Reynolds should not have taken place in the office where the alleged assault occurred. But, he insists that Minister Reynolds and Fiona Brown encouraged Brittany to speak to the police and guaranteed there would be no impact on her career.</p> <p>Today the Prime Minister was questioned, questioned in Parliament about the assault and he endorsed the way the case had been handled by Government officers, including Fiona Brown.</p>
108.	SM	The Government has aimed to provide Ms Higgins with her agency. To provide support, to make decisions in her interests, and to respect her privacy. This offer of support and assistance continues.
109.	LW	But for Brittany, the alleged assault left her feeling she had to choose between her career and seeking justice.
110.	LW	Who called in the AFP?
111.	BH	The internal Parliament House decided to elevate it to them. So that's when the Belconnen, um, Sexual Assault Crimes Unit got involved.

112.	AFP	Oh, hi Brittany it's ***** from AFP. We're just trying to organise an appointment for tomorrow probably after 11am when our detectives will be available.
113.	BH	And they actually came and picked me up from Parliament House and that was the first time I had a real counsellor. I had a lady from the Canberra Rape Crisis Centre there with me, and I had two officers there, and they were very proactive. They had already started acquiring footage from the venues we'd been at earlier in the night, but immediately she raised the fact that she was already having difficulty with Parliament House, getting copies of the CCTV footage. She said that this would be a bit of a battle. She didn't know if she'd be able to get it.
114.	LW	And she was so concerned she elevated it to her superior.
115.	BH	Yeah. That's correct.
116.	LW	And did her superior have any luck getting that CCTV?
117.	BH	Not to my knowledge.
118.	LW	So this all happened just weeks before the Federal election of 2019 was called...
119.	BH	Yeah
120.	LW	... and I believe that Fiona Brown from the Prime Minister's office gave you two choices on how to proceed.
121.	BH	Essentially, I could...I could go home. They'd pay me. I would technically be employed. In six weeks' time our contracts were all going to expire anyway, and I could just sort of take leave and I could just sort of just process what had happened to me, and I could just go home.
122.	LW	To try and heal?
123.	BH	Yeah. Um. And I asked "so what's the process of coming back?" and she said "Well, you wouldn't" and that was the really clarifying moment for me where I fully sort of internalised that this is a political issue. My job is on the line for this, I don't really have a choice.
124.	LW	So what did you choose?
125.	BH	This is my dream job. I had worked my entire life to get here. I wanted this future. I wanted to be a part of it for my entire, sort of, working life. So yeah, I went to WA
126.	LW	What was in WA?
127.	BH	I was, sort of, just a part of Minister Reynolds', sort of, WA-based team in this...up in a hotel room, but we were sort of working seven days a week. I was pretty suicidal, to be honest, at the time. Because you're just alone. It's really hard.
128.	LW	Did you think it was a curious option to send someone, who had just alleged rape, to the other side of the country with no support network around her at all?

129.	BH	Yeah. I thought it felt intentional. Sorry.
130.	LW	How did Minister Reynolds treat you during those six weeks?
131.	BH	I mean, she was never outright rude to me but um she did sort of actively try and avoid me as much as possible. She didn't like me coming to her events, she didn't like me going to things with her. I think I made her uncomfortable.
132.	LW	Why did you decide not to pursue the case with the AFP at that point?
133.	BH	Because we were already coming up against so many blockades and I realised my job was on the line. I didn't feel like I had a choice.
134.	LW	Did you feel pressured in any way whatsoever not to proceed with the case with the police?
135.	BH	Oh, absolutely. There is a strange culture of silence in the parties and you just, you don't, the idea of sort of, speaking out on these sort of issues, especially around a campaign is just... it's like letting the team down. You're not a team player.
136.	LW	After the election, Brittany accepted a job from Employment Minister Michaelia Cash. In July 2019, Minister Cash was asked about two other claims of sexual assault within the Liberal Party.
137.	MC	These are serious allegations and I would say to the parties concerned, um, that they should be referred to the appropriate authorities.
138.	BH	I was actually down the hall from her when she'd said that. I was in the press gallery at the time. And yeah, it was hard to hear that because I knew that, you know, even if you go down the right pathway, they're not gonna.... they... the party isn't willing to help or support you.
139.	LW	Brittany believes Michaelia Cash found out about her experience three months after the remarks in the corridor, and that the information came directly from Linda Reynolds, breaching her privacy. Michaelia Cash's office disputes this, saying that she only recently found out the specifics.
140.	LW	Did Minister Cash have any words of advice on how you should deal with the trauma that you were going through?
141.	BH	Yeah. I was having difficulties actually coming through the entrance of Parliament House. It was that, that same entrance where the incident happened and so I felt, every time I'd walk through it I'd get quite panicky and I sort of, I said that I was having difficulties just coming in and at that point she was like "well you, you're just going to have to sort of suck it up" essentially. And it was, it's that same idea of "you deal with it, or you leave"
142.	LW	So, apart from Fiona Brown, has anyone else from the Prime Minister's office been in touch with you over the assault?
143.	BH	Yeah. So I've had, Yaron Finkelstein sort of broadly, in proximity around it during the actual week after the event.
144.	LW	Who is Yaron Finkelstein?

145.	BH	He is the Principal Secretary to the Prime Minister, I think is his official title, but essentially, he's sort of just the fixer. He fixes problems. Not just people, but other issues. But he's, he's the fixer.
146.	LW	Did you hear from Yaron Finkelstein after that initial period?
147.	BH	I did, I did. It was just like a, strange sort of, check in essentially. But those happened to me kind of pretty regularly.
148.	LW	And what was the timing of that check in?
149.	BH	There was some sort of story. But it was, it was another sort of liberal women issues Four Corners...
150.	LW	The Canberra Bubble story on Four Corners?
151.	BH	Yeah. That's correct.
152.	LW	And what did he say?
153.	BH	Just checking in.
154.	LW	Is it normal for a junior staffer to get a call from the Prime Minister's chief fixer?
155.	BH	No. No, it's not normal.
156.	LW	So what's happened to the man that you say raped you on Minister Reynolds' couch?
157.	BH	He's fine. He's working in Sydney, he's, he's got a good job. Everyone... people don't know why he left, and I don't think he suffered any consequences for it at all. I think he just kind of got to keep going.
158.	LW	Are you able to keep working in this environment?
159.	BH	No.
160.	LW	Have you resigned?
161.	BH	Yeah.
162.	LW	Are you at all concerned that maybe by resigning that you've just taken this problem out of your boss' hands? Out of the government's hands?
163.	BH	No. I think that resigning is the only thing I can personally do to sort of say that I don't think that anyone else should go through what I went through.
164.	LW	If everything that you say is true, it sounds to me like the easiest place in this country, to rape a woman and get away with it, is Parliament House in Canberra.
165.	BH	Yeah..... yeah...
166.		[Photograph of Ms Higgins's Parliament of Australia identification card]

167.	LW	<p>We of course approached all the people named in our story, and all our requests for interviews were declined. Those requests remain open. Full statements on behalf of the Prime Minister's office, Fiona Brown, Linda Reynolds, Michaelia Cash, and the Australian Federal Police can be seen on our website. But there is some good news for Brittany tonight, after almost two years, Parliament House authorities have finally told us the CCTV will be available to investigators.</p> <p>And of course, if this story has raised any issues for you, national 24 hour counselling and support can be found at 1800-RESPECT which is 1800-737-732 and of course, crisis support is available 24/7 through Lifeline on 131114.</p> <p>That's it for tonight's show, please join us again tomorrow night for more Project at 6:30. Goodnight.</p>
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NOTICE OF FILING

Details of Filing

Document Lodged:	Applicant's Genuine Steps Statement - Form 16 - Rule 8.02
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	7/02/2023 3:18:42 PM AEDT
Date Accepted for Filing:	7/02/2023 4:31:02 PM AEDT
File Number:	NSD103/2023
File Title:	BRUCE LEHRMANN v NETWORK TEN PTY LIMITED ACN 052 515 250 AND ORS
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads "Sia Lagos".

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 16
Rule 8.02

Applicant's genuine steps statement

No. of 2023

Federal Court of Australia
District Registry: New South Wales
Division: General

Bruce Lehrmann

Applicant

Network Ten Pty Limited ACN 052 515 250 and another
Respondents

This genuine steps statement is required by section 6 of the *Civil Dispute Resolution Act 2011*.

Steps taken to try to resolve the issues in dispute

The following steps have been taken to try to resolve the issues in dispute between the Applicant and the Respondents in the proceeding:

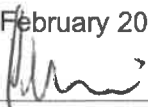
- 1 By way of letter dated 16 December 2022 addressed to the First Respondent (being the employer of the Second Respondent, or a corporation related to the employer of the Second Respondent), the Applicant's solicitors advised that the first and third matters complained of in the proceedings were defamatory of the Applicant and offered to settle his claims for the terms specified in the letter, namely publication of an apology, payment of damages, and payment of the Applicant's reasonable costs.
- 2 By way of letter from the Solicitors for the First Respondent to the Applicant's solicitors dated 20 January 2023, issues including the limitation period, identification and defences of justification and qualified privilege were raised, the Applicant's offer of settlement was not accepted, and no Offer of Amends was made.

Filed on behalf of (name & role of party) Bruce Lehrmann
Prepared by (name of person/lawyer) Paul Svilans
Law firm (if applicable) Mark O'Brien Legal
Tel [REDACTED] Fax [REDACTED]
Email [REDACTED]
Address for service Level 19, 68 Pitt Street, Sydney NSW 2000
(include state and postcode)

[Form approved 01/08/2011]

347

Date: 7 February 2023



Signed by Paul Svilans
Lawyer for the Applicant

Re: Bruce Lehrmann - Court documents [TGLAW-Legal.FID3782978]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>
Cc: "O'Beirne, Conor" <[REDACTED]>
Date: Wed, 08 Feb 2023 13:07:00 +1100

Yes that's fine - does 2pm suit?

Conor will circulate a zoom link.

--tgsignature--

On 8 Feb 2023, at 12:50 pm, Lisa Wilkinson <[REDACTED]> wrote:

Thanks Marlia. Would it be possible to have Nick in on that call given it is personal defamation against me now? Perhaps a Zoom?

Sent from my iPad

On 8 Feb 2023, at 12:26 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

\~

We've just received the court documents which are **attached**.

\~

We'll have a review of these and will give you a call to discuss them this afternoon.

\~

Kind regards

\~

Marlia

\~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

Advice | Transactions | Disputes

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 #####

<Originating Application - Ten.pdf>
 <Statement of Claim - Ten.pdf>
 <Genuine Steps Statement - Ten.pdf>

350

Re: Bruce Lehrmann - Court documents [TGLAW-Legal.FID3782978]

From: Lisa Wilkinson <[REDACTED]>
To: "Saunders, Marlia" <[REDACTED]>
Cc: "O'Beirne, Conor" <[REDACTED]>
Date: Wed, 08 Feb 2023 12:49:45 +1100
Attachments: Originating Application - Ten.pdf (459.63 kB); Statement of Claim - Ten.pdf (1.62 MB); Genuine Steps Statement - Ten.pdf (425.02 kB)

Thanks Marlia. Would it be possible to have Nick in on that call given it is personal defamation against me now? Perhaps a Zoom?

Sent from my iPad

On 8 Feb 2023, at 12:26 pm, Saunders, Marlia <[REDACTED]> wrote:

Hi Lisa

We've just received the court documents which are **attached**.

We'll have a review of these and will give you a call to discuss them this afternoon.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

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#####

Re: Conference re: Lehrmann

From: Nick Fordham <[REDACTED]>
To: "Stellas, Rachel" <[REDACTED]>
Cc: [REDACTED]; "Saunders, Marlia" <[REDACTED]>; "O'Beirne, Conor" <[REDACTED]>
Date: Wed, 08 Feb 2023 13:45:08 +1100

Hi Rachel,
 ~
 Just noticed this 2pm call come through.
 ~
 I unfortunately have another call at this time but it will only be quick, so I will join this call once I am off.
 ~
 Regards,
 ~
 Nick
 ~

~
 T H E
FORDHAM
 COMPANY

NICK FORDHAM
 CEO
 13-15 Little Burton Street
 DARLINGHURST NSW 2010
 AUSTRALIA
 T [REDACTED]
www.thefordhamcompany.com.au


~
 ~

From: "Stellas, Rachel" <[REDACTED]>
Date: Wednesday, 8 February 2023 at 1:33 pm
To: "Saunders, Marlia" <[REDACTED]>, "O'Beirne, Conor" <[REDACTED]>, Lisa Wilkinson <[REDACTED]>, Nick Fordham <[REDACTED]>
Subject: Conference re: Lehrmann
 ~

Marlia Saunders is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting
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351

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 \~ +1 305 224 1968 US
 \~ +1 309 205 3325 US
 \~ +1 312 626 6799 US (Chicago)
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 \~ +1 386 347 5053 US
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[115.114.115.7](tel:115.114.115.7) (India Hyderabad)

[213.19.144.110](tel:213.19.144.110) (Amsterdam Netherlands)

[213.244.140.110](tel:213.244.140.110) (Germany)

[103.122.166.55](tel:103.122.166.55) (Australia Sydney)

[103.122.167.55](tel:103.122.167.55) (Australia Melbourne)

[64.211.144.160](tel:64.211.144.160) (Brazil)

[69.174.57.160](tel:69.174.57.160) (Canada Toronto)

[65.39.152.160](tel:65.39.152.160) (Canada Vancouver)

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Meeting ID: 838 7597 9185

\~

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 #####

Lehrmann - 8 February 2023 - 2pm [TGLAW-Legal.FID3626448]

From: "O'Beirne, Conor" <[REDACTED]>
To: "O'Beirne, Conor" <[REDACTED]>
Date: Wed, 08 Feb 2023 15:22:01 +1100

File note – meeting with Lisa Wilkinson

LW, Nick Fordham
 MSA, COB

- * Served. Front page of The Oz.
- * Notice of acting.
- * Application to extend.
- * Reasoning –
 - * Charged. Couldn't sue. Prejudice himself.
- * We'll put them to proof on them.
- * First step –
 - * What's your evidence – consider what we put on in response. Then set down for a hearing.
 - * Preliminary determination.
- * Toowoomba: 22 February 2023.
- * Police will often ask for more time. Very common. Stood over. Not ready for the committal to be set down.
- * Application to ID Lehrmann prior to committal.
- * As a part of that, certain court docs.
- * That will be listed
- * If he's not granted an EOT. Dismissed. He'll seek a stay until the Qld proceeding is on foot. If he doesn't
- * Post-publication conduct.
- * Generally. A lot of other victims. We need to try and find them. We can rely on their evidence. Rely on that, as a result of this.
- * Even if we can't prove that he raped BH.
- * Want to settle to make it go away.
- * Rapist.
- * Exposure – less of exposing him.
- * Can't say that they're never going to settle. No offer is being made. Proceeding on the basis of
- * Spoken to her –
 - * David Sharaz spoke to LW. Hope you're OK, wanting to know if she needed a crisis comms person.
 - * Everything's good.
 - * The moment in Court. That's not an issue.
 - * That's in the SOC.
 - * Inference cannot be drawn. Particular should not be included.
 - * Probably get something from Brittany.
 - * We'd go back to the transcript.
 - * Great if we could have a call with Brittany. Chat to her, establish rapport.
 - * Meet her. Get her on board to assist.
 - * She'd be happy to do that.
 - * Even if there is a stay granted.
 - * Start developing that relationship now.
- * BH and LW – may need to give evidence. QP. LW will need to give evidence about all of the steps to ensure accuracy.
 - * COMPROMISED QP DEFENCE
- * BH and LW: careful not to discuss evidence.
- * Not about the evidence
- * Angus: better is LW doesn't talk about it.
- * QP is something we don't need to run.
- * It's something that often isn't successful.
- * Court's impose a very high standard of perfection. Reasonable.
- * John Garnaut. Wing.
- * Timeframe for a response wasn't long enough. Should have spoken to this person as well. Etc.
- * It's a defence that is only successful in
- * This is one of the best QP defences; branches – stat, CL and government and political matters
- * Not a witness yet.
- * LW can review emails, notes, everything for the criminal proceeding. If there are questions or clarifications, come to us rather than asking Angus.
- * Just want to be clear – we don't want allegations of collusion.
- * What your roles were. What you did. You can't be criticised for relying on AL for certain things.

- * LW – final week, away writing book. All of final edits together. That's how a network runs. We've seen how thorough AL is.
- * Final week, airing of story – always on Sunday night – first story on news.com.au – despite always being happy.
- * There might be a nice side bar to get out of that.
- * **QP – Walkley**
 - * Additional consideration.
- * Toowoomba:
 - * How does this affect this?
 - * Wybrow, Richardson. Hopefully he'll tone down Whybrow.
- * PIS – fingertips.
- * Technically – none of those can be used.
- * All of the bombs have already gone off.
- * She can answer in a way that means
- * ABL – Leon Zwi.
- * Lehrmann's being financed by someone with very deep pockets.
- * Timing
 - * Depends on criminal charges.
 - * Shocked if we got a trial date this year.
 - * It'll be 24 or 25.
 - * Usually first CMC 5 weeks post.
- * BH's book – IWD next year. We'll be far from done with this. If it goes to trial, we'll be far from done.
- * **BOOK = SERIOUS SUB JUDICE RISK**
- * Commercial decisions.
- * Besanko in BRS.
- * **Jury.**
- * Public standards.
- * **Seek all of the trial evidence and exhibits from the trial.**
- * We're not going to be going to trial any time soon.
- * We will probably get a hearing on this extension point. It will be in Court.
- * Quite a few things running concurrently.
 - * Toowoomba.
 - * BOI.
 - * Defamation proceeding.
- * Get them to ask for all comms between LW and Ch 9.
- * LW had no involvement. Literally 0. Didn't even know it had been sent.
- * **DATE TAKEN DOWN**
- * TV Week Logie Awards. Nine just the broadcaster. Independent panel spearheaded by TV Week.
- * Ch 9 producer, snippets – but all the other steps are for separate entities.
- * HarperCollins and Aaron Patrick. Ego.
- * Vicarious liability. **Agency? Author?**
- * Do want to do a submission to the inquiry into SD's behaviour.
- * Recommend that we're careful about waiving privilege. May not be reported as she would like.
- * LW keen for her part, not to mention, that it's on the public record that LW was not warned.
- * Painting her as someone who didn't follow legal advice.
- * McCallum's words.
- * LW away – this weekend to 14 March 2023.
- * Zoom calls, phone calls, emails, but not around.
- * Happy for us to file address for service. We'll do that next week.
- * Letter:
 - * Evidence re EOT
 - * F+BPs re identification
 - * Paragraph 9 withdrawn
- * LW would like to see it. We'll send that through next week.
- * Keep LW updated generally. If we get a judge, CMC, evidence.
- * If urgent we'll text you.
- * **LW to S/T BH – whether she'd be comfortable to speak to us.**

3pm finished

1.0



From: Nick Fordham <[REDACTED]>
Date: Tuesday, 14 February 2023 at 8:53 am
To: Beverley McGarvey <[REDACTED]>
Subject: Private & Confidential

Dear Bev,

I am writing to you in respect of the Lehrmann Defamation proceedings against Network Ten and Lisa Wilkinson.

In view of the claim lodged against Network Ten, and also Lisa, it is my firm view that Lisa should be represented by a different legal firm and counsel to that of Network Ten in defending the claims made by Lehrmann.

Whilst Lisa and I obviously both consider that Network Ten will be and must be strategically aligned to defeat this claim together, Lisa must be separately represented to ensure that her lawyers prioritise her specific interests in the litigation which will not at all times align with the Network's priorities. Likewise, separate representation will allow Ten to focus on issues more immediate to it, and will also largely avoid problems with any conflict of interest which might arise.

Lisa has already been provided with independent advice from Anthony Jefferies from Gillis Delaney (her personal lawyer) as well as Sue Chrysanthou SC.

As you are fully aware, Lisa has suffered enormous damage to her professional reputation and her career - due to absolutely no fault of her own - which sadly continues and will now be further exacerbated by this case. Network Ten is obliged to indemnify Lisa in relation to this claim. Accordingly, and given my comments above, please confirm that Network Ten accepts that obligation, including by covering any costs Lisa might be ordered to pay, and paying for Lisa's legals for these proceedings.

I consider it is vital that Network Ten and Lisa continue to work closely together to ensure a positive outcome for both parties. I understand that a defence needs to be filed for Lisa in just over 3 weeks. In order to comply with the court rules she will need copies of all of the documents relating to the preparation of 15 February Project Broadcast including emails, draft scripts, file notes and camera tapes.

I would appreciate the opportunity to discuss this with you at your earliest convenience.

Regards,

Nick

NICK FORDHAM

CEO

13-15 Little Burton Street

DARLINGHURST NSW 2010 AUSTRALIA

T [REDACTED]

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From: Tasha Smithies <[REDACTED]>
Date: Wednesday, 15 February 2023 at 7:07 am
To: Nick Fordham <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>, Catherine Donovan
<[REDACTED]>
Subject: FW: Private & Confidential

Dear Nick

Your email to Beverley, copied below, has been passed to me for response given that it concerns the legal proceedings that have been commenced against the network and Lisa. Please direct any future correspondence concerning the proceedings to me or, if it involves a communications matter, to Cat.

We understand that the following unilateral actions have been taken on Lisa's behalf:

- Lisa has engaged her own solicitors, Gillis Delaney Lawyers, to act for Lisa in Lisa's defence of the proceedings;
- Those solicitors have engaged senior counsel, Sue Chrysanthou SC, to act for her;
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- Gillis Delaney Lawyers have sent substantive correspondence to the Applicant's lawyers on Lisa's behalf in response to the statement of claim and originating application.

With these steps, Lisa has elected to pursue her own defence of the proceedings and she is entitled, at her own cost, to do so. We respect her decision to act independently of the network, and would not seek to impede her from taking that course of action.

I note that, had we been consulted, we would not have endorsed selection or appointment of either solicitors or counsel, noting in particular, that Sue Chrysanthou SC is customarily a plaintiff, not a media defendant counsel, and routinely acts in opposition to the network and its interests. Further, we would not have endorsed the initial approach taken by Gillis Delaney Lawyers in their correspondence with the Applicant's lawyers. However, we acknowledge that Lisa has elected to pursue her own defence without the endorsement of the network, and so the network would not assume responsibility for the consequential costs.

You have requested that the network indemnify Lisa upfront in relation to the costs and outcome of the proceedings. As you are probably aware, it is customary for media organisations to provide indemnification of talent that are joined as secondary defendants to defamation proceedings, but only on the basis that both parties are solely represented by the media's legal representatives. Consistent with that custom, N10 could offer

indemnification to Lisa on that basis if she subsequently wishes to discontinue an independent defence of the matter and to accept representation by the network's lawyers. Such indemnification would commence from the time that joint representation commences. And of course, we can revisit the question of payment of any judgement for damages as the proceedings unfold and the parties develop their respective defence strategies.

In the meantime, we suggest that it is in both party's interests to cooperate to the full extent possible with a view to achieving the best outcome for both parties. To that end, we suggest that both the network and Lisa instruct their respective legal representatives to share with each other, to the extent appropriate, any court filing or correspondence with the Applicant's lawyers in advance of any filing or dispatch of the correspondence so that input can be obtained from the other party. We will also instruct Thomson Geer to provide Gillis Delaney Lawyers with the various recordings, documents and other items that it may require in the course of running Lisa's defence.

In terms of legal communications between the parties, Thomson Geer and Gilles Delaney Lawyers should have primary responsibility for such communications. From time to time, it may be practical for us to communicate directly on practical or incidental legal matters.

In terms of media communications, we would expect that you would now take responsibility for Lisa's direct communications with media, consistent with Lisa's legal strategy as advised by her counsel. Of course, you should also engage with Cat on communications with media wherever the network's interests are affected or in circumstances where a joint approach is desirable.

Please let me know if you would like to discuss the above either with myself and/or with Stuart.

Regards
Tasha

Tasha Smithies

Senior Legal Council

O [REDACTED] M [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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Date: Wednesday, 15 February 2023 at 7:07 am
To: Nick Fordham <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>, Catherine Donovan
<[REDACTED]>
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Nick

NICK FORDHAM

CEO

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Fwd: Lisa Wilkinson & Anors ats Bruce Lehrmann - Federal Court of Australia - Proceedings No: NSD103/2023 [GDL-1.220244.WILKIL]

From: "Saunders, Marlia" <[REDACTED]>
To: Smithies Tasha <[REDACTED]>
Date: Tue, 14 Feb 2023 15:12:29 +1100
Attachments: image001.gif (2.86 kB); Let Mark O'Brien Legal. 14 February 2023 (S2369430xD43CF).PDF (981.1 kB)

Hi Tasha

As discussed, I just had a conversation with Anthony.

He said he has been the Fordham family lawyer for decades and has advised Lisa previously. He said he has had a watching brief in this matter.

His instructions were that Lisa had not instructed us to appear for her. I told him that was not the case and we had a 1 hour conference with her and Nick last Wednesday. All he was told is that the pleadings had been sent to her.

He was mortified and apologised profusely. He said if he had known he would have picked up the phone and would have handled things completely differently. He said he will be making some calls now because he believes he has been misadvised.

He said he has a lengthy conference with Lisa on Saturday before she left for France along with Sue Chrysanthou SC who is briefed as counsel.

He said he wants to work collaboratively on the matter and did not intend to do anything to jeopardise that.

Marlia

--tgsignature--

Begin forwarded message:

From: Anthony Jefferies <[REDACTED]>
Date: 14 February 2023 at 1:23:59 pm AEDT
To: [REDACTED]
Cc: "Saunders, Marlia" <[REDACTED]>, Anthony Jefferies <[REDACTED]>
Subject: Lisa Wilkinson & Anors ats Bruce Lehrmann - Federal Court of Australia - Proceedings No: NSD103/2023 [GDL-1.220244.WILKIL]

Dear Paul

\~

Please see **attached** our letter of even date.

\~

Kind regards

\~

Anthony Jefferies
 Partner

Gillis Delaney Lawyers

Level 40, 161 Castlereagh Street, Sydney, NSW 2000

Direct: [REDACTED]

Tel: [REDACTED] | Fax: [REDACTED]

[REDACTED] | www.gdlaw.com.au

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~

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Subject: Lisa Wilkinson & Anors ats Bruce Lehrmann - Federal Court of Australia - Proceedings No: NSD103/2023 [GDL-1.220244.WILKIL]

attached letter of even date.

Anthony Jefferies

Gillis Delaney Lawyers

Level 40, 161 Castlereagh Street, Sydney, NSW 2000

Tel: [REDACTED] Fax: [REDACTED]
[REDACTED] www.gdlaw.com.au

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~

GILLIS DELANEY - Confidential Communication

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Lehrmann - Draft letter to Mark O'Brien Lawyers [TGLAW-Legal.FID3782978]

From: "Saunders, Marlia" <[REDACTED]>
To: Lisa Wilkinson <[REDACTED]>
Cc: "O'Beirne, Conor" <[REDACTED]>
Bcc: Bruce Lehrmann – Defamation _Ten_ _5263490_ _E_Mail <[REDACTED]>
Date: Tue, 14 Feb 2023 12:25:59 +1100
Attachments: Lehrmann - Letter to Mark O'Brien Legal - 14 February 2023 (81388559v4).DOCX (300.02 kB)

Dear Lisa

\~

As foreshadowed in my text message, please find **attached** a draft letter to Mark O'Brien Lawyers about the statement of claim filed in the Lehrmann matter.

\~

In the letter we have:

\~

- proposed a timetable for the exchange of evidence and submissions in relation to the extension of time application, which we have noted should be dealt with before any other steps in the proceedings are taken;
- sought confirmation that no defence will be filed until the extension of time application has been determined;
- sought further and better particulars of identification and aggravated damages; and
- have asked them to withdraw the particular in paragraph 9(b) which alleges you were motivated by personal and professional gain in running the interview.

\~

We note the letter has been reviewed and settled by counsel, and Tasha is also happy with it.

\~

Please let us know if you have any comments on the letter, or would like to discuss it over the phone.

\~

It would be great if we could send this out in the next day or so.

\~

Kind regards

\~

Marlia

\~

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

\~

Level 14, 60 Martin Place
 Sydney NSW 2000 Australia

GPO Box 3909 Sydney NSW 2001

T [REDACTED]
 F [REDACTED]

Our ref MS:5263490
 Your ref MOBL657

14 February 2023

Mark O'Brien & Paul Svilans
 Mark O'Brien Legal
 Level 19, 68 Pitt Street
 SYDNEY NSW 2000

Dear Colleagues

Lehrmann v Network Ten Pty Ltd and Anor, Federal Court of Australia, Proceedings No. NSD103/2023

We refer to the originating application and statement of claim filed in the above proceedings on 7 February 2023.

Application for an extension of time

Your client seeks an order under s. 56A of the *Limitation Act 1969* (NSW) (**Limitation Act**) that the limitation period for bringing this action be extended to the date on which it was filed.

In our view, this is a threshold issue which should be determined as a preliminary matter as soon as possible and before any other steps are taken given that the proceeding is not currently maintainable by reason of the operation of s. 14B of the *Limitation Act*.

As set out in our letter of 20 January 2023, our clients consider that there is a real prospect that your client will be unable to satisfy the Court that it was not reasonable in the circumstances for him to have commenced an action in relation to the matters complained of within the 12-month limitation period such that he would be unable to obtain an extension of the limitation period and the proceeding would be dismissed with costs.

We further note that in a recent defamation case involving an application to extend the one-year limitation period, it was Justice Lee's expectation that the parties would be ready to argue the extension of time application at the first case management hearing. In our view, the facts, matters and circumstances in that case are analogous to the present case, see: *Landrey v Nine Network Australia Pty Ltd* [2023] FCA 27.

We therefore propose the following timetable be adopted ahead of the first case management conference before Justice Lee at 9am on 16 March 2023:

- 1 Mr Lehrmann file and serve his evidence and any submissions in support of his application to extend the limitation period by Friday 24 February 2023; and
- 2 The respondents file and serve their evidence and submissions by Friday 10 March 2023.

Please confirm your client agrees that no defence is required to be filed by our clients until after the extension of time application is determined. To require our clients to go to the expense of preparing and

filing a defence in circumstances where there is a live, threshold issue which could resolve the whole proceeding at a preliminary stage would be antithetical to the well-established principles of case management and practice and inconsistent with the overarching purpose set out in s. 37M of the *Federal Court of Australia Act 1976* (Cth).

Particulars of identification

There are a number of deficiencies in your client's statement of claim which need to be attended to and so the respondents can understand the case they may be required to meet (assuming your client's application for an extension of time is granted).

Most pressing, we seek the following further and better particulars of identification:

1 Particulars 4(h)(i), 6(h)(i) and 8(h)(i):

All facts, matters and circumstances supporting the claims that the applicant was identified by Commonwealth politicians, political assistants and staffers, journalists and other persons who worked at Parliament House Canberra, including but not limited to:

- (a) the names of each such person, specifying whether, in relation to each person, they are a Commonwealth politician, political assistant, political staffer, journalist or other person (specifying their role) who worked at Parliament House Canberra; and
- (b) particulars of how and when it was communicated to the applicant by each such person that they had identified him and what was said to him. To the extent that it was communicated orally, please specify the substance or effect of what was said and when. To the extent that it was communicated in writing, please provide a copy of any document recording the communication.

2 Particulars 4(h)(ii), 6(h)(ii) and 8(h)(ii):

All facts, matters and circumstances supporting the claims that the applicant was identified by family, friends and acquaintances of the applicant, including but not limited to:

- (a) the names of each such person, specifying whether, in relation to each person, they are a family member (and if so specifying their relationship to the applicant), friend or acquaintance (specifying how they are acquainted with the applicant); and
- (b) particulars of how and when it was communicated to the applicant by each such person that they had identified him and what was said to him. To the extent that it was communicated orally, please specify the substance or effect of what was said and when. To the extent that it was communicated in writing, please provide a copy of any document recording the communication.

3 Particulars 4(i), 6(i) and 8(i):

All facts, matters and circumstances supporting the claim that the relevant matter complained of invited viewers to speculate about the identity of the person accused by Ms Higgins of sexually assaulting her.

All facts, matters and circumstances supporting the claim that viewers of the relevant matter complained of had already read, or subsequently read, the social media posts and articles referred to, including but not limited to:

- (a) the scope of each publication;
- (b) the dates of each publication; and
- (c) details of any person said to have both watched any of the matters complained of and read any of the social media posts and articles.

Please specify all social media posts and articles relied upon in support of the allegations made in particulars 4(i), 6(i) and 8(i) or confirm that such posts and articles are confined to those specified at 4(i)(i)-(ix), 6(i)(i)-(ix) and 8(i)(i)-(ix) of the statement of claim.

We will rely on this correspondence and any response if our clients are required to make an application for particulars under r 16.45 of the *Federal Court Rules 2011* (Cth), including on the question of costs.

Irrelevant and scandalous material

Paragraph 9 of the statement of claim contains scandalous, irrelevant and otherwise inaccurate material. We put you on notice that our clients may seek to strike-out sub-paragraphs 9(a)-(d) on one or more of these bases.

In particular, we understand the allegations contained in paragraph 9(b) were retracted and withdrawn by Ms Higgins during the course of her oral evidence at your client's rape trial. Ms Higgins stated that Ms Wilkinson did care about the issue, and that it was "abrupt" of her to say it was all about them. Accordingly, paragraph 9(b) is baseless and the alleged inference is unsustainable, and should be withdrawn from your client's pleading. Please confirm this particular will be withdrawn immediately.

So that we may properly consider the position, please provide the following further and better particulars of the allegations in paragraph 9 of the statement of claim:

1. It is our understanding of paragraph 9(a) of the statement of claim that the applicant is alleging that the respondents were recklessly indifferent to the truth or falsity of the relevant imputations because they published the relevant assertions and allegations without giving the applicant a reasonable opportunity to respond. If the applicant's case is that there is some other basis to allege that the respondents were recklessly indifferent as to the truth or falsity of the relevant imputations (aside from the alleged failure to give the applicant a reasonable opportunity to respond) then please specify the basis and provide particulars as to how the respondents' conduct was improper, unjustifiable or lacking in bona fides such as to sound in an award of aggravated damages.
2. In relation to paragraph 9(d) of the statement of claim, please specify how it is alleged that the relevant assertions made in the letter dated 20 January 2023 were improper, unjustified or lacking in bona fides such as to sound in an award of aggravated damages.
3. In relation to paragraph 9(e) of the statement of claim, please provide particulars of the encouragement said to have been given by the respondents (specifying in relation to each respondent).
4. In relation to paragraph 9(f) of the statement of claim, please provide particulars of how it is alleged that the matters complained of were presented in an over-sensationalised manner.

Our clients reserve their right to produce this correspondence to the Court and rely on it on the question of costs.

Yours faithfully
THOMSON GEER

Marlia Saunders

Partner

T [REDACTED]
M [REDACTED]
E [REDACTED]





Our Ref: AJJ/220244
Your Ref:

Level 40
ANZ Tower
161 Castlereagh Street
SYDNEY NSW 2000
AUSTRALIA
DX 179 SYDNEY

14 February 2023

Telephone: [REDACTED]
Facsimile: [REDACTED]
www.gdlaw.com.au

Mr Paul Svilans
Principal
Mark O'Brien Legal
Level 19, 68 Pitt Street
SYDNEY NSW 2000

Via email: [REDACTED]

Dear Colleagues

Lisa Wilkinson & Anor ats Bruce Lehrmann
Federal Court of Australia - Proceedings No: NSD103/2023

We act on behalf of the second respondent in these proceedings and have recently been provided with the Statement of Claim and Originating Application.

Please find **enclosed** our Notice of Acting – Change of lawyer.

We request the following further and better particulars of the Statement of Claim and the Originating Application:

1. First matter complained of

- (i) In relation to paragraph 4, particulars of identification, please set out the names of the persons that the applicant alleges fall within the class of persons referred to in (f) and for each such person, which of the facts in (a) – (e) that person was aware of at the time of watching the first matter complained of.
- (ii) In relation to paragraph 4, particulars of identification, please set out the names of the persons that the applicant alleges fall within the class of persons referred to in (h)(i).



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Standards Legislation

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- (iii) In relation to paragraph 4, particulars of identification, please set out the names of the persons that the applicant alleges fall within the class of persons referred to in (h)(ii).
 - (iv) Further, the classes of persons in paragraph (h) are not said to possess knowledge of any fact that caused them to identify the applicant. Are any such facts asserted?
 - (v) In relation to paragraph 4, particulars of identification, please set out the names of the persons that the applicant alleges fall within the class of persons referred to in each of the sub-categories of (i).
 - (vi) In relation to paragraph 4, particulars of identification, the publications in sub-category (i) appear to be random and obscure publications that have been obtained after the fact, upon searches being conducted. On what facts matters and circumstances is it alleged that any viewers of the first matter complained of in fact accessed any of these social media posts or blogs? It does not appear to be self-evident from the content of those publications that was in fact the case.

2. Second matter complained of

Please supply the same particulars in relation to paragraph 6, and pertaining to the second matter complained of, as sought above.

3. Third matter complained of

Please supply the same particulars in relation to paragraph 8, and pertaining to the third matter complained of, as sought above.

4. Damage

- (i) The allegation in paragraph 9(a) is unsupported by any material fact. On what such fact(s) is it alleged that the second respondent was recklessly indifferent in the manner alleged?
- (ii) The allegation in particular 9(b) appears to rely on the evidence of Ms Higgins at the criminal proceedings referred to.
 - a) Is it the applicant's position that Ms Higgins' evidence throughout that proceeding should be accepted as correct;

- b) In the same particular it is alleged that the allegations of Ms Higgins were false – is it alleged that the second respondent believed that her allegations were false? If so, what fact(s) are relied on to make that assertion;
- c) What gain is it alleged that the second respondent sought to achieve?
- (iii) In relation to 9(c), how is it alleged that the second respondent's publication of her interview with Ms Higgins on Instagram was improper, unjustified or lacking in *bona fides*?
- (iv) We assume that 9(d) is not sought to be deployed as against the second respondent. Please confirm that is correct.
- (v) Our client is not aware of any concerns notice directed to her by the applicant in relation to the publications the subject of these proceedings. Please confirm that no such notice was sent to her.
- (vi) In relation to 9(e), please provide particulars in relation to the second respondent as to how it is alleged she encouraged viewers of the second and third matters complained of to "*read and/or share*" them by social media.
- (vii) In relation to 9(f), please provide particulars of the aspects of the matters complained of that are alleged to be over-sensationalised such that the intent alleged is indicated.
- (viii) We request that the particulars sought be provided as soon as possible having regard to the deadline under the FCR for the filing of defences, as the responses may impact upon the defences relied on by the second respondent.

5. Limitation expiration

By reason of the elapse of time since the publication of the matters complained of, the proceedings are not maintainable. The second respondent intends to plead in her defence the limitation period as a bar to the causes of action brought against her.

We note that the applicant seeks an extension of time in the originating application. Does the applicant agree that claim for relief should be determined in advance of any other matter in the proceedings?

6. Injunctions

The applicant seeks injunctions against the second respondent in paragraphs 3 and 4 of the Originating Application. There do not appear to be any pleaded facts to support this relief. Are any particular facts relied upon by the applicant in this regard as against the second respondent?

7. Interest on costs

We note that the applicant purports to seek interest on costs in paragraph 5 of the Originating Application. Pursuant to which provision of the *Federal Court of Australia Act 1976* does he do so? It is our understanding that interest on costs is not available in Federal Court proceedings; please let us know if this claim is pressed.

8. Correspondence

Please provide us with all correspondence that has passed between your firm and the first respondent and the Court to date in relation to these proceedings.

We await your prompt reply.

Yours faithfully,

GILLIS DELANEY LAWYERS



Anthony Jefferies

Partner

Direct Line: [REDACTED]



David Collinge

Special Counsel

Direct Line: [REDACTED]

cc. Thomson Geer
Marlia Saunders
[REDACTED]

NOTICE OF FILING**Details of Filing**

Document Lodged:	Notice of Acting - Change of Lawyer - Form 5 - Rule 4.04(1)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	14/02/2023 11:59:10 AM AEDT
Date Accepted for Filing:	14/02/2023 12:10:41 PM AEDT
File Number:	NSD103/2023
File Title:	BRUCE LEHRMANN v NETWORK TEN PTY LIMITED ACN 052 515 250 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads "Sia Lagos".

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 5
Rule 4.04(1)

Notice of acting – change of lawyer

No. NSD 103 of 2023

Federal Court of Australia
District Registry: NSW
Division: General Division

Bruce Lehrmann

Applicant

Network Ten Pty Limited ACN 052 515 250 and another
Respondents

Lisa Wilkinson, the Second Respondent has appointed Anthony James Jefferies, Gillis Delaney Lawyers to represent the Second Respondent in the proceeding in the place of Marlia Saunders, Thomson Geer.

The address for service of the Second Respondent is:

Place: c/- Gillis Delaney Lawyers

Level 40, 161 Castlereagh Street

Sydney, New South Wales, 2000

Email [REDACTED]; [REDACTED]

Date: 14 February 2023

Signed by Anthony James Jefferies
Lawyer for the Second Respondent

Filed on behalf of (name & role of party)	Lisa Wilkinson, Second Respondent		
Prepared by (name of person/lawyer)	Anthony James Jefferies		
Law firm (if applicable)	Gillis Delaney Lawyers		
Tel	[REDACTED]	Fax	[REDACTED]
Email	[REDACTED]		
Address for service (include state and postcode)	Level 40, 161 Castlereagh St Sydney, New South Wales, 2000		

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1095

1095

From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, February 15, 2023 10:07 AM
To: Nick Fordham <[REDACTED]>; Anthony Jefferies <[REDACTED]>; AAAA PETE <[REDACTED]>
Subject: Privileged and confidential - Lehrmann

Notes from my conversation with Marlia Saunders at 2PM on Feb 7 (and background on the leadup to that call, and the days following)

In the fortnight starting Monday January 23rd, I had a number of email exchanges with Marlia Saunders and Tasha Smithies, regarding my frustrations over confusing and, at times delayed, advice from them over my desire to send a personal letter to Shane Drumgold, appealing for him to clarify on the public record that he did NOT warn me in our meeting of June 15, 2022 not to give a speech at the Logies.

At the conclusion of those email exchanges I informed Ms Smithies and Ms Saunders that I would no longer be sending a letter to Mr Drumgold because with the formal announcement of former Judge Walter Sofronoff KC presiding over the upcoming R v Lehrmann Inquiry, it was now too late.

Then, after a strongly worded email from Nick of Friday February 3rd, (outlining a number of his concerns over the ongoing reputational damage I was still experiencing, and Ms Smithies' & Ms Saunders' now stated belief that we had run out of options to correct the public record), Ms Smithies responded later that day (Feb 3) with an email which included the following...

“With Marlia, we have been most concerned to ensure that Lisa is legally protected in any actions that may be pursued. For that reason, we had suggested amendments to Lisa’s draft letter to Drumgold to avoid both any risk of contempt of court and also the risk of waiver of legal privilege. We also considered that the purpose of the letter could bear little fruit in the circumstances of the proposed Inquiry, but we did not stipulate that the letter should not be sent.

“To separate and simplify the roles of Marlia and myself, with immediate effect, Marlia will act solely for Lisa on this matter. In that way, Lisa can have direct recourse to Marlia’s advice without network involvement. With that simplification, moving ahead, we suggest that you and Lisa should deal directly with Marlia so that Lisa can resolve her preferred actions on the basis of that separate advice. Acting on Lisa’s instructions, Marlia can then communicate with me for network input on proposed courses of actions. Notwithstanding this separation of roles, N10 will continue to fund the costs of Marlia’s advice to Lisa on the Drumgold complaint.

“It is our view that it is not appropriate for the network to make any submissions to the board of inquiry, for several reasons including that any complaint is properly a personal complaint by Lisa. It seems to us (but

Marlia could advise Lisa on the question more directly) that a complaint could be lodged personally by Lisa directly to the Inquiry without the need for an expansion of the terms of reference. As you know, Lehmann has lodged a personal complaint and it is open, subject to Marlia's advice, for Lisa to take a similar approach. We consider that this approach is more likely to bear fruit than Lisa's proposed letter to Drumgold. We also do not consider that it is appropriate for the network to lodge a complaint to the Bar Association of the ACT. However, Marlia can also advise Lisa on the merits of a complaint made by Lisa, and the network has no objection in principle to this course of action if that is preferred."

I did not respond as I was in shock. I spoke to Nick and he said he was talking to Anthony Jeffries about the best next step.

Then, on Tuesday Feb 7th, I was sent the following email from Marlia Saunders.

Hi Lisa

Did you see this DailyMail article this morning?

<https://www.dailymail.co.uk/news/article-11717173/The-Lisa-Wilkinson-apology-letter-Brittany-Higgins-Logies-trial-debacle-exposed.html>

They have run the letter which was sent by Ten to the court and DPP on your behalf last June, which was 'leaked' to them.

Let me know if you'd like to discuss.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

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At that point, two things concerned me.

First of all, who did Marlia consider “leaked” the letter to the Daily Mail?

Upon calling her at 2PM that day, she told me she was of the strong belief that it had been leaked by Mark O’Brien who acted for Bruce Lehrmann, and also the Daily Mail, in order to strengthen their case against the conduct of Mr Drumgold throughout the inquiry, including that Mr Drumgold had not sufficiently warn me in regards to giving a Logies speech.

I also told Marlia in that phone call that I was extremely concerned and confused that Network Ten had decided they would not be making a submission to the Inquiry as it had become clear to me that it was the only option we had left to put on the public record the fact the DPP did not warn me not to give the speech.

I said to her words to the effect of, “I thought we had all been working towards a mutually desired outcome that meant my name and reputation would be cleared; that it needed to be on the public record that Ten gave me full legal clearance on a number of occasions after the meeting with the DPP to proceed with the Logies speech; and that the DPP himself had made it clear in two separate phone conversations with Marlia in June and October 2022 that, despite Justice McCallum’s public statement, Mr Drumgold admitted to Ms Saunders that he had not in fact warned me in that meeting of June 15 2022 not to give that speech.”

In response, Marlia repeated to me words to the effect of, “Ten do not want to do a submission to the inquiry - I can’t go into all the detail on why, but one reason I can tell you is that Ten does not want to create potentially negative publicity.”

This response particularly concerned me, as my understanding was that if Ms Saunders was acting in the best possible faith as my lawyer, she should be fully disclosing to me all of Ten’s reasons why they would not be making a submission to the Inquiry.

She also further confirmed Tasha’s words of the above email of Feb 3rd, that should I, on the other hand, decide to go ahead with making a submission to the Inquiry, the Network would not stand in my way, but that I would have to run my submission by the Network before its lodgement to ensure there was no waiving of legal privilege over the details of our correspondence, or any risk of contempt of court.

I pointed out that I had nothing to hide in that correspondence as that was what proved the truth of Drumgold’s position, and I was confused as to why the Network would therefore have a problem with it. How else could I possibly clear my name UNLESS that correspondence was tendered as evidence supporting any submission I was looking to make.

It was at this point that it was becoming increasingly clear to me that in acting for both me and Network Ten (with all bills being paid for by Network Ten) that there appeared to be a growing conflict of interest between Ten’s desired path to a positive outcome in these proceedings, and my own. This conflict, I believed, now existed in all legal aspects of both the Inquiry and any possible future defamation proceedings brought by Mr Lehrmann.

(SIDEBAR: At the time of the phone call - at 2PM on Tuesday Feb 7, 2022 - a mid-December 2022 defamation concerns notice had been served only against Network Ten - not me - and both Nick Fordham and I had been told that we would NOT be kept across any detail of these proceedings as they did not involve me personally. All I was told was that Network Ten had

rejected an offer of a damages settlement in January, and they had heard nothing more.)

The conversation continued and I pointed out to Ms Saunders that without Network Ten ever actively doing anything to control the narrative around me and my actions for the last nine months, deeply damaging negative publicity around me was allowed to run rampant. I continued that I did not understand why the Network would not welcome the chance to balance out the negative publicity with a submission to the Inquiry, that if fact gave us every opportunity for some positive publicity.

I said to Ms Saunders that, as my lawyer, surely she could see that we now had the perfect opportunity to finally confirm Ten's position, on the public record, in open court hearings exactly what had happened in June - both in terms of the Network's legal advice to me that it was OK for me to give a speech, and most particularly a speech that Network Ten's Legal Counsel Tasha Smithies, had fully approved for me to give on at least three separate occasions right up until a few hours before its delivery, and the fact that I had never been warned by the DPP in that meeting of June 22 not to give a Logies speech.

I stressed once again, that if I had been given a warning not to give that speech by the DPP, or if Ms Smithies after that meeting in her capacity as Ten's Legal Counsel, had warned me not to give that speech, I NEVER would have given it.

Ms Saunders said words to the effect of, "Lisa, there's nothing I can do, that is just Ten's position."

I told her that it was very disappointing not to have Ten's support, but if that was the case, I was confirming that I would like to either go ahead and make a personal submission to the Inquiry (and could she please get back to me with the detail of how I would do that), or possibly make a complaint to the Bar Association in the same way Mr Lehrmann and Ms Fiona Brown had (as reported in The Australian newspaper).

I suggested that going down the path of the letter to the Bar Association likely meant that my letter would become public, and that could be no bad thing.

I was seeking her advice as to which of those paths she thought would be more effective.

She said she would get back to me on Thursday with further advice.

I then asked Ms Saunders if Network Ten would also consider making a formal complaint to the Bar Association about Mr Drumgold's conduct, and she said no, they wouldn't be doing that for the reasons already stated which she said she "wasn't at liberty to go into".

This response echoed the words of Ten Legal Counsel, Ms Tasha Smithies in a phone call I had with her in mid-December 2022 (after Mr Drumgold refused all attempts by Ms Saunders to contact him post the Lehrmann trial), when I asked Ms Smithies if Network Ten would make a formal complaint to the appropriate authorities about Mr Drumgold's conduct.

In response, Ms Smithies said words to the effect of that action being highly unlikely, as it would not be viewed as being in the interests of the Network as Ten had to maintain a good ongoing relationship with the ACT DPP in other legal matters (unrelated to Mr Lehrmann), and my grievance with the DPP would not be considered a priority for the Network, as it may damage that ongoing relationship.

Returning to my phone call with Ms Saunders on the afternoon of February 7th, Ms Saunders also advised me that Ms Sophie Ellsworth, a long time, very vocal critic of mine from the Australian newspaper and Sky News, had contacted Network Ten regarding a Daily Mail report of earlier that day detailing the public release of Ms McGarvey's letter of June 21 to Justice McCallum.

Ms Saunders told me that Network Ten "are officially saying no comment", but that Ten were "backgrounding" Ellsworth. When I asked what that

backgrounding consisted of, she said she believed, but couldn't be sure, that it was confirming Beverley McGarvey's letter to the court that neither Network Ten, nor Ms Tasha Smithies, Ten's Legal Counsel, present in the meeting of June 15 with the DPP prior to the Logies, nor I, believe that I had been warned not to give a Logies speech.

Marlia said there was no guarantee that she will write it the way we would like, and I said I understood that, but I hoped that finally any new reporting might start including the fact that Network Ten held the strong view that Drumgold never warned me.

Before concluding the call I asked her where she believed Lehrmann's defamation proceedings were up to against the Network, and she told me it had likely gone away as she had not heard anything more.

I then received an email from Marlia later that night indicating that Lehrmann's defence team had begun formal proceedings against the Network "and others". I believe this was a warning that proceedings could now include me, although she did not say that.

The following morning of February 8th I awoke to a page one story in The Australian, with the headline, "Recklessly Indifferent To Truth. Lehrmann Sues Lisa for Damages."

I immediately emailed Ms Saunders and Ms Smithies asking if this headline was correct. Their response was that they didn't know, but would advise.

A number of hours later, Ms Saunders and Ms Smithies advised via email that I was being personally sued, and sent through documents to me, but not to Nick.

We then set up a zoom call involving myself, Nick, Marlia and Conor, another lawyer from Thomson Geer. In that call Marlia told me she had accepted service on my behalf despite me never being given the option for that to happen. She said the only alternative was for them to come to my door at home.

When I asked how I could be served defamation papers when I had never received a concerns notice from Mr Lehrmann's team, the answer given was not clear to me.

Sent from my iPad

From: Lisa Wilkinson <[REDACTED]>
Sent: Wednesday, February 15, 2023 10:07 AM
To: Nick Fordham <[REDACTED]>; Anthony Jefferies <[REDACTED]>;
AAAA PETE <[REDACTED]>
Subject: Privileged and confidential - Lehrmann

Notes from my conversation with Marlia Saunders at 2PM on Feb 7 (and background on the leadup to that call, and the days following)

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Then, after a strongly worded email from Nick of Friday February 3rd, (outlining a number of his concerns over the ongoing reputational damage I was still experiencing, and Ms Smithies' & Ms Saunders' now stated belief that we had run out of options to

correct the public record), Ms Smithies responded later that day (Feb 3) with an email which included the following...

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“To separate and simplify the roles of Marlia and myself, with immediate effect, Marlia will act solely for Lisa on this matter. In that way, Lisa can have direct recourse to Marlia’s advice without network involvement. With that simplification, moving ahead, we suggest that you and Lisa should deal directly with Marlia so that Lisa can resolve her preferred actions on the basis of that separate advice. Acting on Lisa’s instructions, Marlia can then communicate with me for network input on proposed courses of actions. Notwithstanding this separation of roles, N10 will continue to fund the costs of Marlia’s advice to Lisa on the Drumgold complaint.

“It is our view that it is not appropriate for the network to make any submissions to the board of inquiry, for several reasons including that any complaint is properly a personal complaint by Lisa. It seems to us (but Marlia could advise Lisa on the question more directly) that a complaint could be lodged personally by Lisa directly to the Inquiry without the need for an expansion of the terms of reference. As you know, Lehmann has lodged a

personal compliant and it is open, subject to Marlia's advice, for Lisa to take a similar approach. We consider that this approach is more likely to bear fruit than Lisa's proposed letter to Drumgold. We also do not consider that is appropriate for the network to lodge a complaint to the Bar Association of the ACT. However, Marlia can also advise Lisa on the merits of a complaint made by Lisa, and the network has no objection in principle to this course of action if that is preferred."

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Hi Lisa

Did you see this DailyMail article this morning?

<https://www.dailymail.co.uk/news/article-11717173/The-Lisa-Wilkinson-apology-letter-Brittany-Higgins-Logies-trial-debacle-exposed.html>

They have run the letter which was sent by Ten to the court and DPP on your behalf last June, which was 'leaked' to them.

Let me know if you'd like to discuss.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

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At that point, two things concerned me.

First of all, who did Marlia consider “leaked” the letter to the Daily Mail?

Upon calling her at 2PM that day, she told me she was of the strong belief that it had been leaked by Mark O’Brien who acted for Bruce Lehrmann, and also the Daily Mail, in order to strengthen their case against the conduct of Mr Drumgold throughout the inquiry, including that Mr Drumgold had not sufficiently warn me in regards to giving a Logies speech.

I also told Marlia in that phone call that I was extremely concerned and confused that Network Ten had decided they would not be making a submission to the Inquiry as it had become clear to me that it was the only option we had left to put on the public record the fact the DPP did not warn me not to give the speech.

I said to her words to the effect of, “I thought we had all been working towards a mutually desired outcome that meant my name and reputation would be cleared; that it needed to be on the public record that Ten gave me full legal clearance on a

number of occasions after the meeting with the DPP to proceed with the Logies speech; and that the DPP himself had made it clear in two separate phone conversations with Marlia in June and October 2022 that, despite Justice McCallum's public statement, Mr Drumgold admitted to Ms Saunders that he had not in fact warned me in that meeting of June 15 2022 not to give that speech."

In response, Marlia repeated to me words to the effect of, "Ten do not want to do a submission to the inquiry - I can't go into all the detail on why, but one reason I can tell you is that Ten does not want to create potentially negative publicity."

This response particularly concerned me, as my understanding was that if Ms Saunders was acting in the best possible faith as my lawyer, she should be fully disclosing to me all of Ten's reasons why they would not be making a submission to the Inquiry.

She also further confirmed Tasha's words of the above email of Feb 3rd, that should I, on the other hand, decide to go ahead with making a submission to the Inquiry, the Network would not stand in my way, but that I would have to run my submission by the Network before its lodgement to ensure there was no waiving of legal privilege over the details of our correspondence, or any risk of contempt of court.

I pointed out that I had nothing to hide in that correspondence as that was what proved the truth of Drumgold's position, and I was confused as to why the Network would therefore have a problem with it. How else could I possibly clear my name UNLESS that correspondence was tendered as evidence supporting any submission I was looking to make.

It was at this point that it was becoming increasingly clear to me that in acting for both me and Network Ten (with all bills being paid for by Network Ten) that there appeared to be a growing conflict of interest between Ten's desired path to a positive outcome in these proceedings, and my own. This conflict, I believed, now existed in all legal aspects of both the Inquiry and any possible future defamation proceedings brought by Mr Lehrmann.

(SIDEBAR: At the time of the phone call - at 2PM on Tuesday Feb 7, 2022 - a mid-December 2022 defamation concerns notice had been served only against Network Ten - not me - and both Nick Fordham and I had been told that we would NOT be kept across any detail of these proceedings as they did not involve me personally. All I was told was that Network Ten had rejected an offer of a damages settlement in January, and they had heard nothing more.)

The conversation continued and I pointed out to Ms Saunders that without Network Ten ever actively doing anything to control the narrative around me and my actions for the last nine months, deeply damaging negative publicity around me was allowed to run rampant. I continued that I did not understand why the Network would not welcome the chance to balance out the negative publicity with a submission to the Inquiry, that if fact gave us every opportunity for some positive publicity.

I said to Ms Saunders that, as my lawyer, surely she could see that we now had the perfect opportunity to finally confirm Ten's position, on the public record, in open court hearings exactly what had happened in June - both in terms of the Network's legal advice to me that it was OK for me to give a speech, and

most particularly a speech that Network Ten's Legal Counsel Tasha Smithies, had fully approved for me to give on at least three separate occasions right up until a few hours before its delivery, and the fact that I had never been warned by the DPP in that meeting of June 22 not to give a Logies speech.

I stressed once again, that if I had been given a warning not to give that speech by the DPP, or if Ms Smithies after that meeting in her capacity as Ten's Legal Counsel, had warned me not to give that speech, I NEVER would have given it.

Ms Saunders said words to the effect of, "Lisa, there's nothing I can do, that is just Ten's position."

I told her that it was very disappointing not to have Ten's support, but if that was the case, I was confirming that I would like to either go ahead and make a personal submission to the Inquiry (and could she please get back to me with the detail of how I would do that), or possibly make a complaint to the Bar Association in the same way Mr Lehrmann and Ms Fiona Brown had (as reported in The Australian newspaper).

I suggested that going down the path of the letter to the Bar Association likely meant that my letter would become public, and that could be no bad thing.

I was seeking her advice as to which of those paths she thought would be more effective.

She said she would get back to me on Thursday with further advice.

I then asked Ms Saunders if Network Ten would also consider making a formal complaint to the Bar Association about Mr Drumgold's conduct, and she said no, they wouldn't be doing that for the reasons already stated which she said she "wasn't at liberty to go into".

This response echoed the words of Ten Legal Counsel, Ms Tasha Smithies in a phone call I had with her in mid-December 2022 (after Mr Drumgold refused all attempts by Ms Saunders to contact him post the Lehrmann trial), when I asked Ms Smithies if Network Ten would make a formal complaint to the appropriate authorities about Mr Drumgold's conduct.

In response, Ms Smithies said words to the effect of that action being highly unlikely, as it would not be viewed as being in the interests of the Network as Ten had to maintain a good ongoing relationship with the ACT DPP in other legal matters (unrelated to Mr Lehrmann), and my grievance with the DPP would not be considered a priority for the Network, as it may damage that ongoing relationship.

Returning to my phone call with Ms Saunders on the afternoon of February 7th, Ms Saunders also advised me that Ms Sophie Ellsworth, a long time, very vocal critic of mine from the Australian newspaper and Sky News, had contacted Network Ten regarding a Daily Mail report of earlier that day detailing the public release of Ms McGarvey's letter of June 21 to Justice McCallum.

Ms Saunders told me that Network Ten "are officially saying no comment", but that Ten were "backgrounding" Ellsworth. When I asked what that backgrounding consisted of, she said she believed, but couldn't be sure, that it was confirming Beverley

McGarvey's letter to the court that neither Network Ten, nor Ms Tasha Smithies, Ten's Legal Counsel, present in the meeting of June 15 with the DPP prior to the Logies, nor I, believe that I had been warned not to give a Logies speech.

Marlia said there was no guarantee that she will write it the way we would like, and I said I understood that, but I hoped that finally any new reporting might start including the fact that Network Ten held the strong view that Drumgold never warned me.

Before concluding the call I asked her where she believed Lehrmann's defamation proceedings were up to against the Network, and she told me it had likely gone away as she had not heard anything more.

I then received an email from Marlia later that night indicating that Lehrmann's defence team had begun formal proceedings against the Network "and others". I believe this was a warning that proceedings could now include me, although she did not say that.

The following morning of February 8th I awoke to a page one story in The Australian, with the headline, "Recklessly Indifferent To Truth. Lehrmann Sues Lisa for Damages."

I immediately emailed Ms Saunders and Ms Smithies asking if this headline was correct. Their response was that they didn't know, but would advise.

A number of hours later, Ms Saunders and Ms Smithies advised via email that I was being personally sued, and sent through documents to me, but not to Nick.

We then set up a zoom call involving myself, Nick, Marlia and Conor, another lawyer from Thomson Geer. In that call Marlia told me she had accepted service on my behalf despite me never being given the option for that to happen. She said the only alternative was for them to come to my door at home.

When I asked how I could be served defamation papers when I had never received a concerns notice from Mr Lehrmann's team, the answer given was not clear to me.

Sent from my iPad

[EXTERNAL] FW: Private & Confidential

[REDACTED]

From: Nick Fordham [REDACTED]
Sent: Wednesday, 15 February 2023 12:17 PM
To: Tasha Smithies [REDACTED]
Cc: Stuart Thomas [REDACTED]; Catherine Donovan [REDACTED]; Giorgia Taylor [REDACTED]
Subject: Re: Private & Confidential

Thank you for your email. I will discuss with Lisa and will respond accordingly.

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

On 15 Feb 2023, at 7:07 am, Tasha Smithies [REDACTED]

Your email to Beverley, copied below, has been passed to me for response given that it concerns the legal proceedings that have been commenced against the network and Lisa. Please direct any future correspondence

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concerning the proceedings to me or, if it involves a communications matter, to Cat.

We understand that the following unilateral actions have been taken on Lisa's behalf:

Lisa has engaged her own solicitors, Gillis Delaney Lawyers, to act for Lisa in Lisa's defence of the proceedings;

Those solicitors have engaged senior counsel, Sue Chrysanthou SC, to act for her;

Gillis Delaney Lawyers has filed a notice of appearance with the Court, and the Australian has reported on that filing as well as the engagement of Sue Chrysanthou SC (which engagement does not appear on the

Gillis Delaney Lawyers have sent substantive correspondence to the Applicant's lawyers on Lisa's behalf in response to the statement of claim and originating application.

With these steps, Lisa has elected to pursue her own defence of the proceedings and she is entitled, at her own cost, to do so. We respect her decision to act independently of the network, and would not seek to impede her from taking that course of action.

I note that, had we been consulted, we would not have endorsed selection or appointment of either solicitors or counsel, noting in particular, that Sue Chrysanthou SC is customarily a plaintiff, not a media defendant counsel, and routinely acts in opposition to the network and its interests. Further, we would not have endorsed the initial approach taken by Gillis Delaney Lawyers in their correspondence with the Applicant's lawyers. However, we acknowledge that Lisa has elected to pursue her own defence without the endorsement of the network, and so the network would not assume responsibility for the consequential costs.

You have requested that the network indemnify Lisa upfront in relation to the costs and outcome of the proceedings. As you are probably aware, it is customary for media organisations to provide indemnification of talent that are joined as secondary defendants to defamation proceedings, but only on the basis that both parties are solely represented by the media's legal representatives. Consistent with that custom, N10 could offer indemnification to Lisa on that basis if she subsequently wishes to discontinue an independent defence of the matter and to accept representation by the network's lawyers. Such indemnification would commence from the time that joint representation commences. And of course, we can revisit the question of payment of any judgement for damages as the proceedings unfold and the parties develop their respective defence strategies.

In the meantime, we suggest that it is in both party's interests to cooperate to the full extent possible with a view to achieving the best outcome for both parties. To that end, we suggest that both the network and Lisa instruct their respective legal representatives to share with each other, to the extent appropriate, any court filing or correspondence with the Applicant's lawyers in advance of any filing or dispatch of the correspondence so that input can be obtained from the other party. We will also instruct Thomson Geer to provide Gillis Delaney Lawyers with the various recordings, documents and other items that it may require in the course of running Lisa's defence.

In terms of legal communications between the parties, Thomson Geer and Gillis Delaney Lawyers should have primary responsibility for such communications. From time to time, it may be practical for us to communicate directly on practical or incidental legal matters.

In terms of media communications, we would expect that you would now take responsibility for Lisa's direct communications with media, consistent with Lisa's legal strategy as advised by her counsel. Of course, you should also engage with Cat on communications with media wherever the network's interests are affected or in circumstances where a joint approach is desirable.

Please let me know if you would like to discuss the above either with myself and/or with Stuart.

Tasha Smithies

Senior Legal Council

O

M

1 Saunders Street Pyrmont, Sydney, NSW 2009



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Date: Tuesday, 14 February 2023 at 8:53 am
To: Beverley McGarvey <[REDACTED]>
Subject: Private & Confidential

I am writing to you in respect of the Lehrmann Defamation proceedings against Network Ten and Lisa

In view of the claim lodged against Network Ten, and also Lisa, it is my firm view that Lisa should be represented by a different legal firm and counsel to that of Network Ten in defending the claims made by Lehrmann.

Whilst Lisa and I obviously both consider that Network Ten will be and must be strategically aligned to defeat this claim together, Lisa must be separately represented to ensure that her lawyers prioritise her specific interests in the litigation which will not at all times align with the Network's priorities. Likewise, separate representation will allow Ten to focus on issues more immediate to it, and will also largely avoid problems with any conflict of interest which might arise.

Lisa has already been provided with independent advice from Anthony Jefferies from Gillis Delaney (her personal lawyer) as well as Sue Chrysanthou SC.

As you are fully aware, Lisa has suffered enormous damage to her professional reputation and her career - due to absolutely no fault of her own - which sadly continues and will now be further exacerbated by this case.

Network Ten is obliged to indemnify Lisa in relation to this claim. Accordingly, and given my comments above, please confirm that Network Ten accepts that obligation, including by covering any costs Lisa might be ordered to pay, and paying for Lisa's legals for these proceedings.

I consider it is vital that Network Ten and Lisa continue to work closely together to ensure a positive outcome for both parties. I understand that a defence needs to be filed for Lisa in just over 3 weeks. In order to comply with the court rules she will need copies of all of the documents relating to the preparation of 15 February Project Broadcast including emails, draft scripts, file notes and camera tapes.

I would appreciate the opportunity to discuss this with you at your earliest convenience.

NICK FORDHAM

13-15 Little Burton Street
DARLINGHURST NSW 2010

T [REDACTED]
www.thefordhamcompany.com.au

I [REDACTED] [REDACTED] [REDACTED]

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From: Saunders, Marlia <[REDACTED]>
Sent: Tuesday, February 28, 2023 1:21 PM
To: Anthony Jefferies <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>
Subject: RE: Common Interest Privilege - R v Lehrmann - draft Defence [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3782978]

Dear Anthony

Further to our email this morning, there are a number of errors in your client's proposed Defence.

The key ones we wanted to bring to your attention as soon as possible are as follows:

- [5.4] – the second matter complained of was taken down from the 10Play Website on 16 May 2023.
- [9.7] – note that approval was not sought from Network Ten legal.
- [14.6] – the email was from Sharaz not Higgins.
- [14.12] - Wilkinson understood that Llewellyn specifically confirmed that Higgins had reported the rape in March and April 2019 to ~~Minister Reynold's chief of staff Fiona Brown, Minister Reynolds~~, the Parliamentary Police and the AFP, which bolstered the credibility of the allegations in Wilkinson's mind as they were not of recent invention.
- [14.41] and [14.42] – Chris Bendall took over as EP once the story was commissioned and Craig Campbell did not continue to be involved.

We consider that your client would benefit from reviewing our client's Defence before her Defence is filed. We are not yet in a position to share our draft with you, but are investing significant time on it.

As already stated, our client requests that your client holds off filing her Defence until at least after Lehrmann has filed his evidence in relation to the extension of time application tomorrow.

Kind regards

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tglaw.com.au

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From: Saunders, Marlia
Sent: Tuesday, 28 February 2023 10:59 AM
To: 'Anthony Jefferies' <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>
Subject: RE: Common Interest Privilege - R v Lehrmann - draft Defence [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3782978]

Dear Anthony

As raised with you on a number of occasions already, your client is not entitled to unilaterally waive the joint privilege over legal advice provided in relation to The Project.

We consider that your client's Defence does in fact unilaterally waive this privilege. Our clients do not consent to this, and therefore require the amendments set out in our email below.

You are on notice that there are a number of matters in your client's Defence that will be extremely embarrassing to your client if they remain in the Defence when it is filed.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER
T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tglaw.com.au

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From: Anthony Jefferies <[REDACTED]>
Sent: Tuesday, 28 February 2023 10:22 AM
To: Saunders, Marlia <[REDACTED]>
Cc: Anthony Jefferies <[REDACTED]>
Subject: Common Interest Privilege - R v Lehrmann - draft Defence [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3782978]

Dear Marlia

We have made our clients position clear that our instructions are to file our Defence shortly.

In the meantime, we will consider the matters that you raised this morning, but note that your client has no entitlement to 'require' changes to my clients Defence and that any alterations made are only to ensure accuracy. If you are concerned about any other matters in the Defence, you should raise them by 1pm today.

Kind regards

Anthony Jefferies
Partner

From: Saunders, Marlia <[REDACTED]>
Sent: Tuesday, February 28, 2023 9:03 AM
To: Anthony Jefferies <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>
Subject: RE: Common Interest Privilege - R v Lehrmann - draft Defence [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3782978]

Dear Anthony

Thanks for your email.

We have conducted a preliminary review of this version of your client's Defence and note:

- There remain a number of factual inaccuracies in the drafting; and
- We remain concerned about waiver of privilege over legal advice.

In terms of waiver of privilege, our clients require the following amendments:

- [14.9] - To Wilkinson's knowledge, extensive fact checking of the allegations made by Higgins was undertaken for some weeks by Network 10 ~~including by at least two of its senior legal counsel, Executive Producer Craig Campbell, Co-Executive Producer Chris Bendall, Llewellyn, Senior news and current affairs executive Peter Meakin (Meakin), and Laura Binnie, the project's head of longform feature stories.~~
- [14.10] – Delete "and legal"?
- [14.15] - Legal Counsel for Network 10 Tasha Smithies attended and viewed the entire interview referred to in the preceding sub-paragraph ~~and said to Wilkinson when it was concluded words to the effect of "she is credible".~~ Wilkinson understood that Smithies is an experienced in-house media lawyer with over 20 years' experience in advising in relation news, print and television.
- [14.52] - Wilkinson was informed that the matters would be thoroughly checked by Network 10 lawyers prior to broadcast ~~to ensure that no legal wrong was being committed by the publication of the matters.~~
- [14.53] - Wilkinson was informed and understood that the matters were ~~reviewed~~ ~~legalled~~ by more than one lawyer, a number of times prior to broadcast, ~~and were cleared to be broadcast by the Network 10 lawyers.~~
- [14.54] - Wilkinson understood that any legal change or request ~~that was necessary to ensure compliance with the law~~ in relation to the matters would have been notified by the lawyers to her producer Llewellyn and any necessary changes, additions or further enquiries made as a result.
- [14.55] - Wilkinson would have complied with any and all advices or requests made by the Network 10 lawyers to alter the matters or to make further enquiries or additions ~~to ensure that the matters complied with the law.~~
- ~~[14.56] – Wilkinson did not receive any request or advice by Network 10 lawyers prior to the broadcast of the matters in relation to the allegations against Lehrmann in the final version broadcast.~~

We will respond with our specific comments on the errors in your client's Defence in due course after making some further enquiries, noting the Defence is not due to be filed until next week.

When our senior counsel met yours last week, he expressed his strong view that your client should not file her Defence until after Lehrmann has put on his evidence and submissions on the extension of time argument so as not to give him an opportunity to adjust his evidence to confirm with anything in the Defence. Further, it is in your client's interests that her Defence be completely aligned with that of Ten's. It is also detrimental to your client's case (and therefore Ten's) for her to file a Defence that contains demonstrable factual errors. Doing so will provide a forensic advantage to Lehrmann by giving him more time to respond to the Defence and to look for inconsistencies between your client's position and Ten's position.

We are firmly of the view that our clients' Defences should be filed at the same time next Tuesday.

Kind regards

Marlia Saunders | Partner
THOMSON GEER

From: Anthony Jefferies <[REDACTED]>
Sent: Monday, 27 February 2023 2:30 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Anthony Jefferies <[REDACTED]>
Subject: Common Interest Privilege - R v Lehrmann - draft Defence [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3782978]

Dear Marlia

Please see attached final version of our client's Defence, after our respective Senior Counsels conferred.

Should you have any comments on the said Defence, would you please let us know as a matter of urgency as we are proposing to file and serve the same tomorrow.

Kind Regards

Anthony Jefferies
Partner



Gillis Delaney Lawyers
Level 40, 161 Castlereagh Street, Sydney, NSW 2000
Direct: [REDACTED]
Tel: [REDACTED] | Fax: [REDACTED]
[REDACTED] | www.gdlaw.com.au

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From: Anthony Jefferies <[REDACTED]>
Sent: Tuesday, 28 February 2023 2:25 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Anthony Jefferies <[REDACTED]>; [REDACTED]
Subject: Common Interest Privilege - R v Lehrmann - draft Defence [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3782978]

Dear Marlia

Thank you for your emails. See attached Defence with further changes to accommodate your requests and further instructions that we have received.

In relation to:

- [5.4] is this 2021?
- [9.7] the allegation does not relate to legal in this paragraph – just Network 10
- [15.9] – we do not agree to this change and it plainly does not amount to a waiver of privilege
- [15.10] – deletion made
- [15.12] Changes made – but see new [15.22]
- [15.15] we do not agree to change and do not consider it a waiver of privilege as it is not legal advice
- [15.41] and [15.42] change made
- [15.52] – deletion made
- [15.53] – change and deletion made
- [15.54] – deletion made
- [15.55] – deletion made
- [15.56] – we do not agree to delete this paragraph and do not consider it amounts to any waiver of privilege

As you will see, the Defence is dated 1 March and will not be served on the applicant's solicitors' until we receive their material (due tomorrow) on the limitation issues.

Please let me know if you identify any further errors.

Regards

Anthony Jefferies

Partner

**Gillis Delaney Lawyers**

Level 40, 161 Castlereagh Street, Sydney, NSW 2000

Direct: [REDACTED]

Tel: [REDACTED]

Fax: [REDACTED]

[REDACTED] | www.gdlaw.com.au

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On 28 Feb 2023, at 4:47 pm, Saunders, Marlia <[REDACTED]> wrote:

Dear Anthony

Despite your email below stating that the deletions were made to paragraphs 15.53 and 15.54, our requested changes are not reflected in the revised draft of the defence.

Please make the following changes to avoid a unilateral waiver of privilege:

1. [15.15] - change required as follows: "Legal Counsel for Network 10 Tasha Smithies attended and viewed the entire interview referred to in the preceding subparagraph ~~and said to Wilkinson when it was concluded words to the effect of "she is credible"~~. Wilkinson understood that Smithies was an experienced in-house media lawyer with over 20 years' experience in advising in relation to news, print and television."
2. [15.53] – our requested change has not been reflected, namely: Wilkinson was informed that the matters would be thoroughly checked by Network 10 lawyers prior to broadcast ~~to ensure that no legal wrong was being committed by the publication of the matters~~. This is a clear waiver of legal advice as well as being factually inaccurate.
3. [15.54] - our requested change has not been reflected, namely: Wilkinson was informed and understood that the matters were reviewed by more than one lawyer, a number of times prior to broadcast, ~~and were cleared to be broadcast by the Network 10 lawyers~~. This is a clear waiver of legal advice.

We are concerned that if these changes are not made, this opens up the possibility of the Applicant issuing notices to produce calling for copies of the legal advice, and may lead to a significant privilege dispute. We do not think the information in these paragraphs justifies the risk of an allegation that we have waived privilege being raised.

We also note the last sentence of [15.8] is wrong. No transcript of the 27 January 2021 meeting was made prior to broadcast:

15.8. Higgins came to Sydney to meet privately with Wilkinson and Network 10 Producer Llewellyn on or about 27 January 2021 so that further discussions could take place to enable Wilkinson and Network 10 to consider the reliability of Higgins' allegations. The meeting lasted approximately six hours, was recorded, ~~and a transcript generated to be extensively analysed and tested for further investigation.~~

We understand Dr Collins is currently in a hearing, but we request that our respective senior counsel have a discussion about this before the defence is filed.

Kind regards

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

On 28 Feb 2023, at 5:07 pm, Sue Chrysanthou <[REDACTED]> wrote:

Thanks Marlia,

Those can be fixed - my fault sending pre-saved version.

But 15.15? I don't see how that is privileged? It is not advice.

Thanks for picking up the transcript issue.

Matt - I am on the mobile any time this evening.

STC

Sue Chrysanthou

153 Phillip Barristers,

Lv 3 [153 Phillip St SYDNEY](#)

Ph: [REDACTED]

Mob: [REDACTED]

[REDACTED]

Matthew Collins <[REDACTED]>

Sent: Tuesday, 28 February 2023 8:10 PM

Cc: Saunders, Marlia <[REDACTED]>; Tim ([REDACTED])

<[REDACTED]>; O'Beirne, Conor <[REDACTED]>

Subject: Re: Common Interest Privilege - R v Lehrmann - draft Defence [GDL-1.220244.WILKIL]
[TGLAW-Legal.FID3782978]

Hi all,

I just had a long (and heated) conversation with Sue C.

On the positive side, she will remove the reference to Tash saying that she found BH credible. She promises they won't file anything until after the evidence is in from BL on the extension application.

Most of the conversation was about her intention to file a counterclaim in the proceeding against Ten because it has refused to indemnify LW. I explained at length and with increasing irritation why that would not be in anyone's interest particularly LW's.

There seem to be a number of issues:

1 Indemnity - she says she reads Tash's email as Ten denying that it would be liable to pay any damages ordered against LW in the proceeding, as well as BL's costs of the proceeding if he wins. I said I didn't think that was the thrust of the email and that it was about LW's costs of separate representation. Am I right or is she? That point seems to me to be simple - if LW is liable to BL, and her liability arose in the course of her employment, then Ten is vicariously liable for damages payable to BL and BL's costs of the proceeding.

2 Payment of LW's separate representation - I said that while neither I nor TG is engaged in relation to the issue, I thought the costs of separate representation were in a different category and that Ten was entitled to say that if LW wants separate representation that is her right but she can't expect Ten to pay for it. She said she has advice to the contrary. I asked her to let me know if there was any authority that supported her position, because it seemed to me to be illogical. I won't hold my breath waiting for her to come back to me.

3 I said repeatedly to her that it made no sense at all for LW to seek to adopt a different position than Ten in the litigation and that the defendants' interests are best served by saying that they acted collectively and responsibly. I said she faced a risk that Ten is found to have acted reasonably by LW is not, because she didn't conduct enough of her own research or due diligence, in which case even though Ten might be vicariously liable for LW's conduct it would be LW's reputation that would take the hit. I'm not sure that point has sunk in.

4 LW has a series of complaints about Ten's alleged failure to consult with her about things such as the response to the concerns notice and the decision to retain TG and me (although Sue stressed that there was no issue with either of us, it was the failure to consult that she is annoyed about).

5 Sue kept saying that she has a draft counterclaim that will be very embarrassing to Ten. I countered that I thought it would play out in exactly the opposite way, in that it will make LW look like she is so worried about her own conduct that she needs separate representation and is fearful that Ten will throw her under the bus, which can't be in her interests. I also said that it involved Sue putting herself in the story which is not the way litigation should be conducted.

Anyway - we left it on the basis that this issue is being managed by Ten directly, not us, and that they should write to Tash by way of response to her email, including to seek clarification about point 1 above if there is some confusion about it. Sue wanted confirmation that it was OK for her to go through Ten rather than us in relation to that, I said that was right.

Sorry for the late night dump - just wanted to get this down while it is fresh in my memory.

Kind regards,

Matt

Dr Matt Collins AM KC
Barrister

Chambers Aickin Chambers Level 32 200 Queen Street Melbourne Victoria 3000 Australia

T [REDACTED] **E** [REDACTED]

Clerk [List A Barristers](#) 205 William Street Melbourne Victoria 3000 Australia

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From: Saunders, Marlia <[REDACTED]>
Sent: Wednesday, March 1, 2023 8:39 AM
To: Sue Chrysanthou <[REDACTED]>; Matthew Collins <[REDACTED]>
Cc: Anthony Jefferies <[REDACTED]>; Tim ([REDACTED])
 <[REDACTED]>; O'Beirne, Conor <[REDACTED]>
Subject: RE: Defence 1.3.23 - Common interest privilege [TGLAW-Legal.FID3782978]
Importance: High

Subject to common interest privilege

Dear Sue and Anthony

We confirm we have no further comments on your client's draft defence, save for reiterating that:

1. Ten does not agree that her defence should be filed in advance of the timetable, and we are not aware of any good reason to do so; and
2. We consider that your client would significantly benefit from the defence that will be filed by our client, which will contain a lot more detail and which we can obtain instructions to share with you once the draft is further advanced. We believe there is value in our respective client's defences being consistent and aligned.

We understand that your client is considering filing a cross-claim against Ten on the basis that Ten effectively denies any prospective liability that Ten may incur under clause 3(1)(b) of the *Employees Liability Act 1991* or other vicarious liability that Ten may incur at law for any final judgment against your client.

We have obtained some instructions on this overnight.

To the contrary, Ten confirms that it will meet any liability that it incurs under clause 3(1)(b) of the *Employees Liability Act 1991* or other vicarious liability that Ten incurs for any damages or costs awarded against your client. In the event that a cross-claim is lodged contrary to this confirmation, Ten reserves its rights to defend any such claim and correct the record publicly.

In the circumstances, and having regard to the mutual interest between Ten and your client in working together to defend the substantive proceedings, we invite your client to raise any further concerns she may have regarding Ten's commitment to comply with its legal obligations in correspondence and properly engage with our client with a view to the parties seeking to resolve any such concerns and without the need for further litigation.

Kind regards

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
 Level 14, 60 Martin Place, Sydney NSW 2000 Australia
 [REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

From: Saunders, Marlia <[REDACTED]>
Sent: Tuesday, 28 February 2023 9:28 PM
To: Tasha Smithies <[REDACTED]>; Stuart Thomas <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>
Subject: FW: Common Interest Privilege - R v Lehrmann - draft Defence [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3782978]

Hi Tasha and Stuart

Apologies for the late email, but Matt Collins has had a heated conversation with Sue Chrysanthou this evening and I wanted to update you asap.

In relation to the defence, **attached** is an updated version which they are adamant to file tomorrow and serve on Lehrmann's solicitors *after* receipt of his evidence on the extension of time application. The reference to Tasha saying that she found Brittany credible has been deleted and our requested changes have been incorporated to the "Legalling" section.

Sue also told Matt she intends to file a counterclaim in the proceeding against Ten because it has refused to indemnify Lisa. Her reading of Tasha's last email is that Ten denies it would be liable to pay any damages or costs ordered against Lisa in the proceeding if Lehrmann wins. Matt thinks it would be worth Ten seeking to clarify this point with Lisa.

Based on Matt's email, Sue might contact you directly about this – it might be good for you to contact Lisa about it first. Please let us know if you'd like to discuss this tomorrow – we can set up a call with Matt if that would assist.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | [tglaw.com.au](mailto:info@tglaw.com.au)

Advice | Transactions | Disputes

From: Matthew Collins <[REDACTED]>
Sent: Tuesday, 28 February 2023 8:10 PM
Cc: Saunders, Marlia <[REDACTED]> [REDACTED]; O'Beirne, Conor
[REDACTED]
Subject: Re: Common Interest Privilege - R v Lehmann - draft Defence [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3782978]

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Dr Matt Collins AM KC
Barrister

Chambers Aickin Chambers Level 32 200 Queen Street Melbourne Victoria 3000 Australia
T [REDACTED] E [REDACTED]
Clerk ~ [List A Barristers](#) ~ 205 William Street Melbourne Victoria 3000 Australia

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privilege. If you believe you have received this e-mail in error, please telephone the sender on +[REDACTED] and then delete it.

On 28 Feb 2023, at 5:07 pm, Sue Chrysanthou <[REDACTED]>

455

Thanks Marlia,

 xed - my fault sending pre-saved version.

 I don't see how that is privileged?

Thanks for picking up the transcript issue.

 - I am on the mobile any me this evening.

Sue Chrysanthou

153 Phillip Barristers

[153 Phillip St SYDNEY](#)

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On 28 Feb 2023, at 4:47 pm, Saunders, Marlia <[REDACTED]>

Dear Anthony

Despite your email below stating that the deletions were made to paragraphs 15.53 and 15.54, our requested changes are not reflected in the revised draft of the defence.

Please make the following changes to avoid a unilateral waiver of privilege:

1. [15.15] - change required as follows: "Legal Counsel for Network 10 Tasha Smithies attended and viewed the entire interview referred to in the preceding subparagraph ~~and said to Wilkinson when it was concluded words to the effect of "she is credible".~~ Wilkinson understood that Smithies was an experienced in-house media lawyer with over 20 years' experience in advising in relation to news, print and television."
2. [15.53] – our requested change has not been reflected, namely: Wilkinson was informed that the matters would be thoroughly checked by Network 10 lawyers prior to broadcast ~~~to ensure that no legal wrong was being committed by the publication of the matters.~~ This is a clear waiver of legal advice as well as being factually inaccurate.
3. [15.54] - our requested change has not been reflected, namely: Wilkinson was informed and understood that the matters were ~~~reviewed~~~ by more than one lawyer, a number of times prior to broadcast, ~~and were cleared to be broadcast by the Network 10 lawyers.~~ This is a clear waiver of legal advice.

We are concerned that if these changes are not made, this opens up the possibility of the Applicant issuing notices to produce calling for copies of the legal advice, and may lead to a significant privilege dispute. We do not think the information in these paragraphs justifies the risk of an allegation that we have waived privilege being raised.

We also note the last sentence of [15.8] is wrong. No transcript of the 27 January 2021 meeting was made prior to

15.8. Higgins came to Sydney to meet privately with Wilkinson and Network 10 Producer Llewellyn on or about 27 January 2021 so that further discussions could take place to enable Wilkinson and Network 10 to consider the reliability of Higgins' allegations. The meeting lasted approximately six hours, was recorded, ~~and a transcript generated to be extensively analysed and tested for further investigation.~~

We understand Dr Collins is currently in a hearing, but we request that our respective senior counsel have a discussion about this before the defence is filed.

Marlia Saunders |
THOMSON GEER
T [REDACTED] | M [REDACTED]

456

Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED]@tglaw.com.au

Advice | Transactions | Disputes

From: Anthony Jefferies <[REDACTED]>
Sent: Tuesday, 28 February 2023 2:25 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Anthony Jefferies <[REDACTED]>
Subject: Common Interest Privilege - R v Lehrmann - draft Defence [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3782978]

Thank you for your emails. Attached Defence with further changes to accommodate your requests and further
ons that we have received.

1. [5.4] is this 2021?
2. [9.7] the allegation does not relate to legal in this paragraph – just Network 10
3. [15.9] – we do not agree to this change and it plainly does not amount to a waiver of privilege
4. [15.10] – dele
5. [15.12] Changes made – but see new [15.22]
6. [15.15] we do not agree to change and do not consider it a waiver of privilege as it is not legal advice
7. [15.41] and [15.42] change made
8. [15.52] – dele
9. [15.53] – change and dele
10. [15.54] – dele
11. [15.55] – dele
12. [15.56] – we do not agree to delete this paragraph and do not consider it amounts to any waiver of privilege

As you will see, the Defence is dated 1 March and will not be served on the applicant's solicitors' until we receive their
material (due tomorrow) on the limita

Please let me know if you identify any further errors.

Anthony Jefferies

[<image001.gif>](#)

Gillis Delaney Lawyers

Level 40, 161 Castlereagh Street, Sydney, NSW 2000

Tel: [REDACTED] | Fax: [REDACTED]
[REDACTED] [REDACTED]

~

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From: Saunders, Marlia <[REDACTED]>
Sent: Tuesday, 28 February 2023 9:28 PM
To: Tasha Smithies <[REDACTED]>; Stuart Thomas <[REDACTED]>
Cc: O'Beirne, Conor <[REDACTED]>
Subject: FW: Common Interest Privilege - R v Lehrmann - draft Defence [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3782978]

Hi Tasha and Stuart

Apologies for the late email, but Matt Collins has had a heated conversation with Sue Chrysanthou this evening and I wanted to update you asap.

In relation to the defence, **attached** is an updated version which they are adamant to file tomorrow and serve on Lehrmann's solicitors *after* receipt of his evidence on the extension of time application. The reference to Tasha saying that she found Brittany credible has been deleted and our requested changes have been incorporated to the "Legalling" section.

Sue also told Matt she intends to file a counterclaim in the proceeding against Ten because it has refused to indemnify Lisa. Her reading of Tasha's last email is that Ten denies it would be liable to pay any damages or costs ordered against Lisa in the proceeding if Lehrmann wins. Matt thinks it would be worth Ten seeking to clarify this point with Lisa.

Based on Matt's email, Sue might contact you directly about this – it might be good for you to contact Lisa about it first. Please let us know if you'd like to discuss this tomorrow – we can set up a call with Matt if that would assist.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | **M** [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tglaw.com.au

Advice | Transactions | Disputes

From: Saunders, Marlia <[REDACTED]>
Sent: Wednesday, 1 March 2023 5:27 PM
To: Anthony Jefferies
Cc: Quill, Justin
Subject: RE: Lisa Wilkinson - Indemnity Issues [TGLAW-Legal.FID3782978]

Dear Anthony

It should be clear to you that the "common interest privilege" marking in our last email applied to the parts of the email relating to your client's defence.

I note your reference to my previous role as Lisa's solicitor. At no stage have I acted for Lisa in relation to an indemnity claim against Network Ten, advised Lisa regarding that claim or even discussed that claim with Lisa. To the extent your email may have contained a veiled suggestion that I have a conflict, such a conflict is emphatically denied for the reasons set out in the previous sentence.

In any event, in order to avoid any concerns you may have on this point and to allow me to focus on the preparation of Network Ten's defence and the extension of time application, Justin Quill of our office will deal with the indemnity issue for Ten as they have today instructed in relation to it. I will leave it to Justin to respond substantively to your email below.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)

[Advice](#) | [Transactions](#) | [Disputes](#)

From: Anthony Jefferies <[REDACTED]>
Sent: Wednesday, 1 March 2023 12:21 PM
To: Saunders, Marlia <[REDACTED]>
Subject: Lisa Wilkinson - Indemnity Issues [TGLAW-Legal.FID3782978]

Dear Marlia

Thank you for your email.

I note that your email is entitled "*subject to common interest privilege*". There is no common interest in relation to the dispute that has arisen concerning the indemnity issue.

Am I to understand it that you act for Network 10 on this question, noting your previous role as my client's solicitor?

Further, your email makes no mention of the communication dated 15 February 2023 from Tasha Smithies to Nick Fordham (copy attached). Indeed, you make assertions in your email today that are contrary to that communication.

Is the content of the Tasha Smithies email withdrawn? To make it plain, we are of the view that Ms Smithies, in making that communication, denied my client's rights at common law as an employee, pursuant to s.3 of the *Employers Liability Act* and further engaged in conduct contrary to the *Fair Work Act*.

I would appreciate your response to these initial queries by 2pm today and will then communicate with you more fully our client's position on this issue.

Kind Regards

Anthony Jefferies

Partner



Gillis Delaney Lawyers

Level 40, 161 Castlereagh Street, Sydney, NSW 2000

Direct: [REDACTED]

Tel: [REDACTED] | Fax: [REDACTED]

[REDACTED] | www.gdlaw.com.au

From: Saunders, Marlia <[REDACTED]>

Sent: Wednesday, March 1, 2023 8:39 AM

To: Sue Chrysanthou <[REDACTED]>; Matthew Collins <[REDACTED]>

Cc: Anthony Jefferies <[REDACTED]>; Tim ([REDACTED]) <[REDACTED]>; O'Beirne, Conor <[REDACTED]>

Subject: RE: Defence 1.3.23 - Common interest privilege [TGLAW-Legal.FID3782978]

Importance: High

Subject to common interest privilege

Dear Sue and Anthony

We confirm we have no further comments on your client's draft defence, save for reiterating that:

1. Ten does not agree that her defence should be filed in advance of the timetable, and we are not aware of any good reason to do so; and
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Kind regards

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Advice | Transactions | Disputes

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This e-mail is for the use of the intended recipient(s) only. If you have received this e-mail in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not use, disclose or distribute this e-mail without the author's permission. We have taken precautions to minimise the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this e-mail. We cannot accept liability for any loss or damage caused by software viruses.
#####

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Advice | Transactions | Disputes

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Kind Regards

Anthony Jefferies
Partner



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Level 40, 161 Castlereagh Street, Sydney, NSW 2000
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From: Saunders, Marlia <[REDACTED]>
Sent: Wednesday, March 1, 2023 8:39 AM
To: Sue Chrysanthou <[REDACTED]>; Matthew Collins <[REDACTED]>
Cc: Anthony Jefferies <[REDACTED]>; Tim ([REDACTED]) <[REDACTED]>; O'Beirne, Conor <[REDACTED]>
Subject: RE: Defence 1.3.23 - Common interest privilege [TGLAW-Legal.FID3782978]
Importance: High

Subject to common interest privilege

Dear Sue and Anthony

We confirm we have no further comments on your client's draft defence, save for reiterating that:

1. Ten does not agree that her defence should be filed in advance of the timetable, and we are not aware of any good reason to do so; and
2. We consider that your client would significantly benefit from the defence that will be filed by our client, which will contain a lot more detail and which we can obtain instructions to share with you once the draft is further advanced. We believe there is value in our respective client's defences being consistent and aligned.

We understand that your client is considering filing a cross-claim against Ten on the basis that Ten effectively denies any prospective liability that Ten may incur under clause 3(1)(b) of the *Employees Liability Act 1991* or other vicarious liability that Ten may incur at law for any final judgment against your client.

We have obtained some instructions on this overnight.

To the contrary, Ten confirms that it will meet any liability that it incurs under clause 3(1)(b) of the *Employees Liability Act 1991* or other vicarious liability that Ten incurs for any damages or costs awarded against your client. In the event that a cross-claim is lodged contrary to this confirmation, Ten reserves its rights to defend any such claim and correct the record publicly.

In the circumstances, and having regard to the mutual interest between Ten and your client in working together to defend the substantive proceedings, we invite your client to raise any further concerns she may have regarding Ten's commitment to comply with its legal obligations in correspondence and properly engage with our client with a view to the parties seeking to resolve any such concerns and without the need for further litigation.

Kind regards

Marlia Saunders | Partner
THOMSON GEER

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tgllaw.com.au

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GILLIS DELANEY - Confidential Communication

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This e-mail is for the use of the intended recipient(s) only. If you have received this e-mail in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not use, disclose or distribute this e-mail without the author's permission. We have taken precautions to minimise the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this e-mail. We cannot accept liability for any loss or damage caused by software viruses.
#####

Anthony Jefferies <[REDACTED]>
Sent: Wednesday, 1 March 2023 12:21 PM
To: Saunders, Marlia <[REDACTED]>
Subject: Lisa Wilkinson - Indemnity Issues [TGLAW-Legal.FID3782978]

Dear Marlia

Thank you for your email.

I note that your email is entitled "*subject to common interest privilege*". There is no common interest in relation to the dispute that has arisen concerning the indemnity issue.

Am I to understand it that you act for Network 10 on this question, noting your previous role as my client's solicitor?

Further, your email makes no mention of the communication dated 15 February 2023 from Tasha Smithies to Nick Fordham (copy attached). Indeed, you make assertions in your email today that are contrary to that communication.

Is the content of the Tasha Smithies email withdrawn? To make it plain, we are of the view that Ms Smithies, in making that communication, denied my client's rights at common law as an employee, pursuant to s.3 of the *Employers Liability Act* and further engaged in conduct contrary to the *Fair Work Act*.

I would appreciate your response to these initial queries by 2pm today and will then communicate with you more fully our client's position on this issue.

Kind Regards

Anthony Jefferies
 Partner



Gillis Delaney Lawyers
 Level 40, 161 Castlereagh Street, Sydney, NSW 2000
 Direct: [REDACTED]
 Tel: [REDACTED] | Fax: [REDACTED]
 [REDACTED] | www.gdlaw.com.au

From: Saunders, Marlia <[REDACTED]>
Sent: Wednesday, 1 March 2023 5:27 PM
To: Anthony Jefferies <[REDACTED]>
Cc: Quill, Justin <[REDACTED]>
Subject: RE: Lisa Wilkinson - Indemnity Issues [TGLAW-Legal.FID3782978]

Dear Anthony

It should be clear to you that the "common interest privilege" marking in our last email applied to the parts of the email relating to your client's defence.

I note your reference to my previous role as Lisa's solicitor. At no stage have I acted for Lisa in relation to an indemnity claim against Network Ten, advised Lisa regarding that claim or even discussed that claim with Lisa. To the extent your email may have contained a veiled suggestion that I have a conflict, such a conflict is emphatically denied for the reasons set out in the previous sentence.

In any event, in order to avoid any concerns you may have on this point and to allow me to focus on the preparation of Network Ten's defence and the extension of time application, Justin Quill of our office will deal with the indemnity issue for Ten as they have today instructed in relation to it. I will leave it to Justin to respond substantively to your email below.

Kind regards

Marlia

Marlia Saunders | Partner
THOMSON GEER
T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | [tglaw.com.au](mailto:[REDACTED]@tglaw.com.au)
Advice | Transactions | Disputes

From: Quill, Justin
Sent: Wednesday, 1 March 2023 5:30 PM
To: Anthony Jefferies <[REDACTED]>
Subject: RE: Lisa Wilkinson - Indemnity Issues

Dear Anthony,

Further to Marlia's email below, I confirm I have today read Nick Fordham's 14 February 2023 email to Beverley McGarvey and the response by Tasha Smithies on 15 February 2023. I note that Mr Fordham responded to Ms Smithies on 15 February 2023 saying he would discuss with Lisa and respond accordingly, however that has not occurred.

I have also obviously read the emails in the below email chain.

It appears you have misread or misunderstood Ms Smithies' email.

Your email below refers to rights your client claims exist pursuant to section 3 of the *Employees Liability Act* 1991 (NSW). That was not a claim referenced by Mr Fordham in his email and was not something Ms Smithies email was specifically responding to.

In any event, we now take the opportunity to make our client's position as clear as we can, namely:

Our client would prefer, as is customary in matters of this nature, that your client use the same representation as Network Ten. Our client considers there are many benefits to both parties in doing that, but will not rehearse those benefits here. Our client also considers there are significant disadvantages for our respective clients by not having the same representation;

However, our client accepts your client is entitled to seek and obtain separate representation; Our client has views on the merits of your client taking that course, but it is a matter for her; If your client changes her mind and wishes to use the same representation as Network Ten, then it will immediately agree to cover those legal costs and any damages or costs awarded against her;

If your client continues to use her chosen separate representation, our client will consider whether it has any obligations to pay for those costs (or any damages or costs awarded against her) at the appropriate time;

The appropriate time to consider whether section 3 of the *Employees Liability Act* 1991 (NSW) applies, as you assert it does, is the time at which a Court determines whether our client is liable for the tort alleged against it by Mr Lehmann. Section 3 of the *Employees Liability Act* 1991 (NSW) only applies "if an employee commits a tort for which his or her employer is also liable". Given Network Ten's liability for the tort alleged by Mr Lehmann has not yet been determined, it is not possible for our client to be liable at this point to your client pursuant to that section.

For clarity, our client does not assert it will never be liable to your client pursuant to section 3 of the *Employees Liability Act* 1991 (NSW), only that it is not at this stage liable.

We trust the parties can cooperate to advance the best defence possible.

Regards.

Justin.

Justin Quill | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 23, Rialto South Tower, 525 Collins Street, Melbourne VIC 3000 Australia

[REDACTED] | tqlaw.com.au

Advice | Transactions | Disputes

From: David Collinge
Sent: Friday, 3 March 2023 12:46 PM
To: [REDACTED]
Cc: Anthony Jefferies
Subject: Lisa Wilkinson - Network 10 [GDL-1.220244.WILKIL]
Attachments: letter to Thomson Geer 3 March 2023.PDF

Dear Colleagues

Please see letter **attached**.

regards

David Collinge
Special Counsel



Gillis Delaney Lawyers

Level 40, 161 Castlereagh Street, Sydney, NSW 2000

Direct: [REDACTED]

Tel: [REDACTED] | Fax: [REDACTED]
[REDACTED] | www.gdlaw.com.au

From: Quill, Justin <[REDACTED]>
Sent: Wednesday, March 1, 2023 5:30 PM
To: Anthony Jefferies <[REDACTED]>
Subject: RE: Lisa Wilkinson - Indemnity Issues

Dear Anthony,

Further to Marlia's email below, I confirm I have today read Nick Fordham's 14 February 2023 email to Beverley McGarvey and the response by Tasha Smithies on 15 February 2023. I note that Mr Fordham responded to Ms Smithies on 15 February 2023 saying he would discuss with Lisa and respond accordingly, however that has not occurred.

I have also obviously read the emails in the below email chain.

It appears you have misread or misunderstood Ms Smithies' email.

Your email below refers to rights your client claims exist pursuant to section 3 of the *Employees Liability Act 1991* (NSW). That was not a claim referenced by Mr Fordham in his email and was not something Ms Smithies email was specifically responding to.

In any event, we now take the opportunity to make our client's position as clear as we can, namely:

- Our client would prefer, as is customary in matters of this nature, that your client use the same representation as Network Ten. Our client considers there are many benefits to both parties in doing that, but will not rehearse those benefits here. Our client also considers there are significant disadvantages for our respective clients by not having the same representation;
- However, our client accepts your client is entitled to seek and obtain separate representation;
- Our client has views on the merits of your client taking that course, but it is a matter for her;
- If your client changes her mind and wishes to use the same representation as Network Ten, then it will immediately agree to cover those legal costs and any damages or costs awarded against her;
- If your client continues to use her chosen separate representation, our client will consider whether it has any obligations to pay for those costs (or any damages or costs awarded against her) at the appropriate time;
- The appropriate time to consider whether section 3 of the *Employees Liability Act 1991* (NSW) applies, as you assert it does, is the time at which a Court determines whether our client is liable for the tort alleged against it by Mr Lehrmann. Section 3 of the *Employees Liability Act 1991* (NSW) only applies "if an employee

Our Ref: AJJ/220244
Your Ref: MOBL657

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SYDNEY NSW 2000
AUSTRALIA
DX 179 SYDNEY

3 March 2023

Telephone: [REDACTED]
Facsimile: [REDACTED]
www.gdlaw.com.au

Mr Justin Quill
Partner
Thomson Geer
Level 14, 60 Martin Place
SYDNEY NSW 2000

Via email: [REDACTED]

Dear Colleagues

Lisa Wilkinson & Anor ats Bruce Lehrmann
Federal Court of Australia - Proceedings No: NSD103/2023
Your client Network Ten Pty Limited

This is an open letter and is not subject to common interest privilege.

We refer to your email to us of 1 March 2023. We assume that you have now taken carriage of the dispute about indemnity, despite also having acted for or otherwise given advice to Ms Wilkinson in a number of matters including in connection with Mr Lehrmann and Brittany Higgins.

Your email reverses the position of Network 10 as advised to our client earlier that day by Ms Saunders in relation to indemnity for any damages award and costs ordered in favour of Mr Lehrmann against Ms Wilkinson.

It is perplexing that your client takes the following position:

"If your client changes her mind and wishes to use the same representation as Network Ten, then it will immediately agree to cover those legal costs and any damages or costs awarded against her".

Yet in the same email you assert that the same promise cannot be made merely because our client has elected to have independent representation because, according to you, it is too early to make that assessment.

In addition to being inconsistent with your promise of indemnity if Ms Wilkinson *"changes her mind"*, your claim about the timing of coming to an agreement about indemnity is also without a rationale. If Ms Wilkinson is found liable for the tort, Network 10 will thereupon be vicariously liable for it.

It seems plain that Network 10 is seeking to punish Ms Wilkinson for choosing to be independently represented in these proceedings, and to put pressure on her to abandon that path. Such conduct on the part of Network 10, which has been ongoing since Ms Smithies' email on 15 February 2023, is unconscionable.

Merely by way of example, the following indicates clearly that the interests of our client and Network 10 do not coincide.

Your client's complaint about Ms Wilkinson's choice of senior counsel is, frankly, absurd. As you would be aware, Ms Chrysanthou has appeared in many defamation matters for defendants, including media defendants, over nearly 20 years, with a considerable degree of success. The objection to Ms Chrysanthou acting against the interests of Network 10 is surprising for a number of reasons. First, the very point of separate representation is that it be independent from Network 10, and second, because of the operation of the cab rank rule. The notion that barristers permanently take sides is simply wrong.

The email itself is evidence of why Ms Wilkinson needs to be separately represented – those who instruct your firm in these proceedings cannot bring an impartial mind to the matter and be relied upon to give instructions, when required, which are in Ms Wilkinson's interests. For many months Ms Wilkinson has been concerned about the conflicted position of lawyers who have purported to act in Ms Wilkinson's interest who, to her observation, have not done so where those interests do not align with those of Network 10.

The exchanges between our firms about the content of Ms Wilkinson's defence to the current proceedings is further evidence of the conflict between our clients. Network 10 appears primarily concerned with protection of its in-house lawyers and the advice they gave rather than allowing Ms Wilkinson to run a robust s30 defence in which she can point to the legal advice to support her claim for reasonableness. The High Court has emphasised the importance of obtaining legal advice in such situations.

Senior Counsel and junior counsel were briefed by your firm on behalf of Ms Wilkinson when it acted for her without any proper receipt of instructions or discussion with her that such steps were being taken. That evidenced to her the lack of interest her own lawyers had in her instructions, views and wishes. The Logies speech has been deployed by the applicant in these proceedings in support of his claim for an injunction against our client, and now in evidence in relation to the extension of time. It must therefore be plain to you why our client would wish to be consulted about your firm's choice of senior counsel in these proceedings.

When the statement of claim was filed in these proceedings, the front page of the *Australian* included a photo of our client and accused her of reckless journalism. The article by Janet Albrechtsen was highly critical of Ms Wilkinson, caused serious damage to her reputation and was extremely upsetting to her. We are aware that your firm gives pre-publication legal advice to the *Australian*. Did your firm give advice in relation to that article? Indeed, that publication has been highly critical of Ms Wilkinson consistently over the last 9 months in relation to Mr Lehrmann, causing her severe reputational harm. Your firm's relationship with that newspaper has never been disclosed by you to our client.

A journalist can suffer serious reputational harm in the course of a defamation matter - this has been seen as recently as two weeks ago in relation to a judgment in the Federal Court against the *Australian Financial Review*. Our client's interest in these proceedings includes protecting her professional reputation as a journalist. Recent history demonstrates that Network 10 does not share that interest, in these proceedings or otherwise.

Rule 15.01 of the *FCR* provides that our client can file a cross-claim for indemnity and contribution against another respondent in the proceedings in relation to the subject of the proceeding. We intend to do so by the time for the filing of the defences on 8 March 2023.

The exchanges about this matter over the last few weeks will in due course be pleaded and relied upon in support of the cross-claim and the many items of conflict and potential conflict that we have identified enumerated in that pleading.

Network 10 has treated our client in a deplorable manner in relation to this issue, in breach of its obligations to her and in breach of workplace law. It has caused her significant distress which has exacerbated the stress of being sued.

We invite Network 10 to:

- (a) Confirm that it will indemnify our client against any damages awarded in favour of Mr Lehrman against her in these proceedings;
- (b) Confirm that it will indemnify her for any costs order made against her in these proceedings; and
- (c) Confirm that it will pay her reasonable legal costs of independent representation associated with these proceedings, regardless of the outcome of the proceedings.

Unless we hear from you by 5:00 pm on Tuesday 7 March 2023 with the confirmation requested above, the cross-claim will otherwise be filed without further notice to you.

Yours faithfully,

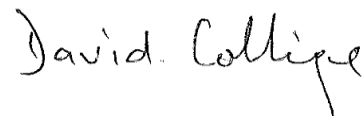
GILLIS DELANEY LAWYERS



Anthony Jefferies

Partner

Direct Line: [REDACTED]



David Collinge

Special Counsel

Direct Line: [REDACTED]

Our Ref: AJJ/220244
Your Ref: MOBL657

Level 40
ANZ Tower
161 Castlereagh Street
SYDNEY NSW 2000
AUSTRALIA
DX 179 SYDNEY

3 March 2023

Telephone: [REDACTED]
Facsimile: [REDACTED]
www.gdlaw.com.au

Mr Justin Quill
Partner
Thomson Geer
Level 14, 60 Martin Place
SYDNEY NSW 2000

Via email: [REDACTED]

Dear Colleagues

Lisa Wilkinson & Anor ats Bruce Lehrmann
Federal Court of Australia - Proceedings No: NSD103/2023
Your client Network Ten Pty Limited

This is an open letter and is not subject to common interest privilege.

We refer to your email to us of 1 March 2023. We assume that you have now taken carriage of the dispute about indemnity, despite also having acted for or otherwise given advice to Ms Wilkinson in a number of matters including in connection with Mr Lehrmann and Brittany Higgins.

Your email reverses the position of Network 10 as advised to our client earlier that day by Ms Saunders in relation to indemnity for any damages award and costs ordered in favour of Mr Lehrmann against Ms Wilkinson.

It is perplexing that your client takes the following position:

"If your client changes her mind and wishes to use the same representation as Network Ten, then it will immediately agree to cover those legal costs and any damages or costs awarded against her".

Yet in the same email you assert that the same promise cannot be made merely because our client has elected to have independent representation because, according to you, it is too early to make that assessment.

In addition to being inconsistent with your promise of indemnity if Ms Wilkinson "*changes her mind*", your claim about the timing of coming to an agreement about indemnity is also without a rationale. If Ms Wilkinson is found liable for the tort, Network 10 will thereupon be vicariously liable for it.

It seems plain that Network 10 is seeking to punish Ms Wilkinson for choosing to be independently represented in these proceedings, and to put pressure on her to abandon that path. Such conduct on the part of Network 10, which has been ongoing since Ms Smithies' email on 15 February 2023, is unconscionable.

Merely by way of example, the following indicates clearly that the interests of our client and Network 10 do not coincide.

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The email itself is evidence of why Ms Wilkinson needs to be separately represented – those who instruct your firm in these proceedings cannot bring an impartial mind to the matter and be relied upon to give instructions, when required, which are in Ms Wilkinson's interests. For many months Ms Wilkinson has been concerned about the conflicted position of lawyers who have purported to act in Ms Wilkinson's interest who, to her observation, have not done so where those interests do not align with those of Network 10.

The exchanges between our firms about the content of Ms Wilkinson's defence to the current proceedings is further evidence of the conflict between our clients. Network 10 appears primarily concerned with protection of its in-house lawyers and the advice they gave rather than allowing Ms Wilkinson to run a robust s30 defence in which she can point to the legal advice to support her claim for reasonableness. The High Court has emphasised the importance of obtaining legal advice in such situations.

Senior Counsel and junior counsel were briefed by your firm on behalf of Ms Wilkinson when it acted for her without any proper receipt of instructions or discussion with her that such steps were being taken. That evidenced to her the lack of interest her own lawyers had in her instructions, views and wishes. The Logies speech has been deployed by the applicant in these proceedings in support of his claim for an injunction against our client, and now in evidence in relation to the extension of time. It must therefore be plain to you why our client would wish to be consulted about your firm's choice of senior counsel in these proceedings.

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The exchanges about this matter over the last few weeks will in due course be pleaded and relied upon in support of the cross-claim and the many items of conflict and potential conflict that we have identified enumerated in that pleading.

Network 10 has treated our client in a deplorable manner in relation to this issue, in breach of its obligations to her and in breach of workplace law. It has caused her significant distress which has exacerbated the stress of being sued.

We invite Network 10 to:

- (a) Confirm that it will indemnify our client against any damages awarded in favour of Mr Lehrman against her in these proceedings;
- (b) Confirm that it will indemnify her for any costs order made against her in these proceedings; and
- (c) Confirm that it will pay her reasonable legal costs of independent representation associated with these proceedings, regardless of the outcome of the proceedings.

Unless we hear from you by 5:00 pm on Tuesday 7 March 2023 with the confirmation requested above, the cross-claim will otherwise be filed without further notice to you.

Yours faithfully,

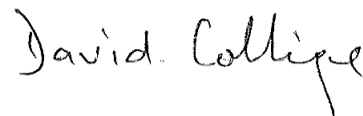
GILLIS DELANEY LAWYERS



Anthony Jefferies

Partner

Direct Line: [REDACTED]



David Collinge

Special Counsel

Direct Line: [REDACTED]

From: Quill, Justin <[REDACTED]>
Sent: Friday, 3 March 2023 9:17 PM
To: Stuart Thomas <[REDACTED]>; Tasha Smithies <[REDACTED]>
Cc: Saunders, Marlia <[REDACTED]>; O'Beirne, Conor <[REDACTED]>
Subject: FW: Lisa Wilkinson - Network 10 [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3782978]

Hi Stuart and Tasha,

Apologies for the late night email. I received this letter from Lisa's lawyers today but was in Court (appearing for you guys (and others) to oppose a suppression order).

The letter is fairly long and throws around a lot of allegations including that we've been too worried about protecting Ten's in-house lawyers rather than Lisa's interests and that Lisa has been "for many months...concerns about the conflicted position" and that "to her observation" we have not acted in her interests "where those interests did not align with those of Network 10". This is despite Lisa never raising that with us (or presumably you guys) and Lisa sending Marlia a gushing text message the night we were served saying something along the lines that Lisa was so grateful for Marlia's support.

Allegations and rhetoric aside, the letter concludes by saying that they will issue the cross claim if by 5pm, Tuesday, 7 March 2023 we don't confirm Ten will:

- a) Indemnify Lisa for any damages award;
- b) Indemnify Lisa for any costs she is ordered to pay; and
- c) Agree to pay the costs of Lisa's independent representation regardless of the outcome of the proceedings.

It seems to me that we probably don't have any major issues agreeing to a) and b) above, but that c) is the issue. Franky, subject to your views, I think you will be better off allowing Sue to issue her cross claim. It will then sit there to be worked out at some point in the future at a trial if there is one. But agreeing now means you lose all your leverage and immediately start to incur double legal costs!

We should also consider if there are any other tactics we can deploy here.

For example, we could consider whether we should issue an application to have Sue (and Gillis Delaney) excluded from the matter on the basis that they have convinced Lisa to adopt a path that will see her worse off. That is, if she stayed with Ten's lawyers, she would be covered win, lose or settle. But by going to Sue and Gillis Delaney, Lisa is exposed in every scenario except if she and Ten loses. In having advised Lisa to take that course, Sue (and Gillis Delaney) are now engaging in battles to keep themselves instructed even though that is not in Lisa's interests (but it is in the interests of Sue and Gillis Delaney).

Alternatively, we could consider whether (probably through Nick Fordham) we could offer Lisa some advice on this indemnity issue in a conference from a totally independent KC (and hopefully that KC might explain to Lisa that if she stays with Ten, she will be totally protected, but that if she doesn't, she could be exposed). That's advice she is unlikely to have heard, and it might change her (and Nick's) mind on the course they're adopting. At the very least it might make her realise Sue is not her friend and doesn't have her interests at heart.

They are two 'left field' and 'off the top of my head' ideas. But I think it's worth thinking about whether any such ideas are worth implementing (there are probably others).

Perhaps we should all think about things over the weekend and discuss it on Monday. Having said that, if you would prefer to discuss it over the weekend, please feel free to give me a call.

Cheers.

Justin.

Justin Quill | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 23, Rialto South Tower, 525 Collins Street, Melbourne VIC 3000 Australia

[REDACTED] | tqlaw.com.au

Advice | Transactions | Disputes

Our Ref: AJJ/220244
Your Ref: MOBL657

Level 40
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161 Castlereagh Street
SYDNEY NSW 2000
AUSTRALIA
DX 179 SYDNEY

3 March 2023

Telephone: [REDACTED]
Facsimile: [REDACTED]
www.gdlaw.com.au

Mr Justin Quill
Partner
Thomson Geer
Level 14, 60 Martin Place
SYDNEY NSW 2000

Via email: [REDACTED]

Dear Colleagues

Lisa Wilkinson & Anor ats Bruce Lehrmann
Federal Court of Australia - Proceedings No: NSD103/2023
Your client Network Ten Pty Limited

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We refer to your email to us of 1 March 2023. We assume that you have now taken carriage of the dispute about indemnity, despite also having acted for or otherwise given advice to Ms Wilkinson in a number of matters including in connection with Mr Lehrmann and Brittany Higgins.

Your email reverses the position of Network 10 as advised to our client earlier that day by Ms Saunders in relation to indemnity for any damages award and costs ordered in favour of Mr Lehrmann against Ms Wilkinson.

It is perplexing that your client takes the following position:

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Yet in the same email you assert that the same promise cannot be made merely because our client has elected to have independent representation because, according to you, it is too early to make that assessment.

In addition to being inconsistent with your promise of indemnity if Ms Wilkinson "changes her", your claim about the timing of coming to an agreement about indemnity is also without a rationale. If Ms Wilkinson is found liable for the tort, Network 10 will thereupon be vicariously liable for it.

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The email itself is evidence of why Ms Wilkinson needs to be separately represented – those who instruct your firm in these proceedings cannot bring an impartial mind to the matter and be relied upon to give instructions, when required, which are in Ms Wilkinson's interests. For many months Ms Wilkinson has been concerned about the conflicted position of lawyers who have purported to act in Ms Wilkinson's interest who, to her observation, have not done so where those interests do not align with those of Network 10.

The exchanges between our firms about the content of Ms Wilkinson's defence to the current proceedings is further evidence of the conflict between our clients. Network 10 appears primarily concerned with protection of its in-house lawyers and the advice they gave rather than allowing Ms Wilkinson to run a robust s30 defence in which she can point to the legal advice to support her claim for reasonableness. The High Court has emphasised the importance of obtaining legal advice in such situations.

Senior Counsel and junior counsel were briefed by your firm on behalf of Ms Wilkinson when it acted for her without any proper receipt of instructions or discussion with her that such steps were being taken. That evidenced to her the lack of interest her own lawyers had in her instructions, views and wishes. The Logies speech has been deployed by the applicant in these proceedings in support of his claim for an injunction against our client, and now in evidence in relation to the extension of time. It must therefore be plain to you why our client would wish to be consulted about your firm's choice of senior counsel in these proceedings.

When the statement of claim was filed in these proceedings, the front page of the *Australian* included a photo of our client and accused her of reckless journalism. The article by Janet Albrechtsen was highly critical of Ms Wilkinson, caused serious damage to her reputation and was extremely upsetting to her. We are aware that your firm gives pre-publication legal advice to the *Australian*. Did your firm give advice in relation to that article? Indeed, that publication has been highly critical of Ms Wilkinson consistently over the last 9 months in relation to Mr Lehmann, causing her severe reputational harm. Your firm's relationship with that newspaper has never been disclosed by you to our client.

A journalist can suffer serious reputational harm in the course of a defamation matter - this has been seen as recently as two weeks ago in relation to a judgment in the Federal Court against the *Australian Financial Review*. Our client's interest in these proceedings includes protecting her professional reputation as a journalist. Recent history demonstrates that Network 10 does not share that interest, in these proceedings or otherwise.

Rule 15.01 of the *FCR* provides that our client can file a cross-claim for indemnity and contribution against another respondent in the proceedings in relation to the subject of the proceeding. We intend to do so by the time for the filing of the defences on 8 March 2023.

The exchanges about this matter over the last few weeks will in due course be pleaded and relied upon in support of the cross-claim and the many items of conflict and potential conflict that we have identified enumerated in that pleading.

Network 10 has treated our client in a deplorable manner in relation to this issue, in breach of its obligations to her and in breach of workplace law. It has caused her significant distress which has exacerbated the stress of being sued.

We invite Network 10 to:

- (a) Confirm that it will indemnify our client against any damages awarded in favour of Mr Lehrman against her in these proceedings;
- (b) Confirm that it will indemnify her for any costs order made against her in these proceedings; and
- (c) Confirm that it will pay her reasonable legal costs of independent representation associated with these proceedings, regardless of the outcome of the proceedings.

Unless we hear from you by 5:00 pm on Tuesday 7 March 2023 with the confirmation requested above, the cross-claim will otherwise be filed without further notice to you.

Yours faithfully,

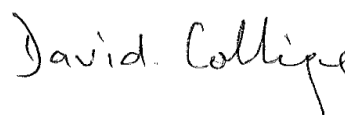
GILLIS DELANEY LAWYERS



Anthony Jefferies

Partner

Direct Line: [REDACTED]



David Collinge

Special Counsel

Direct Line: [REDACTED]

From: Nick Fordham <[REDACTED]>
Date: Tuesday, 7 March 2023 at 12:27 pm
To: Beverley McGarvey <[REDACTED]>
Cc: Lisa Wilkinson External <[REDACTED]>
Subject: Re: The Lehmann Proceedings

Dear Bev,

Thank you for your offer.

Lisa is confident in her current legal team. She is of the view that the advice being given to Network Ten is wrong.

In order to assist in her relationship with you and the network, Lisa agrees to obtain independent legal advice at the expense of Network Ten. So she accepts the offer in your email to us today.

I am taking urgent steps today to instruct a solicitor and senior counsel from those you have suggested.

Regards,

Nick

THE
FORDHAM
C O M P A N Y

NICK FORDHAM
CEO
13-15 Little Burton Street
DARLINGHURST NSW 2010 AUSTRALIA
T [REDACTED]
www.thefordhamcompany.com.au
  

From: Beverley McGarvey <[REDACTED]>
Date: Tuesday, 7 March 2023 at 7:26 am
To: Lisa Wilkinson External <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Subject: The Lehmann Proceedings

Dear Lisa,

I hope that you are well and enjoyed your much deserved vacation.

From the representations made on your behalf by your legal team, we understand that you have concerns that your interests in the current Lehmann proceedings would be better protected and advanced through the separate management of your defence. As you would know, we have a different view and consider that both parties would benefit from a unified defence position that is managed by a single representative team.

I accept that, on this point, you may prefer the advice of your legal representatives over our own views, and so I would like to suggest that you obtain a separate opinion from an independent and pre-eminent senior counsel on the question of whether your interests are best served by maintaining separate defence arrangements. The network would be willing to reimburse your costs for obtaining that independent opinion.

We would propose that any of the following senior counsel would be suitable, however, we are open to any other suggestions you may have on the choice of counsel.

1. Brett Walker
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3. Richard McHugh

In terms of a solicitor to brief counsel, we would suggest:

- Patrick George at Kennedy's Law
- Richard Leder at Wootton Kerney

We suggest that Nick could arrange to engage and brief the solicitor on your behalf.

Let me know if you are interested in this offer.

Look forward to hearing from you.

Regards

Beverley

Beverley McGarvey
Executive Vice President & Chief Content Officer, Paramount ANZ
O [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Beverley McGarvey <[REDACTED]>
Date: Tuesday, 7 March 2023 at 7:26 am
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Cc: Nick Fordham <[REDACTED]>
Subject: The Lehmann Proceedings

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7 March 2023

Mr Anthony Jeffries, Partner
Gillis Delaney Lawyers
Level 40
ANZ Tower
161 Castlereagh Street
SYDNEY NSW 2000

Dear Colleagues

**Network Ten Pty Limited ("Network Ten") ats Bruce Lehrman, Federal Court of
Australia Proceedings No: NSD103/2023 ("Proceedings")
Your client: Lisa Wilkinson**

We refer to the Proceedings and to:

- correspondence between Ten, and its representatives on its behalf, and the representatives of Ms Wilkinson, including your firm; and
- the cross claim against Network Ten by Ms Wilkinson that has been foreshadowed in your most recent correspondence.

We are instructed to respond to the matters raised in that correspondence and the foreshadowed cross claim as follows.

Representation of Network Ten in relation to the dispute regarding indemnity

In light of the allegations that, in your correspondence, have been made against Network Ten, its internal lawyers and its external legal representatives, most recently in your letter of 3 March 2023, to avoid any unnecessary distraction from the proper conduct of the Proceedings, we have been engaged by Network Ten to represent it in relation to the foreshadowed cross claim. In appointing us, neither Network Ten nor Thomson Geer make any admissions as to the veracity of the various claims made against them in your correspondence, each of which are rejected.

To avoid any misunderstanding, Thomson Geer continue to act for Network Ten in the Proceedings, other than in respect of any cross claim, and will continue to do so regardless of whether your client proceeds with the foreshadowed cross claim.

Confirmation of indemnity of Ms Wilkinson by Network Ten

In response to the final paragraph of your letter of 3 March 2023, we are instructed that, by way of confirmation of Network Ten's position, it agrees to indemnify Ms Wilkinson against:

Baker & McKenzie
ABN 32 266 778 912

Tower One - International Towers Sydney
Level 46, 100 Barangaroo Avenue
Barangaroo NSW 2000
Australia

P.O. Box R126
Royal Exchange NSW 1225
Australia

Tel: [REDACTED]
Fax: [REDACTED]
DX: 218 SYDNEY
www.bakermckenzie.com

By email

- (a) any damages award made in favour of Mr Lehrmann against her in the Proceedings; and
 - (b) any costs order made against her in favour of Mr Lehrmann in the Proceedings,
- to the extent and on the same basis that Ms Wilkinson is entitled to an indemnity for such damages award or costs order under section 3 of the *Employees Liability Act 1991 NSW* (the Act).

The indemnity provided for in the Act does not extend to legal costs that may be incurred by Ms Wilkinson in defending the Proceedings. At no stage have you or any representative set out the basis of any such entitlement under the Act or otherwise.

Representation of Ms Wilkinson in the Proceedings

As has been previously stated by and on behalf of Network Ten, Ms Wilkinson is entitled to be separately represented by legal practitioners of her choice notwithstanding the availability of the deeply experienced and reputable defendant defamation representatives, both counsel and solicitor, that have been selected and appointed by Network Ten.

We do not propose to engage in a comparison of the experience of the legal team engaged by Network Ten and Ms Wilkinson's selection, other than to say the team selected by Network Ten is a specialist team amongst the most highly experienced and respected in the country in acting for media defendants.

Allegations against Network Ten's legal representatives

The various assertions made in your correspondence against Ten's internal and external legal representatives regarding any failure to consult Ms Wilkinson, to obtain proper instructions from her or otherwise fail to represent her properly are entirely without foundation.

Prior to your firm's involvement, Ms Wilkinson raised no issue concerning the team nor with the nature or quality of their representation and, in fact, there are communications from your client evidencing that your client held the contrary view to that asserted in your letter of 3 March 2023.

Your letter of 3 March 2023 contains other statements that are factually incorrect, unfounded and defamatory of the internal lawyers at Network Ten, Thomson Geer and two of its partners. Our client does not propose to respond specifically to those at this stage, other than to say that they are rejected in their entirety and to remind you of your obligations under section 32 of the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015 NSW*.

Future representation of Ms Wilkinson

While Network Ten's position regarding payment of her legal fees is as set out above, the offer of future representation of your client by the same representation as selected by Network Ten remains open.

It is a matter for your client whether she wishes to take up that offer but to the extent that she does not and she incurs expense which is not covered by section 3 of the Act, that is a matter for which she is responsible. Such costs do not fall within Network Ten's obligations under the Act or otherwise.

Foreshadowed Cross Claim by Ms Wilkinson

In the context of any cross claim that your client proceeds to bring, our client reserves the right to rely on this letter in relation to the costs of defending any such cross claim, including in the making of an application for indemnity costs in respect of that claim.

Please direct all future correspondence regarding the foreshadowed cross claim to the writer.

Yours faithfully

Attorney

Andrew Stewart
Partner

[REDACTED]

[REDACTED]

From: Beverley McGarvey <[REDACTED]>
Date: 15 March 2023 at 12:50:28 pm AEDT
To: Nick Fordham <[REDACTED]>
Cc: Lisa Wilkinson External <[REDACTED]>
Subject: Re: The Lehmann Proceedings

Dear Nick

Thank you for your confirmation.

Would you please keep me informed on the engagement process, including the appointment of solicitors and senior counsel.

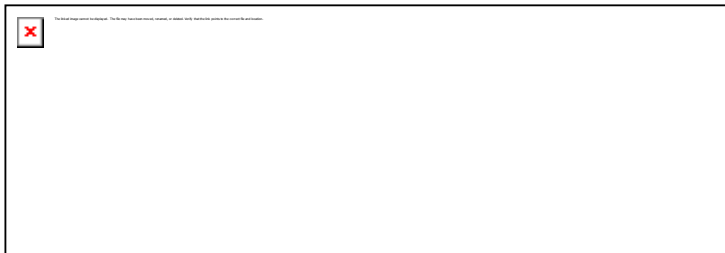
In addition to the defences that have been filed in the proceedings on behalf of N10 and Lisa, would you please provide the attached confidential email correspondence to the appointed solicitor for the purpose of inclusion in the brief to counsel.

By way of formality, I note that the attached email is provided to you on a strictly confidential basis and for the limited purpose of it being included in the brief to the independent senior counsel to advise on the issue of whether Lisa's interests are best served by maintaining separate defence arrangements.

Thank you

Regards

Beverley



Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Sent: Monday, March 6, 2023 6:27 PM
To: Beverley McGarvey <[REDACTED]>
Cc: Lisa Wilkinson External <[REDACTED]>
Subject: Re: The Lehmann Proceedings

Dear Bev,

Thank you for your offer.

Lisa is confident in her current legal team. She is of the view that the advice being given to Network Ten is wrong.

In order to assist in her relationship with you and the network, Lisa agrees to obtain independent legal advice at the expense of Network Ten. So she accepts the offer in your email to us today.

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Regards,

Nick

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NICK FORDHAM

CEO

13-15 Little Burton Street

DARLINGHURST NSW 2010 AUSTRALIA

T [REDACTED]

www.thefordhamcompany.com.au



From: Beverley McGarvey <[REDACTED]>
Date: Tuesday, 7 March 2023 at 7:26 am
To: Lisa Wilkinson External <[REDACTED]>
Cc: Nick Fordham <[REDACTED]>
Subject: The Lehmann Proceedings

Dear Lisa,

I hope that you are well and enjoyed your much deserved vacation.

From the representations made on your behalf by your legal team, we understand that you have concerns that your interests in the current Lehmann proceedings would be better protected and advanced through the separate management of your defence. As you would know, we have a different view and consider that both parties would benefit from a unified defence position that is managed by a single representative team.

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3. Richard McHugh

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- Richard Leder at Wootton Kerney

We suggest that Nick could arrange to engage and brief the solicitor on your behalf.

Let me know if you are interested in this offer.

Look forward to hearing from you.

Regards

Beverley

Beverley McGarvey

Executive Vice President & Chief Content Officer, Paramount ANZ

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Subject: Re: CONFIDENTIAL Lehrmann v Ten - Defence [TGLAW-Legal.FID3782978] - Common Interest Privilege
Date: Tuesday, 7 March 2023 at 9:01:23 pm Australian Eastern Daylight Time
From: Leon Zwier
To: Saunders, Marlia
CC: Nicole Flint, Lauren Winn
Attachments: [DRAFT] Lehrmann v Ten - Defence (81473661v6).docx

Dear Marlia,

As discussed the primary concern for Brittany (and her legal advisers and relevant others) is her mental health and wellbeing. In these circumstances Brittany cannot give, and has not given, any party an assurance that she will be able to provide a witness statement or swear an affidavit or provide an outline of her evidence or give oral evidence at a civil trial and subject herself to further cross examination. And if she is subpoenaed to give evidence by any party, she may make an application to be relieved from compliance with it.

The ACT DPP had regard to Brittany's mental health and wellbeing, and the impact of a further trial on her, in making his decision not to pursue a second Lehrmann criminal prosecution.

Brittany currently intends to instruct me to assist your client(s) in their defences as much as she reasonably can. As you know we have developed a strong and respectful professional relationship with you personally as a result of the Rush defamation trial. And your client(s) senior counsel, Dr Matt Collins, is regarded by us as one of the leading defamation advocate in Australia with whom we also share a strong professional and personal relationship. Knowing Matt well, I also have great confidence in his ability to respectfully, elegantly and carefully engage with Brittany. But it is important for your client(s) to appreciate that Brittany is doing so on the basis that your client(s) will not offer Lehrmann a payment of damages or a retraction of the defamatory statements or an apology or costs (or any other relief) to settle the civil claims commenced by Lehrmann against your clients.

For the avoidance of any other misunderstandings, Brittany has instructed me not to assist lawyers and Counsel currently retained by Lisa Wilkinson to defend civil claims commenced by Lehrmann against Lisa Wilkinson. I am not prepared to work with Lisa's current senior Counsel, under any circumstances. And the more Brittany is required to deal with differing lawyers the worse it is for her to manage the civil trial processes to the detriment of all those defending Lehrmann's civil claims. If Lisa Wilkinson subsequently elects to retain the same lawyers as Ten then, the process will be smoother, more orderly and manageable.

Best regards,
Leon

Leon Zwier
Arnold Bloch Leibler
21/333 Collins Street
Melbourne 3000
Australia

[REDACTED]
[REDACTED]

On 6 Mar 2023, at 20:05, Saunders, Marlia <[REDACTED]> wrote:

Subject to common interest privilege

Dear Leon

Please find **attached** Ten's defence in the Lehrmann proceedings which, subject to any final comments overnight, will be filed with the Court tomorrow.

I note that I am sharing this with you under common interest privilege so that you can let Brittany know about it before it is reported in the media tomorrow afternoon. Please do not disclose it to anyone other than Brittany.

We consider that the approach we have taken provides support for Brittany and her story, but we are aware that Brittany's health and wellbeing is a priority and will take that into account as the matter progresses.

Please let me know if you would like to discuss.

Kind regards

Marlia

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tg@law.com.au

Advice | Transactions | Disputes

#####

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Arnold Bloch Leibler does not accept liability for any loss or damage (whether direct, indirect, consequential or economic) however caused, and whether by negligence or otherwise, which may result directly or indirectly from this email or any attachments (including as a result of your failure to scan this email for viruses or as a result of interference or unauthorised access during communication). In any event, our liability is limited to the cost of re-supplying this communication.

DisclaimerID:AUUYYGH000012

Advice - Lisa Wilkinson/Network Ten

Introduction

1. Bruce Lehrmann (**'Lehrmann'**) has commenced proceedings against Network Ten Pty Ltd (**'Ten'**) and Lisa Wilkinson (**'Lisa'**) in the Federal Court for defamation arising from a television broadcast on Ten on 15 February 2021 in which Lisa hosted an episode of The Project (**'the broadcast'**).
2. The broadcast included an interview with Brittany Higgins (**'Higgins'**).
3. Lehrmann sues on two further publications, which were repetitions of the broadcast posted on the 10 Play website and **The Project's YouTube channel**.
4. The Statement of Claim alleges that Ten is a broadcaster and distributor of The Project and that Lisa is a presenter and/or journalist employed by Ten and that Ten is vicariously liable for her conduct as such.
5. Ten and Lisa admit these allegations in separately filed Defences.
6. It is further alleged that Ten and Lisa published the matters complained of, which Ten and Lisa admit in the Defences as filed.
7. Ten and Lisa admit that the matters complained of conveyed the defamatory imputation that Lehrmann raped Higgins in Parliament House in 2019.
8. Ten and Lisa are separately represented in the proceedings.
9. In a letter from Baker McKenzie to Gillis Delaney dated 7 March 2023, Ten has confirmed it will indemnify Lisa in respect of any liability she may have to Lehrmann for damages or his costs but not for her defence costs if she is separately represented.

10. In the circumstances, Ten seeks to have joint representation - counsel and solicitors - with Lisa in the defence of the proceedings.
11. Lisa has refused to accept the joint representation on the basis that she does not have confidence from their previous conduct that the lawyers representing Ten (the in-house lawyers for Ten and Thompson Geer the solicitors for Ten) would have regard to her interests or instructions if in conflict with Ten.
12. Ten has agreed to pay for Lisa to obtain independent advice on the question whether she should be separately represented and whether there is a conflict or potential conflict such that Lisa should maintain her current separate legal team.
13. The further issue arising is that if Lisa should be separately represented to Ten in the proceedings, whether Ten is obliged to indemnify Lisa for her defence costs, and for any other liability not covered by the current Ten indemnity.

Lisa's Employment Contract

14. Ten employed Lisa to host The Project as and from 1 January 2018 under an Employment Contract for an initial term up to 31 December 2021 which was extended and currently remains on foot.
15. The Employment Contract contains terms which include **that she must comply with Ten's directions** including a direction **'to perform no work' and to preserve Ten's confidential information**.
16. While Lisa remains under contract, she has not been required to perform any work for Ten since November 2022 when she ceased to host The Project by direction from Ten.
17. As an employee, Lisa is entitled to protection from liability for conduct in the course of her employment under the **Employment Liability Act 1991 (NSW) ('the Act')**.
18. Section 3(1)(b) of the Act entitles Lisa to indemnity from her employer for liability for defamation if her employer is also liable.
19. Ten has confirmed that indemnity but not in respect of **Lisa's** defence costs. The indemnity as confirmed makes no distinction between ordinary damages and aggravated damages

and we assume no distinction will be made. Ten would be vicariously liable for any aggravation caused by Lisa in the course of her employment.

Criminal Proceedings against Lehrmann

20. In August 2021, criminal proceedings were commenced against Lehrmann in the ACT Supreme Court in which he was charged with the sexual assault of Higgins in Parliament House.
21. The trial of R v Lehrmann was set down before a jury to commence hearing on 27 June 2022.
22. Lisa was informed by the DPP that she would be a potential witness at the trial. She met with the Prosecutor on 15 June **2022 to discuss her evidence in the presence of Ten's inhouse lawyer. Ten's solicitors** Thomson Geer were also retained to provide advice generally.
23. In the discussion with the Prosecutor, Lisa informed him that she was nominated for a Logies Award for the broadcast and interview with Higgins. The Prosecutor said he could not give her advice about what she could say if she won.
24. The Logies Awards were held shortly thereafter on 19 June 2022. Lisa won the Award for **Most Outstanding News Coverage or Public Affairs Report**. Lisa gave an acceptance speech which had been prepared and/or vetted **by Ten's inhouse counsel and** possibly Thomson Geer.
25. On 21 June 2022, the Trial Judge vacated the trial date on **the basis that the 'recent media publicity' had seriously impacted on the accused's right to a fair trial**. The Prosecutor apparently informed the Trial Judge that he had warned Lisa not to make reference to the proceedings.
26. On 22 June 2022, the President of the Australian Bar Association, Dr Matthew Collins **QC ('Collins')** gave an interview on Network Seven and said that Lisa may face legal consequences over the speech which could include contempt of court charges:

"It's certainly possible that the authorities will be looking at the speech that she made to the Logies and assessing that speech against the standard which applies in this branch of the law. That standard is, did anything that she do have a tendency to interfere with the administration of justice?"

You would hope that whenever the media is contemplating running a story about a serious criminal trial which is about to begin, they would be attuned to the potential risks. The mainstream media understand the risk inhering with talking about cases which are about to go to trial, particularly serious high-profile cases. So clearly this was ill-advised.

*The concern is that potential members of the jury whose job is to apply the presumption of innocence and to focus on the **evidence in the trial might be influenced by things they've been exposed to in the media and in social media.***"

27. **Lisa's reputation as a senior journalist and presenter was severely harmed by these events, including the Prosecutor's statement to the court, the Trial Judge's decision and reasons to vacate the trial date as a result of the acceptance speech and the media commentary by Collins and others about her 'ill-advised' conduct.**
28. Lisa denies she was warned by the Prosecutor. Rather she **relied on advice from Ten's inhouse counsel as to what she could** say in a prepared speech to accept the Award. This was left uncorrected by Ten with the Prosecutor, the Trial Judge and the public at the trial and subsequently.
29. **The trial was aborted after a juror's misconduct or mistake in failing to follow the Trial Judge's directions.**
30. The Prosecutor later decided not to seek a new trial and withdrew the charges against Lehrmann.
31. Concerns were raised in the media about the conduct of the ACT Police and the Prosecutor during the course of the proceedings. The ACT Government has established an Inquiry to investigate the process that took place.
32. On 16 December 2022, Lehrmann issued a Concerns Notice to Ten for defamation arising from publication of the matters complained of. Similar notices were issued to News Ltd and its journalist, Samantha Maiden. Notably, no notice was issued to Lisa individually.
33. Ten did not consult Lisa in relation to the response. On 7 January 2023, Ten informed her that it was not relevant to her.
34. On 8 February 2023, Lehrmann commenced proceedings against Ten and Lisa. The proceedings were reported on the front page of The Australian newspaper, referring to the claim

for aggravated damages alleging that Lisa had been reckless and had not given Lehrmann an opportunity to respond before publication of the interview and broadcast.

35. Thomson Geer accepted service of the court documents on **Lisa's behalf as well as Ten's behalf. Ten assumed, as was** customary, that the Network would conduct the defence on its **employee's behalf as well** as its own.

36. It is relevant that Thomson Geer is engaged by The Australian to advise on prepublication of defamatory material and Lisa infers that the firm would have been engaged on this front-page article.

37. The article focussed on her alleged conduct and has further **harmed Lisa's reputation**, as it was the first report of the defamation proceedings.

38. Lisa was at this time not undertaking any work for her employer and had not been consulted about the threat of proceedings or the response.

39. On becoming aware of the proceedings from the article, she formed the view that Ten was not protecting her reputation and keeping her informed of developments which might harm her reputation. **She had lost confidence and trust in Ten's inhouse lawyer and Ten's** external lawyers engaged to represent her.

40. She also became aware that Collins had been briefed to lead the defence for Ten. She had no confidence that he would protect her reputation or conduct the defence in accordance with her instructions given his previous comments about her.

41. This was particularly the case because of the claim for aggravated damages which included the allegation against her personally (not Ten) that she had sought to exploit the allegation of sexual assault against Lehrmann for her own personal or professional gain, competing to win the Walkley Award with Sam Maiden.

Separate Representation

42. Lisa considered there was a significant risk of conflict **between her interests and Ten's interests in the conduct of the** defence to the proceedings. As a result, she engaged her own counsel and solicitors to represent her. They filed a notice of appearance on her behalf on 14 February 2023.

43. On 15 February 2023, her agent, Nick Fordham, emailed **Ten's inhouse counsel to inform her that Lisa needed to separate her legal representation. Ten's response was to refuse to indemnify Lisa for damages and costs unless she engaged Ten's lawyers.**
44. In seeking to co-operate with Ten, Lisa's legal team sent the draft defence to Ten for review. Differences emerged about issues of waiver of privilege and the grounds in support of the s30 defence of reasonable conduct which might favour Lisa as having conducted herself reasonably pre-publication in contrast to others within Ten on whom she had relied. Matters of aggravation may also give rise to differing interests in defence.
45. **Further correspondence between Lisa's legal team and Ten's legal team ensued which indicated that Thomson Geer was preparing the defence on Ten's instructions pursuant to its corporate interests and at the same time advising against Lisa's interests in relation to her entitlement as an employee to indemnity from her employer under the Act.**
46. Higgins is represented by solicitors, Arnold Block Leibler. Higgins has offered to assist Ten subject to the concerns about her mental health. The solicitor for Higgins, Leon Zwier, has sent **an email to Ten's lawyers** dated 7 March 2023 stating she would assist Ten with the defence to the Lehrmann proceedings as much as she reasonably can.
47. Zwier advised that she was doing so on this proviso - *"But it is important for your client(s) to appreciate that Brittany is doing so on the basis that your client(s) will not offer Lehrmann a payment of damages or a retraction of the defamatory statements or an apology or costs (or any other relief) to settle the civil claims commenced by Lehrmann against your clients"*.
48. This seems, at the least, an unwise proviso to be stipulated by a witness to a party in return for **the witness'** assistance in the proceedings.
49. Be that as it may, Zwier proceeds to note he has high **regard for Ten's solicitor, Marlia Saunders, and senior counsel, Matt Collins, and that he expects that they will be able to engage respectfully with Higgins. He notes:**
"Brittany has instructed me not to assist lawyers and Counsel currently retained by Lisa Wilkinson to defend civil claims commenced by Lehrmann against Lisa Wilkinson. I am not prepared to work with Lisa's current senior Counsel, under any circumstances. And the more Brittany is required to deal

*with differing lawyers the worse it is for her to manage the civil trial processes to the detriment of all those defending **Lehrmann's civil claims. If Lisa Wilkinson subsequently elects to retain the same lawyers as Ten then, the process will be smoother, more orderly and manageable**".*

50. Once again, this stipulation is at the least unwise made by **a witness and offered in return for the witness' assistance in the proceedings**. It shows a lack of regard for the complexities of representation of a **party's interests, particularly when those interests are potentially in conflict with the assisted party**.
51. In all of these circumstances, independent advice is sought as to whether Lisa should have and continue to have separate representation to Ten in the proceedings and if so, at whose cost.

Advice

52. In the typical case for defamation against a media corporation, the interests of the corporation are closely aligned with the employee journalist's **interests**.
53. **It is in Ten's own interests that Lisa** succeeds in her defence, not only because of the indemnity provided to her by **Ten for damages and claimant's costs, but also because Ten will be vicariously liable in the event that she is held personally liable**.
54. The defence to the elements of the cause of action for defamation will usually be substantially the same - publication, identification and meaning - as they are here. The defences of Lisa and Ten are substantially the same to the cause of action and prima facie, it would be in their common interests to have joint representation.
55. However, **the differences between Lisa's interests and Ten's interests emerge from the** response to the claim for aggravated damages, the affirmative defence under s30 of reasonable publication where the onus is on the defendants, and the likely differences between Lisa and Ten in the conduct of the proceedings by which she will be seeking to protect her reputation as the primary objective, whereas **Ten's interests** will not be likely to do so given the current employment situation.
56. The status of the employment relationship reflects distrust and dispute between employer and employee over the course of the last 12 months.

57. On the information available, there is the potential for conflict in the defence of the proceedings over the pre-publication steps and advice for the broadcast, the pre-Logies advice, the Collins media commentary, the failure to correct the Prosecutor, the submissions that might now be made to the ACT Inquiry. In addition, there has been **the suspension of Lisa's work** at Ten, and the dispute about the indemnity under the Act.
58. In these circumstances, we consider that it cannot reasonably be expected that Lisa retain the same lawyers as Ten even if the argument is put that separate representation will increase costs unfairly and unreasonably in the event that the Applicant is unsuccessful in the proceedings and is ordered to **pay the Respondents' costs** (not only for the employer required to indemnify the employee).
59. Lisa should not reasonably be expected to retain lawyers who have previously acted against her interests on these matters, **noting Collins' criticism of her conduct and suggestion** she may have committed a criminal offence, and Thomson Geer advising The Australian it appears in relation to an article damaging her reputation and then advising Ten against her interests in respect of the entitlement to indemnity.
60. We therefore confirm our view that Lisa is entitled to separate representation from Ten to defend these proceedings and it is reasonable to do so in the circumstances.
Noting the Higgins' stipulations above as to the basis on which she is prepared to give Ten assistance in the conduct of the defence, to the exclusion of Lisa's separate representation, that circumstance will have to be managed sensitively by the lawyers for Ten in the interests of a successful defence for both employer and employee.
61. We also consider that the indemnity available under the Act extends to cover her defence costs arising as they do from the alleged commission of a tort for which her employer is vicariously liable.
62. The indemnity for **Lisa's defence costs** therefore arises from her potential liability for the commission of a tort in the ordinary course of her employment. The indemnity for such costs may arise under the Act or under the general law: see *NRMA v Whitlam* [2007] NSWCA 81 at [74]-[75], [84]-[85], [87], and [89]; *Famatima Development Corporation Ltd* [1914] 2 Ch 271 at 282.



Bret Walker

Patrick George

17 March 2023

Advice - Lisa Wilkinson/Network Ten

Introduction

1. Bruce Lehrmann (**'Lehrmann'**) has commenced proceedings against Network Ten Pty Ltd (**'Ten'**) and Lisa Wilkinson (**'Lisa'**) in the Federal Court for defamation arising from a television broadcast on Ten on 15 February 2021 in which Lisa hosted an episode of The Project (**'the broadcast'**).
2. The broadcast included an interview with Brittany Higgins (**'Higgins'**).
3. Lehrmann sues on two further publications, which were repetitions of the broadcast posted on the 10 Play website and **The Project's YouTube channel**.
4. The Statement of Claim alleges that Ten is a broadcaster and distributor of The Project and that Lisa is a presenter and/or journalist employed by Ten and that Ten is vicariously liable for her conduct as such.
5. Ten and Lisa admit these allegations in separately filed Defences.
6. It is further alleged that Ten and Lisa published the matters complained of, which Ten and Lisa admit in the Defences as filed.
7. Ten and Lisa admit that the matters complained of conveyed the defamatory imputation that Lehrmann raped Higgins in Parliament House in 2019.
8. Ten and Lisa are separately represented in the proceedings.
9. In a letter from Baker McKenzie to Gillis Delaney dated 7 March 2023, Ten has confirmed it will indemnify Lisa in respect of any liability she may have to Lehrmann for damages or his costs but not for her defence costs if she is separately represented.

10. In the circumstances, Ten seeks to have joint representation - counsel and solicitors - with Lisa in the defence of the proceedings.
11. Lisa has refused to accept the joint representation on the basis that she does not have confidence from their previous conduct that the lawyers representing Ten (the in-house lawyers for Ten and Thompson Geer the solicitors for Ten) would have regard to her interests or instructions if in conflict with Ten.
12. Ten has agreed to pay for Lisa to obtain independent advice on the question whether she should be separately represented and whether there is a conflict or potential conflict such that Lisa should maintain her current separate legal team.
13. The further issue arising is that if Lisa should be separately represented to Ten in the proceedings, whether Ten is obliged to indemnify Lisa for her defence costs, and for any other liability not covered by the current Ten indemnity.

Lisa's Employment Contract

14. Ten employed Lisa to host The Project as and from 1 January 2018 under an Employment Contract for an initial term up to 31 December 2021 which was extended and currently remains on foot.
15. The Employment Contract contains terms which include **that she must comply with Ten's directions** including a direction **'to perform no work' and to preserve Ten's confidential information**.
16. While Lisa remains under contract, she has not been required to perform any work for Ten since November 2022 when she ceased to host The Project by direction from Ten.
17. As an employee, Lisa is entitled to protection from liability for conduct in the course of her employment under the **Employment Liability Act 1991 (NSW) ('the Act')**.
18. Section 3(1)(b) of the Act entitles Lisa to indemnity from her employer for liability for defamation if her employer is also liable.
19. Ten has confirmed that indemnity but not in respect of **Lisa's** defence costs. The indemnity as confirmed makes no distinction between ordinary damages and aggravated damages

and we assume no distinction will be made. Ten would be vicariously liable for any aggravation caused by Lisa in the course of her employment.

Criminal Proceedings against Lehrmann

20. In August 2021, criminal proceedings were commenced against Lehrmann in the ACT Supreme Court in which he was charged with the sexual assault of Higgins in Parliament House.
21. The trial of R v Lehrmann was set down before a jury to commence hearing on 27 June 2022.
22. Lisa was informed by the DPP that she would be a potential witness at the trial. She met with the Prosecutor on 15 June **2022 to discuss her evidence in the presence of Ten's inhouse lawyer. Ten's solicitors** Thomson Geer were also retained to provide advice generally.
23. In the discussion with the Prosecutor, Lisa informed him that she was nominated for a Logies Award for the broadcast and interview with Higgins. The Prosecutor said he could not give her advice about what she could say if she won.
24. The Logies Awards were held shortly thereafter on 19 June 2022. Lisa won the Award for **Most Outstanding News Coverage or Public Affairs Report**. Lisa gave an acceptance speech which had been prepared and/or vetted **by Ten's inhouse counsel and** possibly Thomson Geer.
25. On 21 June 2022, the Trial Judge vacated the trial date on **the basis that the 'recent media publicity' had seriously impacted on the accused's right to a fair trial**. The Prosecutor apparently informed the Trial Judge that he had warned Lisa not to make reference to the proceedings.
26. On 22 June 2022, the President of the Australian Bar Association, Dr Matthew Collins **QC ('Collins')** gave an interview on Network Seven and said that Lisa may face legal consequences over the speech which could include contempt of court charges:

"It's certainly possible that the authorities will be looking at the speech that she made to the Logies and assessing that speech against the standard which applies in this branch of the law. That standard is, did anything that she do have a tendency to interfere with the administration of justice?"

You would hope that whenever the media is contemplating running a story about a serious criminal trial which is about to begin, they would be attuned to the potential risks. The mainstream media understand the risk inhering with talking about cases which are about to go to trial, particularly serious high-profile cases. So clearly this was ill-advised.

*The concern is that potential members of the jury whose job is to apply the presumption of innocence and to focus on the **evidence in the trial might be influenced by things they've been exposed to in the media and in social media.***"

27. **Lisa's reputation as a senior journalist and presenter was severely harmed by these events, including the Prosecutor's statement to the court, the Trial Judge's decision and reasons to vacate the trial date as a result of the acceptance speech and the media commentary by Collins and others about her 'ill-advised' conduct.**
28. Lisa denies she was warned by the Prosecutor. Rather she **relied on advice from Ten's inhouse counsel as to what she could** say in a prepared speech to accept the Award. This was left uncorrected by Ten with the Prosecutor, the Trial Judge and the public at the trial and subsequently.
29. **The trial was aborted after a juror's misconduct or mistake in failing to follow the Trial Judge's directions.**
30. The Prosecutor later decided not to seek a new trial and withdrew the charges against Lehrmann.
31. Concerns were raised in the media about the conduct of the ACT Police and the Prosecutor during the course of the proceedings. The ACT Government has established an Inquiry to investigate the process that took place.
32. On 16 December 2022, Lehrmann issued a Concerns Notice to Ten for defamation arising from publication of the matters complained of. Similar notices were issued to News Ltd and its journalist, Samantha Maiden. Notably, no notice was issued to Lisa individually.
33. Ten did not consult Lisa in relation to the response. On 7 January 2023, Ten informed her that it was not relevant to her.
34. On 8 February 2023, Lehrmann commenced proceedings against Ten and Lisa. The proceedings were reported on the front page of The Australian newspaper, referring to the claim

for aggravated damages alleging that Lisa had been reckless and had not given Lehrmann an opportunity to respond before publication of the interview and broadcast.

35. Thomson Geer accepted service of the court documents on **Lisa's behalf as well as Ten's behalf. Ten assumed, as was** customary, that the Network would conduct the defence on its **employee's behalf as well** as its own.

36. It is relevant that Thomson Geer is engaged by The Australian to advise on prepublication of defamatory material and Lisa infers that the firm would have been engaged on this front-page article.

37. The article focussed on her alleged conduct and has further **harmed Lisa's reputation**, as it was the first report of the defamation proceedings.

38. Lisa was at this time not undertaking any work for her employer and had not been consulted about the threat of proceedings or the response.

39. On becoming aware of the proceedings from the article, she formed the view that Ten was not protecting her reputation and keeping her informed of developments which might harm her reputation. **She had lost confidence and trust in Ten's inhouse lawyer and Ten's** external lawyers engaged to represent her.

40. She also became aware that Collins had been briefed to lead the defence for Ten. She had no confidence that he would protect her reputation or conduct the defence in accordance with her instructions given his previous comments about her.

41. This was particularly the case because of the claim for aggravated damages which included the allegation against her personally (not Ten) that she had sought to exploit the allegation of sexual assault against Lehrmann for her own personal or professional gain, competing to win the Walkley Award with Sam Maiden.

Separate Representation

42. Lisa considered there was a significant risk of conflict **between her interests and Ten's interests in the conduct of the** defence to the proceedings. As a result, she engaged her own counsel and solicitors to represent her. They filed a notice of appearance on her behalf on 14 February 2023.

43. On 15 February 2023, her agent, Nick Fordham, emailed **Ten's inhouse counsel to inform her that Lisa needed to separate her legal representation. Ten's response was to refuse to indemnify Lisa for damages and costs unless she engaged Ten's lawyers.**
44. In seeking to co-operate with Ten, Lisa's legal team sent the draft defence to Ten for review. Differences emerged about issues of waiver of privilege and the grounds in support of the s30 defence of reasonable conduct which might favour Lisa as having conducted herself reasonably pre-publication in contrast to others within Ten on whom she had relied. Matters of aggravation may also give rise to differing interests in defence.
45. **Further correspondence between Lisa's legal team and Ten's legal team ensued which indicated that Thomson Geer was preparing the defence on Ten's instructions pursuant to its corporate interests and at the same time advising against Lisa's interests in relation to her entitlement as an employee to indemnity from her employer under the Act.**
46. Higgins is represented by solicitors, Arnold Block Leibler. Higgins has offered to assist Ten subject to the concerns about her mental health. The solicitor for Higgins, Leon Zwier, has sent **an email to Ten's lawyers** dated 7 March 2023 stating she would assist Ten with the defence to the Lehrmann proceedings as much as she reasonably can.
47. Zwier advised that she was doing so on this proviso - *"But it is important for your client(s) to appreciate that Brittany is doing so on the basis that your client(s) will not offer Lehrmann a payment of damages or a retraction of the defamatory statements or an apology or costs (or any other relief) to settle the civil claims commenced by Lehrmann against your clients"*.
48. This seems, at the least, an unwise proviso to be stipulated by a witness to a party in return for **the witness'** assistance in the proceedings.
49. Be that as it may, Zwier proceeds to note he has high **regard for Ten's solicitor, Marlia Saunders, and senior counsel, Matt Collins**, and that he expects that they will be able to engage respectfully with Higgins. He notes:
"Brittany has instructed me not to assist lawyers and Counsel currently retained by Lisa Wilkinson to defend civil claims commenced by Lehrmann against Lisa Wilkinson. I am not prepared to work with Lisa's current senior Counsel, under any circumstances. And the more Brittany is required to deal

*with differing lawyers the worse it is for her to manage the civil trial processes to the detriment of all those defending **Lehrmann's civil claims. If Lisa Wilkinson subsequently elects to retain the same lawyers as Ten then, the process will be smoother, more orderly and manageable**".*

50. Once again, this stipulation is at the least unwise made by **a witness and offered in return for the witness' assistance in the proceedings.** It shows a lack of regard for the complexities of representation of a **party's interests, particularly when those interests are potentially in conflict with the assisted party.**
51. In all of these circumstances, independent advice is sought as to whether Lisa should have and continue to have separate representation to Ten in the proceedings and if so, at whose cost.

Advice

52. In the typical case for defamation against a media corporation, the interests of the corporation are closely aligned with the employee journalist's **interests.**
53. **It is in Ten's own interests that Lisa** succeeds in her defence, not only because of the indemnity provided to her by **Ten for damages and claimant's costs, but also because Ten will be vicariously liable in the event that she is held personally liable.**
54. The defence to the elements of the cause of action for defamation will usually be substantially the same - publication, identification and meaning - as they are here. The defences of Lisa and Ten are substantially the same to the cause of action and prima facie, it would be in their common interests to have joint representation.
55. However, **the differences between Lisa's interests and Ten's interests emerge from the** response to the claim for aggravated damages, the affirmative defence under s30 of reasonable publication where the onus is on the defendants, and the likely differences between Lisa and Ten in the conduct of the proceedings by which she will be seeking to protect her reputation as the primary objective, whereas **Ten's interests** will not be likely to do so given the current employment situation.
56. The status of the employment relationship reflects distrust and dispute between employer and employee over the course of the last 12 months.

57. On the information available, there is the potential for conflict in the defence of the proceedings over the pre-publication steps and advice for the broadcast, the pre-Logies advice, the Collins media commentary, the failure to correct the Prosecutor, the submissions that might now be made to the ACT Inquiry. In addition, there has been **the suspension of Lisa's work** at Ten, and the dispute about the indemnity under the Act.
58. In these circumstances, we consider that it cannot reasonably be expected that Lisa retain the same lawyers as Ten even if the argument is put that separate representation will increase costs unfairly and unreasonably in the event that the Applicant is unsuccessful in the proceedings and is ordered to **pay the Respondents' costs** (not only for the employer required to indemnify the employee).
59. Lisa should not reasonably be expected to retain lawyers who have previously acted against her interests on these matters, **noting Collins' criticism of her conduct and suggestion** she may have committed a criminal offence, and Thomson Geer advising The Australian it appears in relation to an article damaging her reputation and then advising Ten against her interests in respect of the entitlement to indemnity.
60. We therefore confirm our view that Lisa is entitled to separate representation from Ten to defend these proceedings and it is reasonable to do so in the circumstances.
Noting the Higgins' stipulations above as to the basis on which she is prepared to give Ten assistance in the conduct of the defence, to the exclusion of Lisa's separate representation, that circumstance will have to be managed sensitively by the lawyers for Ten in the interests of a successful defence for both employer and employee.
61. We also consider that the indemnity available under the Act extends to cover her defence costs arising as they do from the alleged commission of a tort for which her employer is vicariously liable.
62. The indemnity for **Lisa's defence costs** therefore arises from her potential liability for the commission of a tort in the ordinary course of her employment. The indemnity for such costs may arise under the Act or under the general law: see *NRMA v Whitlam* [2007] NSWCA 81 at [74]-[75], [84]-[85], [87], and [89]; *Famatima Development Corporation Ltd* [1914] 2 Ch 271 at 282.



Bret Walker

Patrick George

17 March 2023

From: Beverley McGarvey <[REDACTED]>
Date: 21 March 2023 at 12:33:02 pm AEDT
To: Nick Fordham <[REDACTED]>
Subject: Re: Lehrmann Proceedings

Dear Nick

We appreciate that Lisa does not wish to use N10's legal team, on this occasion, and has a preference to use her own counsel separate from N10. However, we are concerned that Lisa's best interests are not served by her selection of senior counsel, in circumstances in which Lisa is running defences that rely on the truth of an account of a key witness, Ms Brittany

Higgins, and Ms Higgins has instructed her lawyer that she will not assist counsel currently retained by Lisa to defend the defamation claim against Lisa and Ms Higgins' lawyer has indicated that he himself is not prepared to work with Lisa's current senior counsel under any circumstances.

In these particular circumstances, it does not seem that Lisa's prospects of defending the defamation claim are optimised, and are potentially compromised, by the lack of access of Lisa's legal team to a key witness in the defence. In such circumstances and as a matter of course, we would expect that alternative counsel be substituted so that access can be secured to a key defence witness with a view to avoiding any possible compromise in the defence arising from lack of access.

We note that, in both your email and the covered email communications from Patrick George, neither you nor Patrick address the question of Lisa's best interests in proceeding with current senior counsel, as distinct from an alternative. We also note that you do not provide any comment on Mr Walker SC's advice on that question. We can only assume, given your insistence on withholding the advice in its entirety, that the advice is not supportive of the current arrangements as being in Lisa's best interests.

To be clear, N10 intends to comply with its obligations of indemnification under section 3 of the Employees Liability Act and at general law. N10 has, in good faith, sought to agree with you the terms of additional indemnification that are required of N10 both by engagement between N10's external counsel, Andrew Stewart (Baker & McKenzie) and Lisa's solicitor, Mr Anthony Jeffries (Gillis Delaney), as well as through advice given by Mr Brett Walker SC. As to the first method, I understand that Lisa's lawyer has not responded at all to Mr Stewart's letter of 7 March 2023 – sent some 14 days ago. As to the second method, it has been decided to withhold the advice given by Mr Brett Walker SC in its entirety.

Your 3pm deadline of today is unreasonably short and abrupt, noting that your email to me is timestamped 2:49 AM this morning. Given the threats of litigation that you have made in your email, we have now instructed Andrew Stewart to further communicate with Lisa's solicitor, Mr Anthony Jeffries (Gillis Delaney), as a matter of priority and urgency. Regrettably (though noting your preference to progress this issue by way of threats of imminent proceedings), I suggest that further communication on Lisa's claim for additional indemnification be progressed between those lawyers.

Regards

Beverley

Beverley McGarvey

EVP & Chief Content Officer, Haed of P+, Paramount ANZ

O [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009

From: Nick Fordham <[REDACTED]>
Sent: Monday, March 20, 2023 2:49 AM
To: Beverley McGarvey <[REDACTED]>
Subject: FW: Lehrmann Proceedings

Dear Bev

Please see below a further self explanatory email from Patrick George.

After conferring with Lisa in relation to this continuing protracted dispute, I confirm that her position is as follows:

1. You requested that Lisa obtain independent advice from one of three '*eminent silks*' nominated by you as to whether her interests would be best served by representation by TEN's lawyers or not.
2. You said that TEN would pay the solicitor's and counsel's cost of obtaining such advice.
3. TEN did not stipulate as a condition of paying for the advice that it receive a copy of the advice. The whole point of the exercise was for independent advice to be provided to Lisa.
4. Lisa agreed to that course, in good faith, and engaged one of the two solicitors nominated by you to obtain the advice from Bret Walker SC, one of the three senior counsel in your list.
5. A single item requested by TEN was immediately provided to Patrick George and passed onto Mr Walker SC and was taken into account by him.
6. The advice Lisa has received from the independent lawyers you selected, Mr George and Mr Walker SC, is clear and unequivocal: Lisa cannot be expected to retain the same lawyers as TEN, and Lisa is entitled, as a matter of law, to separate representation from TEN, at TEN's cost.
7. Since Mr Walker SC provided that advice to Lisa, you have sought, on two occasions, to seek to question or undermine the advice.
8. Lisa is bewildered by this. It seems that as the essence of the advice is disagreeable to TEN, that TEN is now pressing Lisa to waive privilege over the advice, which she has already indicated that she will not do so, having regard to the conflict between her and TEN.
9. Lisa feels that she is having to now fight on two fronts - both against Lehrmann as well as her own employer.
10. The treatment of Lisa by TEN since June 2022, and especially the handling of the current claim by Lehrmann and the entire indemnification saga, is having a very severe impact on her mental health and her general wellbeing.
11. Lisa has now been forced into the position that if this issue of indemnification and representation cannot be finalised by 3pm tomorrow in a mutually acceptable Deed, then she will simply have no other option but to file a cross claim against TEN to protect her position.

12. So as there can be no misunderstanding, this is the last thing that Lisa wants to do, especially as this dispute will now all be played out in public, but she feels that after what has occurred in the last month or so, she has no other options left.
13. All Lisa wants is to have her own legal team who she respects and trusts, and who can and will continue to work closely with TEN's lawyers to win the case brought by Lehrmann.

I look forward to hearing back from you.

Regards

Nick

THE FORI

From: Patrick George <[REDACTED]>
Date: Monday, 20 March 2023 at 3:43 pm
To: Nick Fordham <[REDACTED]>
Subject: Fwd: Lehrmann Proceedings

Hi Nick

In relation to Beverley McGarvey's email below, I note that I did not 'provide' the summary of the conclusions of the advice to which she refers.

The advice is subject to legal professional privilege. It is a matter for Lisa as to whether she chooses to waive the privilege or not.

As to the first issue in the email, I confirm that Bret considered the Leon Zwier email as part of the brief for the advice.

As to the second issue, the New South Wales Court of Appeal decision (NRMA v Whitlam [2007] NSWCA 81) is clear that Ten is obliged to indemnify Lisa for her defence costs in addition to the indemnity already confirmed for an award of damages and claimant's costs.

Regards
Patrick

----- Forwarded message -----

From: **Nick Fordham** <[REDACTED]>
Date: Sun, 19 Mar 2023 at 7:12 pm
Subject: Fwd: Lehrmann Proceedings
To: Patrick George <[REDACTED]>

Hi Patrick,

Please see below response from Beverley McGarvey.

Regards,

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

Begin forwarded message:

From: Beverley McGarvey <[REDACTED]>
Date: 19 March 2023 at 5:25:05 pm AEDT
To: Nick Fordham <[REDACTED]>
Subject: Re: Lehrmann Proceedings

Dear Nick

We are disappointed that Lisa wishes to withhold in its entirety the written advice provided to her by Bret Walker SC, given Ten's good faith in offering to fund that advice in an effort to progress resolution of the differences between the parties on the subject of separate representation.

I note that the summary of conclusions of that advice provided by Patrick George does not indicate the nature of the advice given by Mr Walker SC on the question of Lisa's selection of senior counsel, in particular, in the specific circumstances that Lisa is defending the claim, in part, using the defence of justification based on events concerning Brittany Higgins and that Brittany Higgins has instructed her lawyer that she will not assist lawyers and counsel currently retained by Lisa to defend civil claims commenced by Lehrmann against her, and Ms Higgins' lawyer has indicated that he himself is not prepared to work with Lisa's current senior counsel under any circumstances. What was the advice given by Bret Walker SC on whether Lisa's interests are best served by retaining her current senior counsel in preference for selection and appointment of alternative senior counsel that do not face any obstacle to cooperation with Brittany Higgins or her lawyer?

To the extent that you wish to rely on the written advice given by Mr Walker to argue for an expansion of the scope of the indemnity that Ten has already confirmed that it provides to Lisa, it seems only fair and reasonable that we would have the opportunity to view at least those parts of the advice that relate to that question. In the absence of the opportunity to view the advice, we are unaware of the documents provided, assumptions, conditions, qualifications or limitations that may qualify the summary of conclusions provided by Patrick George. You will appreciate that Ten is concerned to ensure that the scope of any additional indemnification provided by Ten to Lisa (additional to the indemnification already confirmed in Andrew Stewart's letter to Lisa's solicitors dated 7 March 2023) does not extend beyond the scope of indemnification required under section 3 and common law for good reasons including, without limitation, preservation of any and all rights of subrogation.

In relation to your concerns regarding privilege, I understand that there are protocols that could be implemented to deal with those concerns, such as limitations on the number and qualification of persons who view the advice (such as a limited number of identified lawyers only) along with assurances by Ten that disclosure would not be relied on by Ten as a waiver of privilege.

You will understand that, for the reasons and on the bases set out above, we do press to receive a copy of the written advice provided by Mr Brett Walker, or at least those parts that relate to the two matters identified above.

Regards

Beverley

Sent from my iPhone

On 17 Mar 2023, at 22:14, Nick Fordham
<[REDACTED]> wrote:

Dear Bev,

Please see email below from Patrick George.

Lisa does not waive privilege over the written advice from Brett Walker SC and Patrick George.

I look forward to hearing from you urgently to confirm the position.

Regards,

Nick

THE
FOR

From: Patrick George <[REDACTED]>

Date: Saturday, 18 March 2023 at 10:43 am

To: Nick Fordham <[REDACTED]>

Cc: Giorgia Taylor <[REDACTED]>
Subject: Re: FW: Lehrmann Proceedings

Dear Nick

Thank you for your email.

I confirm that the advice was provided to you in writing yesterday and that your email to Beverly McGarvey summarises the conclusions from the written advice.

Regards
Patrick

On Sat, 18 Mar 2023 at 10:18 am, Nick Fordham
<[REDACTED]> wrote:

Dear Patrick,

Please see the below response from Beverly McGarvey.

Regards,

Nick

NICK FORDHAM
CEO
[13-15 Little Burton Street](#)
[DARLINGHURST NSW 2010 AUSTRALIA](#)
T [REDACTED]
www.thefordhamcompany.com.au

From: Beverley McGarvey <[REDACTED]>
Date: Saturday, 18 March 2023 at 6:13 am
To: Nick Fordham <[REDACTED]>
Subject: Re: Lehrmann Proceedings

Thank you Nick

Would you please arrange for counsel, Bret Walker SC, to provide his advice in writing, with a copy to be provided to us.

Thank you

Beverley

Beverley McGarvey

EVP & Chief Content Officer, Paramount ANZ
O [REDACTED]
[1 Saunders Street Pyrmont, Sydney, NSW 2009](#)

Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Sent: Friday, March 17, 2023 2:55 AM
To: Beverley McGarvey <[REDACTED]>
Subject: Lehrmann Proceedings

Dear Bev,

Further to our emails last week and on Wednesday, I engaged Patrick George who briefed Bret Walker SC on Lisa's behalf.

They have this afternoon provided Lisa with an advice confirming that:

1. It cannot reasonably be expected that Lisa retain the same lawyers as Network 10 in the proceedings;
2. Lisa is entitled to separate representation from Network 10 in the proceedings and her engagement of separate lawyers is reasonable in the circumstances;
3. Lisa is entitled to the indemnity under s3 of the Employees Liability Act in the proceedings as an employee of Network 10; and
4. Network 10 is liable to pay Lisa's defence costs (whether she wins or loses) under the indemnity under s3 of the Employees Liability Act and at common law, which includes paying the costs of her choice of separate lawyers.

I will provide you with their invoices once received for payment as agreed.

Please urgently confirm that Network 10 accepts this position. Given the many communications about this I think there should be a deed of confirmation to ensure that there is no miscommunication.

Kind regards,

Nick

NICK FORDHAM

Error! Filename not specified.

CEO

[13-15 Little Burton Street](#)

[DARLINGHURST NSW 2010 AUSTRALIA](#)

T [REDACTED]

www.thefordhamcompany.com.au

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From: Beverley McGarvey <[REDACTED]>
Date: 21 March 2023 at 12:33:02 pm AEDT
To: Nick Fordham <[REDACTED]>
Subject: Re: Lehrmann Proceedings

Dear Nick

We appreciate that Lisa does not wish to use N10's legal team, on this occasion, and has a preference to use her own counsel separate from N10. However, we are concerned that Lisa's best interests are not served by her selection of senior counsel, in circumstances in which Lisa is running defences that rely on the truth of an account of a key witness, Ms Brittany

Higgins, and Ms Higgins has instructed her lawyer that she will not assist counsel currently retained by Lisa to defend the defamation claim against Lisa and Ms Higgins' lawyer has indicated that he himself is not prepared to work with Lisa's current senior counsel under any circumstances.

In these particular circumstances, it does not seem that Lisa's prospects of defending the defamation claim are optimised, and are potentially compromised, by the lack of access of Lisa's legal team to a key witness in the defence. In such circumstances and as a matter of course, we would expect that alternative counsel be substituted so that access can be secured to a key defence witness with a view to avoiding any possible compromise in the defence arising from lack of access.

We note that, in both your email and the covered email communications from Patrick George, neither you nor Patrick address the question of Lisa's best interests in proceeding with current senior counsel, as distinct from an alternative. We also note that you do not provide any comment on Mr Walker SC's advice on that question. We can only assume, given your insistence on withholding the advice in its entirety, that the advice is not supportive of the current arrangements as being in Lisa's best interests.

To be clear, N10 intends to comply with its obligations of indemnification under section 3 of the Employees Liability Act and at general law. N10 has, in good faith, sought to agree with you the terms of additional indemnification that are required of N10 both by engagement between N10's external counsel, Andrew Stewart (Baker & McKenzie) and Lisa's solicitor, Mr Anthony Jeffries (Gillis Delaney), as well as through advice given by Mr Brett Walker SC. As to the first method, I understand that Lisa's lawyer has not responded at all to Mr Stewart's letter of 7 March 2023 – sent some 14 days ago. As to the second method, it has been decided to withhold the advice given by Mr Brett Walker SC in its entirety.

Your 3pm deadline of today is unreasonably short and abrupt, noting that your email to me is timestamped 2:49 AM this morning. Given the threats of litigation that you have made in your email, we have now instructed Andrew Stewart to further communicate with Lisa's solicitor, Mr Anthony Jeffries (Gillis Delaney), as a matter of priority and urgency. Regrettably (though noting your preference to progress this issue by way of threats of imminent proceedings), I suggest that further communication on Lisa's claim for additional indemnification be progressed between those lawyers.

Regards

Beverley

Beverley McGarvey

EVP & Chief Content Officer, Haed of P+, Paramount ANZ

O [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009

From: Nick Fordham <[REDACTED]>
Sent: Monday, March 20, 2023 2:49 AM
To: Beverley McGarvey <[REDACTED]>
Subject: FW: Lehrmann Proceedings

Dear Bev

Please see below a further self explanatory email from Patrick George.

After conferring with Lisa in relation to this continuing protracted dispute, I confirm that her position is as follows:

1. You requested that Lisa obtain independent advice from one of three '*eminent silks*' nominated by you as to whether her interests would be best served by representation by TEN's lawyers or not.
2. You said that TEN would pay the solicitor's and counsel's cost of obtaining such advice.
3. TEN did not stipulate as a condition of paying for the advice that it receive a copy of the advice. The whole point of the exercise was for independent advice to be provided to Lisa.
4. Lisa agreed to that course, in good faith, and engaged one of the two solicitors nominated by you to obtain the advice from Bret Walker SC, one of the three senior counsel in your list.
5. A single item requested by TEN was immediately provided to Patrick George and passed onto Mr Walker SC and was taken into account by him.
6. The advice Lisa has received from the independent lawyers you selected, Mr George and Mr Walker SC, is clear and unequivocal: Lisa cannot be expected to retain the same lawyers as TEN, and Lisa is entitled, as a matter of law, to separate representation from TEN, at TEN's cost.
7. Since Mr Walker SC provided that advice to Lisa, you have sought, on two occasions, to seek to question or undermine the advice.
8. Lisa is bewildered by this. It seems that as the essence of the advice is disagreeable to TEN, that TEN is now pressing Lisa to waive privilege over the advice, which she has already indicated that she will not do so, having regard to the conflict between her and TEN.
9. Lisa feels that she is having to now fight on two fronts - both against Lehrmann as well as her own employer.
10. The treatment of Lisa by TEN since June 2022, and especially the handling of the current claim by Lehrmann and the entire indemnification saga, is having a very severe impact on her mental health and her general wellbeing.
11. Lisa has now been forced into the position that if this issue of indemnification and representation cannot be finalised by 3pm tomorrow in a mutually acceptable Deed, then she will simply have no other option but to file a cross claim against TEN to protect her position.

12. So as there can be no misunderstanding, this is the last thing that Lisa wants to do, especially as this dispute will now all be played out in public, but she feels that after what has occurred in the last month or so, she has no other options left.
13. All Lisa wants is to have her own legal team who she respects and trusts, and who can and will continue to work closely with TEN's lawyers to win the case brought by Lehrmann.

I look forward to hearing back from you.

Regards

Nick

THE FORI

From: Patrick George <[REDACTED]>
Date: Monday, 20 March 2023 at 3:43 pm
To: Nick Fordham <[REDACTED]>
Subject: Fwd: Lehrmann Proceedings

Hi Nick

In relation to Beverley McGarvey's email below, I note that I did not 'provide' the summary of the conclusions of the advice to which she refers.

The advice is subject to legal professional privilege. It is a matter for Lisa as to whether she chooses to waive the privilege or not.

As to the first issue in the email, I confirm that Bret considered the Leon Zwier email as part of the brief for the advice.

As to the second issue, the New South Wales Court of Appeal decision (NRMA v Whitlam [2007] NSWCA 81) is clear that Ten is obliged to indemnify Lisa for her defence costs in addition to the indemnity already confirmed for an award of damages and claimant's costs.

Regards
Patrick

----- Forwarded message -----

From: **Nick Fordham** <[REDACTED]>
Date: Sun, 19 Mar 2023 at 7:12 pm
Subject: Fwd: Lehrmann Proceedings
To: Patrick George <[REDACTED]>

Hi Patrick,

Please see below response from Beverley McGarvey.

Regards,

Nick

NICK FORDHAM
CHIEF EXECUTIVE OFFICER
THE FORDHAM COMPANY
www.thefordhamcompany.com.au

Begin forwarded message:

From: Beverley McGarvey <[REDACTED]>
Date: 19 March 2023 at 5:25:05 pm AEDT
To: Nick Fordham <[REDACTED]>
Subject: Re: Lehrmann Proceedings

Dear Nick

We are disappointed that Lisa wishes to withhold in its entirety the written advice provided to her by Bret Walker SC, given Ten's good faith in offering to fund that advice in an effort to progress resolution of the differences between the parties on the subject of separate representation.

I note that the summary of conclusions of that advice provided by Patrick George does not indicate the nature of the advice given by Mr Walker SC on the question of Lisa's selection of senior counsel, in particular, in the specific circumstances that Lisa is defending the claim, in part, using the defence of justification based on events concerning Brittany Higgins and that Brittany Higgins has instructed her lawyer that she will not assist lawyers and counsel currently retained by Lisa to defend civil claims commenced by Lehrmann against her, and Ms Higgins' lawyer has indicated that he himself is not prepared to work with Lisa's current senior counsel under any circumstances. What was the advice given by Bret Walker SC on whether Lisa's interests are best served by retaining her current senior counsel in preference for selection and appointment of alternative senior counsel that do not face any obstacle to cooperation with Brittany Higgins or her lawyer?

To the extent that you wish to rely on the written advice given by Mr Walker to argue for an expansion of the scope of the indemnity that Ten has already confirmed that it provides to Lisa, it seems only fair and reasonable that we would have the opportunity to view at least those parts of the advice that relate to that question. In the absence of the opportunity to view the advice, we are unaware of the documents provided, assumptions, conditions, qualifications or limitations that may qualify the summary of conclusions provided by Patrick George. You will appreciate that Ten is concerned to ensure that the scope of any additional indemnification provided by Ten to Lisa (additional to the indemnification already confirmed in Andrew Stewart's letter to Lisa's solicitors dated 7 March 2023) does not extend beyond the scope of indemnification required under section 3 and common law for good reasons including, without limitation, preservation of any and all rights of subrogation.

In relation to your concerns regarding privilege, I understand that there are protocols that could be implemented to deal with those concerns, such as limitations on the number and qualification of persons who view the advice (such as a limited number of identified lawyers only) along with assurances by Ten that disclosure would not be relied on by Ten as a waiver of privilege.

You will understand that, for the reasons and on the bases set out above, we do press to receive a copy of the written advice provided by Mr Brett Walker, or at least those parts that relate to the two matters identified above.

Regards

Beverley

Sent from my iPhone

On 17 Mar 2023, at 22:14, Nick Fordham
<[REDACTED]> wrote:

Dear Bev,

Please see email below from Patrick George.

Lisa does not waive privilege over the written advice from Brett Walker SC and Patrick George.

I look forward to hearing from you urgently to confirm the position.

Regards,

Nick

THE
FOR

From: Patrick George <[REDACTED]>

Date: Saturday, 18 March 2023 at 10:43 am

To: Nick Fordham <[REDACTED]>

Cc: Giorgia Taylor <[REDACTED]>
Subject: Re: FW: Lehrmann Proceedings

Dear Nick

Thank you for your email.

I confirm that the advice was provided to you in writing yesterday and that your email to Beverly McGarvey summarises the conclusions from the written advice.

Regards
Patrick

On Sat, 18 Mar 2023 at 10:18 am, Nick Fordham
<[REDACTED]> wrote:

Dear Patrick,

Please see the below response from Beverly McGarvey.

Regards,

Nick

NICK FORDHAM
CEO
[13-15 Little Burton Street](#)
[DARLINGHURST NSW 2010 AUSTRALIA](#)
T [REDACTED]
www.thefordhamcompany.com.au

From: Beverley McGarvey <[REDACTED]>
Date: Saturday, 18 March 2023 at 6:13 am
To: Nick Fordham <[REDACTED]>
Subject: Re: Lehrmann Proceedings

Thank you Nick

Would you please arrange for counsel, Bret Walker SC, to provide his advice in writing, with a copy to be provided to us.

Thank you

Beverley

Beverley McGarvey

EVP & Chief Content Officer, Paramount ANZ
O [REDACTED]
[1 Saunders Street Pyrmont, Sydney, NSW 2009](#)

Paramount acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first people of the nation and the traditional custodians of the lands where we live, learn and work.

From: Nick Fordham <[REDACTED]>
Sent: Friday, March 17, 2023 2:55 AM
To: Beverley McGarvey <[REDACTED]>
Subject: Lehrmann Proceedings

Dear Bev,

Further to our emails last week and on Wednesday, I engaged Patrick George who briefed Bret Walker SC on Lisa's behalf.

They have this afternoon provided Lisa with an advice confirming that:

1. It cannot reasonably be expected that Lisa retain the same lawyers as Network 10 in the proceedings;
2. Lisa is entitled to separate representation from Network 10 in the proceedings and her engagement of separate lawyers is reasonable in the circumstances;
3. Lisa is entitled to the indemnity under s3 of the Employees Liability Act in the proceedings as an employee of Network 10; and
4. Network 10 is liable to pay Lisa's defence costs (whether she wins or loses) under the indemnity under s3 of the Employees Liability Act and at common law, which includes paying the costs of her choice of separate lawyers.

I will provide you with their invoices once received for payment as agreed.

Please urgently confirm that Network 10 accepts this position. Given the many communications about this I think there should be a deed of confirmation to ensure that there is no miscommunication.

Kind regards,

Nick

NICK FORDHAM

Error! Filename not specified.

CEO

[13-15 Little Burton Street](#)

[DARLINGHURST NSW 2010 AUSTRALIA](#)

T [REDACTED]

www.thefordhamcompany.com.au

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From: Beverley McGarvey <[REDACTED]>
Date: 20 March 2023 at 18:32:35 GMT-7
To: "Nick Fordham ([REDACTED])" <[REDACTED]>
Subject: Re: Lehrmann Proceedings

Dear Nick

We appreciate that Lisa does not wish to use N10's legal team, on this occasion, and has a preference to use her own counsel separate from N10. However, we are concerned that Lisa's best interests are not served by her selection of senior counsel, in circumstances in which Lisa is running defences that rely on the truth of an account of a key witness, Ms Brittany Higgins, and Ms Higgins has instructed her lawyer that she will not assist counsel currently retained by Lisa to defend the defamation claim against Lisa and Ms Higgins' lawyer has indicated that he himself is not prepared to work with Lisa's current senior counsel under any circumstances.

In these particular circumstances, it does not seem that Lisa's prospects of defending the defamation claim are optimised, and are potentially compromised, by the lack of access of Lisa's legal team to a key witness in the defence. In such circumstances and as a matter of course, we would expect that alternative counsel be substituted so that access can be secured to a key defence witness with a view to avoiding any possible compromise in the defence arising from lack of access.

We note that, in both your email and the covered email communications from Patrick George, neither you nor Patrick address the question of Lisa's best interests in proceeding with current senior counsel, as distinct from an alternative. We also note that you do not provide any comment on Mr Walker SC's advice on that question. We can only assume, given your insistence on withholding the advice in its entirety, that the advice is not supportive of the current arrangements as being in Lisa's best interests.

To be clear, N10 intends to comply with its obligations of indemnification under section 3 of the Employees Liability Act and at general law. N10 has, in good faith, sought to agree with you the terms of additional indemnification that are required of N10 both by engagement between N10's external counsel, Andrew Stewart (Baker & McKenzie) and Lisa's solicitor, Mr Anthony Jeffries (Gillis Delaney), as well as through advice given by Mr Brett Walker SC. As to the first method, I understand that Lisa's lawyer has not responded at all to Mr Stewart's letter of 7 March 2023 – sent some 14 days ago. As to the second method, it has been decided to withhold the advice given by Mr Brett Walker SC in its entirety.

Your 3pm deadline of today is unreasonably short and abrupt, noting that your email to me is timestamped 2:49 AM this morning. Given the threats of litigation that you have made in your email, we have now instructed Andrew Stewart to further communicate with Lisa's solicitor, Mr Anthony Jeffries (Gillis Delaney), as a matter of priority and urgency. Regrettably (though noting your preference to progress this issue by way of threats of imminent proceedings), I suggest that further communication on Lisa's claim for additional indemnification be progressed between those lawyers.

Regards

Beverley

Beverley McGarvey

EVP & Chief Content Officer, Haed of P+, Paramount ANZ

O [REDACTED]

1 Saunders Street Pymont, Sydney, NSW 2009

*Paramount acknowledges the Australian Aboriginal and Torres Strait
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custodians of the lands where we live, learn and work.*

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* Associated Firm
** In cooperation with
Trench, Rossi e Watanabe
Advogados

22 March 2023

Mr Anthony Jeffries, Partner
Gillis Delaney Lawyers
Level 40
ANZ Tower
161 Castlereagh Street
SYDNEY NSW 2000

Dear Colleagues

**Network Ten Pty Limited ("Network Ten") ats Bruce Lehrman, Federal Court of
Australia Proceedings No: NSD103/2023 ("Proceedings")
Your client: Lisa Wilkinson**

We refer to our letter of 7 March 2023, in relation to which we have received no
acknowledgement or response.

We have been instructed to write to you again with a further substantive communication,
notwithstanding the lack of a response. We will require until Friday to complete that
response due to Counsel availability.

Network Ten has been informed by your client's agent that any cross claim must be filed
by noon tomorrow. If that is in fact the case, Network Ten will not object to your client
having a reasonable opportunity to consider the content of our further substantive
communication prior to filing of any such cross claim.

Yours faithfully



Andrew Stewart
Partner

[REDACTED]
[REDACTED]

STATEMENT OF CROSS-CLAIM

No. NSD103 of 2023

Federal Court of Australia
District Registry: New South Wales
Division: General

BRUCE LEHRMANN

Applicant

NETWORK TEN PTY LIMITED & LISA WILKINSON

Respondents

LISA WILKINSON

Cross-claimant

NETWORK TEN PTY LIMITED

Cross-respondent

1. The cross-claimant (**Wilkinson**) is and was since 1 January 2018 an employee of the cross-respondent (**Network Ten**):
 - 1.1 pursuant to a written agreement dated 12 December 2017 (**first agreement**); and
 - 1.2 pursuant to a written agreement dated 12 July 2021 (**second agreement**).
2. It was a term of the first agreement that Wilkinson appear as a co-host of the television programme called *The Project*.

{DEC/S2380823:1}

Filed on behalf of	Second Respondent/ Cross-Claimant, Lisa Wilkinson
Prepared by (name of person/lawyer)	Anthony Jefferies
Law firm (if applicable)	Gillis Delaney
Tel	[REDACTED] Fax [REDACTED]
Email	[REDACTED]
Address for service (include state and postcode)	Level 40, 161 Castlereagh Street, Sydney NSW 2000

3. In preparing for and co-hosting *The Project* on 15 February 2021 (**Episode**), Wilkinson was performing her duties and obligations, at the request of and at the behest of Network Ten, pursuant to the first agreement.
4. Any other conduct alleged against Wilkinson in the proceedings connected to the preparation, production, promotion, broadcast and/or republication of the Episode was done in the course of performing her duties and obligations, at the request of and at the behest of Network Ten pursuant to the first agreement and/or the second agreement.
5. Wilkinson is and was on 15 February 2021 and thereafter to date an employee of Network Ten within the meaning of the *Employees Liability Act* 1991 (NSW).
6. Since 20 November 2022, Wilkinson has not appeared as a host of *The Project*.
7. On about 16 December 2022 Network Ten was served with a concerns notice under the *Defamation Act* 2005 by Lehrmann's lawyers in relation to the Episode (**Concerns Notice**).
8. Wilkinson did not receive any concerns notice or letter of demand from Lehrmann in relation to the Episode, or otherwise.
9. Network Ten informed Wilkinson of the receipt of Network Ten's Concerns Notice, but did not seek instructions from Wilkinson in relation to the Concerns Notice or Network Ten's response to it.
10. Wilkinson understands Network Ten responded to the Concerns Notice on about 20 January 2023.
11. On 7 February 2023 these proceedings were commenced against Network Ten and Wilkinson alleging the tort of defamation in relation to the Episode and related conduct.
12. The external lawyers for Network Ten, Thomson Geer, accepted service for or on behalf of Wilkinson, on about 8 February 2023.

13. If Wilkinson is held to be liable for the tort of defamation in the proceedings, by reason of each of the first agreement and/or the second agreement, Network Ten is vicariously liable for any such tortious conduct found in relation to Wilkinson.
14. If Wilkinson is held to be liable for the tort of defamation in the proceedings, Network Ten is a joint tortfeasor in relation to that tort.
15. By reason of the matters set out above, Network Ten is liable to indemnify Wilkinson in respect of any liability incurred by Wilkinson for the tort of defamation, if found so liable in the proceedings in accordance with:
 - 15.1 section 3 of the *Employees Liability Act* 1991 (NSW);
 - 15.2 the common law;
 - 15.3 by way of implied term arising from the first agreement and/or the second agreement.
16. The indemnity referred to in the preceding paragraph extends to the costs incurred by Wilkinson in defending the claim against her by Lehrmann.
17. Further and in the alternative to the preceding paragraphs, by reason of the facts and matters set out above, Wilkinson is entitled, under the general law, including the law of agency, and founded on an implied contract, to be indemnified by Network Ten for any tortious act arising from her role in preparing, promoting and co-hosting the Episode, including for all costs and expenses incurred in either successfully or unsuccessfully defending that claim.
18. On or before 8 February 2023 Wilkinson formed the view that her interest in the proceedings brought by Lehrmann did not coincide with Network Ten, and there were actual or potential conflicts of interest between Wilkinson, Network Ten and its lawyers (including in-house lawyers) in the proceedings and in relation to the facts and matters related to the proceedings.

19. On or before 8 February 2023, Network Ten was aware or should have been aware, that its interest in the proceedings brought by Lehrmann did not coincide with Wilkinson's, and there were actual or potential conflicts of interest between Wilkinson, Network Ten and its lawyers (including in-house lawyers) in the proceedings and in relation to the facts and matters related to the proceedings.
20. On 13 February 2023 Network Ten's lawyers Thomson Geer filed a notice of appearance on behalf of Network Ten and Wilkinson.
21. On 14 February 2023 Wilkinson retained separate solicitors and counsel to represent her in the proceedings, who filed a notice of change of solicitor for Wilkinson.
22. On 14 February 2023 Wilkinson, through her agent, asked Network Ten to confirm that it would meet her legal costs of the proceedings.
23. On 15 February 2023, Network Ten, by email from its in-house lawyer to Wilkinson's agent:
 - 23.1 notified its refusal to indemnify Wilkinson for any damages or costs associated with the proceedings and payable by Wilkinson;
 - 23.2 stated that the refusal of indemnity was by reason of Wilkinson's decision to obtain independent legal advice;
 - 23.3 stated that Network Ten objected to the lawyers selected by Wilkinson in particular because senior counsel "*customarily*" acted for plaintiffs and "*routinely*" acted in opposition to and against the interests of Network Ten;
 - 23.4 stated that it "*is customary for media organisations to provide indemnification of talent...but only on the basis that both parties are solely represented by the media's legal representatives*"; and
 - 23.5 informed Wilkinson that she would be indemnified in respect of the proceedings if she abandoned her independent lawyers and was instead represented by the lawyers on the record for Network Ten in the proceedings.

24. The conduct of Network Ten in the preceding paragraph was:

24.1 in breach of each of the first agreement and/or the second agreement;

24.2 contrary to s3 of the *Employees Liability Act 1991*;

24.3 contrary to the general law;

24.4 misleading and deceptive and likely to mislead and deceive by its misstatements of the law;

24.5 unconscionable, amounting to improper pressure and duress;

24.6 in breach of its fiduciary obligations to Wilkinson as its employee.

25. On 1 March 2023 at about 8:39am Network Ten, by email from its lawyers Thomson Geer, informed Wilkinson that it would "*meet any liability that it incurs under clause 3(1)(b) of the Employees Liability Act 1991 or other vicarious liability that Ten incurs for any damages or costs awarded against*" Wilkinson.

26. On 1 March 2023 Wilkinson, through her lawyers, sought confirmation that the content of the email dated 15 February 2023, referred to in paragraph 23 above, was withdrawn.

27. On 1 March 2023 at about 5:30pm Network Ten, by email from its lawyers Thomson Geer, stated that:

27.1 Wilkinson had "*misread or misunderstood*" the 15 February email;

27.2 it was now making Network Ten's position in relation to indemnity "*as clear as we can*";

27.3 if Wilkinson "*changes her mind*" and opted to use the same legal representation as Network Ten "*then it will immediately agree to cover those legal costs and any damages or costs awarded against her*";

27.4 if Wilkinson retained her current lawyers, then Network Ten would consider *"whether it has any obligation to pay for those costs (or any damages or costs awarded against her) at the appropriate time"* which was not until the conclusion of the proceedings;

27.5 Network Ten *"does not assert it will never be liable" to Wilkinson "pursuant to section 3 of the Employees Liability Act...only that it is not at this stage liable"*.

28. The conduct of Network Ten in the preceding paragraph was:

28.1 in breach of each of the first agreement and/or the second agreement;

28.2 contrary to s3 of the *Employees Liability Act 1991*;

28.3 contrary to the general law;

28.4 misleading and deceptive and likely to mislead and deceive by its misstatements of the law;

28.5 unconscionable, amounting to improper pressure and duress;

28.6 in breach of its fiduciary obligations to Wilkinson as its employee.

29. By reason of the matters pleaded above, Network Ten has (and/or threatens to):

29.1 breached the first agreement and/or the second agreement;

29.2 contravened the general law, including the law of agency;

29.3 contravened s3 of the *Employees Liability Act*;

29.4 engaged in misleading and/or deceptive conduct;

29.5 engaged in unconscionable conduct, including improper pressure and/or duress of Wilkinson; and/or

29.6 breached its fiduciary obligations to Wilkinson as its employee.

30. By reason of the conduct pleaded in paragraphs 22 to 29 above, the lawyers acting for Network Ten in the proceedings (including the in-house lawyers) have placed themselves in a position of conflict of interest, and thus are unable to act as lawyers for Wilkinson in the proceedings.

31. Further and in the alternative to paragraphs 15 to 17 above, and by reason of the facts and matters pleaded herein, Network Ten is liable to contribute to Wilkinson's costs of the proceedings in an amount or proportion that is just and equitable.

32. On 3 March 2023 Wilkinson, through her lawyers, sought confirmation from Network Ten that it would:

32.1 indemnify Wilkinson against any damages awarded in favour of Lehrman in these proceedings;

32.2 indemnify her for any costs order made against her in these proceedings;

32.3 pay her reasonable legal costs of independent representation associated with these proceedings, regardless of the outcome of the proceedings.

33. The letter referred to in the preceding paragraph sought a response by 5pm on 7 March 2023.

34. At about 8:26am on 7 March 2023 Network Ten, through its Executive Vice President & Chief Content Officer Beverley McGarvey (McGarvey) wrote to Wilkinson:

34.1 suggesting that Wilkinson obtain a separate opinion from "*an independent and pre-eminent senior counsel*" on the question of whether Wilkinson's interests "*are best served by maintaining separate defence arrangements*";

- 34.2 noting that Network Ten would be willing to reimburse Wilkinson the costs for obtaining that independent opinion;
 - 34.3 listing the names of three senior counsel who *"would be suitable"*; and
 - 34.4 suggesting two solicitors to choose from to brief counsel.
- 35. At about +++ am on 7 March 2023 Wilkinson, through her agent Nick Fordham (**Fordham**) accepted the offer referred to in the preceding paragraph.
 - 36. At about +++ on 7 March 2023 Wilkinson, through Fordham instructed Patrick George to brief Bret Walker SC to give independent advice to Wilkinson on being separately represented in these proceedings.
 - 37. At about 4:59pm on 7 March 2023 Network Ten, through its lawyers Baker & McKenzie wrote to Wilkinson:
 - 37.1 confirming Network Ten's agreement to indemnify Wilkinson against:
 - (a) any damages award made in favour of Lehrmann against her in the proceedings;
 - (b) any costs order made against her in favour of Lehrmann in the proceedings,

"to the extent and on the same basis that Ms Wilkinson is entitled to such an indemnity for such damages award or costs order under section 3 of the Employees Liability Act 1991 NSW."
 - 37.2 asserting that the indemnity provided for in the Act does not extend to legal costs incurred by Wilkinson in defending the proceedings;
 - 37.3 offering her future representation in the proceedings by the lawyers representing Network Ten;

- 37.4 asserting that any costs she otherwise incurs “*do not fall within Network Ten’s obligations under the Act or otherwise*”.
38. By reason of the matters in paragraphs 34 to 37 Wilkinson did not file this statement of cross-claim on 8 March 2023 as required by the Federal Court Rules.
39. At about + on 15 March 2023 Network Ten through McGarvey provided Fordham with a document that Network Ten wanted Bret Walker SC to consider in giving his advice.
40. At about ++ on 15 March 2023 Fordham provided the document in the preceding paragraph to Patrick George to be briefed to Bret Walker SC and confirmed to McGarvey that that had occurred.
41. At about 3:58pm on 17 March 2023 Wilkinson received advice from Bret Walker SC and Patrick George over which she does not waive privilege.
42. At about 2:55am on 18 March 2023 Wilkinson through Fordham informed McGarvey that Bret Walker SC and Patrick George had advised that:
- 42.1 it cannot reasonably be expected that Wilkinson retain the same lawyers as Network Ten in the proceedings;
- 42.2 Wilkinson is entitled to separate representation from Network Ten in the proceedings and her engagement of separate lawyers is reasonable in the circumstances;
- 42.3 Wilkinson is entitled to the indemnity under s3 of the Employees Liability Act in the proceedings as an employee of Network Ten; and
- 42.4 Network Ten is liable to pay Lisa’s defence costs (whether she wins or loses) under the indemnity under s3 of the Employees Liability Act and at common law, which includes paying the costs of her choice of separate lawyers.

43. In the email referred to in the preceding paragraph Fordham requested that Network Ten confirm that it accepted the advice and would sign a deed of confirmation in favour of Wilkinson in relation to all indemnity issues related to these proceedings.
44. At about 7:13am on 18 March 2023 McGarvey sought a copy of Bret Walker's advice in writing.
45. At about 11:55am on 18 March 2023 Fordham provided McGarvey with confirmation that Bret Walker SC had provided the advice in writing, the conclusions in the earlier correspondence were correct and Wilkinson did not waive privilege over the advice.
46. At about 5:25pm on 19 March 2023 McGarvey emailed Fordham *inter alia* pressing for the written advice from Bret Walker SC.
47. At about 8:49pm on 20 March 2023 Fordham forwarded an email to McGarvey from Patrick George responding to the matters raised in her email referred to in the preceding paragraph.
48. By the email on 20 March 2023 Wilkinson through Fordham also gave Network Ten a deadline of 3pm 21 March 2023 to agree to a deed confirming all indemnity issues in favour of Wilkinson.
49. At about 11:33am on 21 March 2023 McGarvey responded to Fordham raising a number of matters and complaining about the deadline in the email referred to in the preceding paragraph.
50. At about 3:30pm on 21 March 2023 Fordham responded to the matters raised by the McGarvey email referred to in the preceding paragraph and extended the deadline to 11am on 22 March 2023.
51. At about 4:00pm on 21 March 2023 McGarvey informed Fordham that the matter would be handled on behalf of Network Ten by Andrew Stewart.

52. As at the date of this pleading, Network Ten have not confirmed by deed that it agrees to indemnify Wilkinson in the proceedings against all and any damages and costs awarded against her and her costs in defending the proceedings.
53. Having regard to the inconsistent conduct of and stances taken by Network Ten pleaded above, a declaration and orders in relation to indemnity as sought in the Cross-Claim are necessary.

Date: 22 March 2023

Signed by Anthony Jefferies
Solicitor for the cross-claimant

This pleading was prepared by Sue Chrysanthou SC and Barry Dean, barrister

Certificate of lawyer

I Anthony Jefferies certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 22 March 2023

Signed by Anthony Jefferies
Lawyer for the cross-claimant

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* Associated Firm
** In cooperation with
Trench, Rossi e Watanabe
Advogados

24 March 2023

Mr Anthony Jeffries, Partner
Gillis Delaney Lawyers
Level 40
ANZ Tower
161 Castlereagh Street
SYDNEY NSW 2000

Dear Colleagues

**Network Ten Pty Limited ("Network Ten") ats Bruce Lehrman, Federal Court of
Australia Proceedings No: NSD103/2023 ("Proceedings")
Your client: Lisa Wilkinson**

We refer to your email of 22 March 2023.

We are instructed to confirm that:

- 1) Network Ten agrees to reimburse Ms Wilkinson for her legal costs of defending the Proceedings to the extent that those costs are properly incurred and reasonable in amount and to the extent required under section 3(1)(b) of the *Employees Liability Act 1991* (NSW) and at general law; and
- 2) the appropriate time for reimbursement of her legal costs will be at the conclusion of the Proceedings once the quantum of those legal costs can be determined, taking into account any costs orders in Ms Wilkinson's favour.

In respect to your demand for indemnification by way of Deed of Indemnity, Network Ten does not consider that it is required at law to provide a voluntary indemnity, by way of Deed of Indemnity, to supplement Ms Wilkinson's rights under section 3(1)(b) of the *Employees Liability Act 1991* (NSW) and at general law.

Network Ten wishes to remind Ms Wilkinson that she remains an employee of Network Ten and is subject to continuing duties to Network Ten, including in relation to the conduct of her defence of the Proceedings.

Yours faithfully



Andrew Stewart
Partner

[Redacted]
[Redacted]

Baker & McKenzie
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** In cooperation with
Trench, Rossi e Watanabe
Advogados

24 March 2023

Mr Anthony Jeffries, Partner
Gillis Delaney Lawyers
Level 40
ANZ Tower
161 Castlereagh Street
SYDNEY NSW 2000

Dear Colleagues

**Network Ten Pty Limited ("Network Ten") ats Bruce Lehrman, Federal Court of
Australia Proceedings No: NSD103/2023 ("Proceedings")
Your client: Lisa Wilkinson**

We refer to your email of 22 March 2023.

We are instructed to confirm that:

- 1) Network Ten agrees to reimburse Ms Wilkinson for her legal costs of defending the Proceedings to the extent that those costs are properly incurred and reasonable in amount and to the extent required under section 3(1)(b) of the *Employees Liability Act 1991* (NSW) and at general law; and
- 2) the appropriate time for reimbursement of her legal costs will be at the conclusion of the Proceedings once the quantum of those legal costs can be determined, taking into account any costs orders in Ms Wilkinson's favour.

In respect to your demand for indemnification by way of Deed of Indemnity, Network Ten does not consider that it is required at law to provide a voluntary indemnity, by way of Deed of Indemnity, to supplement Ms Wilkinson's rights under section 3(1)(b) of the *Employees Liability Act 1991* (NSW) and at general law.

Network Ten wishes to remind Ms Wilkinson that she remains an employee of Network Ten and is subject to continuing duties to Network Ten, including in relation to the conduct of her defence of the Proceedings.

Yours faithfully



Andrew Stewart
Partner

[Redacted]
[Redacted]

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By email

From: Anthony Jefferies
Sent: Monday, 27 March 2023 9:55 AM
To: [REDACTED]
Cc: David Collinge; Kraegen, Nicholas
Subject: Network Ten Pty Limited ("Network Ten") ats Bruce Lehrmann - Federal Court of Australia Proceedings No. NSD103/20236 [GDL-1.220244.WILKIL]

Dear Andrew

We refer to your letter of 24 March 2023 and we are instructed as follows:

1. We confirm that on the basis of your letter our client will not be filing the foreshadowed Cross-Claim.
2. With respect to the reimbursement of Ms Wilkinson's legal costs, would you please explain the precise legal basis which supports the assertion that Ms Wilkinson is required to now personally fund all of her legal fees and disbursements for the duration of these Proceedings (and any potential appeals) and wait until the conclusion of the Proceedings (or any potential appeals) to be reimbursed by Network Ten?
3. Ms Wilkinson wishes to remind Network Ten that she remains an employee of Network Ten and that your client is subject to continuing duties to her, including in relation to the conduct of your client's defence of the Proceedings.

We await your prompt response.

Regards

Anthony Jefferies
Partner



Gillis Delaney Lawyers

Level 40, 161 Castlereagh Street, Sydney, NSW 2000

Direct: [REDACTED]

Tel: [REDACTED] | Fax: [REDACTED]

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From: Saunders, Marlia <[REDACTED]>
Sent: Tuesday, 11 April 2023 12:39 PM
To: Anthony Jefferies
Cc: David Collinge
Subject: RE: Lisa Wilkinson - ACT Inquiry submission [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3680207]

Dear Anthony

We refer to the email from Tasha Smithies to your client and her agent on 3 February 2023. It is clear that Ten was prepared to pay for external legal assistance for Ms Wilkinson in relation to drafting a submission to the ACT Board of Inquiry on the basis that I would provide that assistance given my lengthy involvement in the matter and my direct dealings with Mr Drumgold since June last year.

Ten has understood that, as of 14 February 2023 (being the date on which you filed, without forewarning or consultation, a notice of change of solicitor with the Federal Court), your client terminated the arrangement under which Thomson Geer was providing her with advice concerning matters arising out of her interview with Ms Brittany Higgins and that, instead, you have been acting for her to the exclusion of Thomson Geer. That understanding is confirmed by your communications since that date. Ten has proceeded on that basis since that date.

In relation to the draft submissions, Ten's position is as set out in my last email to you. As requested, we have identified below the relevant paragraphs that relate to the issues we have raised:

1. The following paragraphs contain references to privileged communications over which Ten asserts legal privilege:
 - a. "which had already been viewed, discussed and approved by Ms Smithies and others in the Network Ten in-house legal team as legally appropriate under the circumstances of the upcoming criminal trial".
 - b. "Ms Wilkinson believes Ms Smithies upon hearing those words would have advised her not to give the speech. She did not."
 - c. Paragraphs containing references to notes taken by Ms Smithies.
2. You are in a position to advise on contempt.
3. The following are factual inaccuracies or misrepresentations:
 - a. Ms Smithies did not seek any advice from Mr Drumgold at the meeting on 15 June 2022.
 - b. The Defences filed in the Lehrmann proceedings plead that Lehrmann was charged on 7 August 2021.
 - c. Ms Smithies did not take any notes at the meeting on 15 June 2022 in relation to Mr Drumgold's comments about the proposed Logies speech.
 - d. A solicitor from the ODPP who attended the meeting on 15 June 2022 did take notes and these were tendered on the stay application.
 - e. Ms Smithies was not provided with a written copy of the proposed Logies speech, and the advice she gave was general in nature – ie, not to refer to the trial, charges or Ms Wilkinson's evidence. Following the discussion with Ms Wilkinson on 15 June 2022, any further version of the speech was not reviewed or approved by any lawyer from the Network Ten in-house legal team.
 - f. There are no contemporaneous notes by Ms Smithies that record that no warning was given.
 - g. Mr Drumgold did not agree or give any undertaking to correct the public record on 22 June. He said he would give some thought as to how he could deal with it and "might" say something in open court.
 - h. I did not ask Mr Drumgold to honour any agreement or undertaking.
4. You are in a position to advise your client as to how the submission is likely to be reported on by the media in the event it is made public.

Kind regards

Marlia Saunders | Partner
Thomson Geer

From: Anthony Jefferies <[REDACTED]>
Sent: Thursday, 6 April 2023 4:54 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Anthony Jefferies <[REDACTED]>; David Collinge <[REDACTED]>
Subject: Lisa Wilkinson - ACT Inquiry submission [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3680207]

Dear Marlia

Thank you for your email.

For the record, Ms Chrysanthou raised the matter with you directly because of our instructions on this issue, namely that:

- (i) you spoke with Ms Wilkinson about this issue on or about 2"00pm on 7 February 2023;
- (ii) Ms Wilkinson was informed that Network 10 would not be making a submission to the Inquiry;
- (iii) Ms Wilkinson could make a submission in her own name with your assistance;
- (iv) Network 10 would pay you for that assistance to Ms Wilkinson; and
- (v) Network 10 wished to review any submission prior to having it filed with the Inquiry.

In relation to the enumerated reasons you set out (and adopting your numbering), can you please:

- (i) Identify precisely – by reference to the draft submissions – the *"communications that are privileged"* which Ten asserts a joint privilege over;
- (ii) Point to the paragraph(s) or words of the draft submissions said to raise contempt issues;
- (iii) Identify precisely what the *"factual inaccuracies and misrepresentations as to conversations"* are said to be; and
- (iv) Explain what is meant by *"the way the criticisms of the media are expressed ..."*

You will appreciate that without the above information our client cannot receive informed advice.

Please let us have your response by 12 noon Sunday 9 April 2023.

Regards

Anthony Jefferies
Partner



Gillis Delaney Lawyers
Level 40, 161 Castlereagh Street, Sydney, NSW 2000
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From: Saunders, Marlia <[REDACTED]>
Sent: Thursday, April 6, 2023 1:21 PM
To: Anthony Jefferies <[REDACTED]>
Cc: David Collinge <[REDACTED]>
Subject: RE: Lisa Wilkinson - ACT Inquiry submission [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3680207]

Dear Anthony

For the record, Ten did not request or require a copy of the submissions. We were contacted by your senior counsel and informed by her that you would be providing them to us for our client's review.

Ten does not agree with the approach taken in the submissions, including for the following reasons:

1. the submissions refer to communications that are privileged for the benefit of Ten with the effect of waiving, or purporting to waive, privilege over legal advice, which is a joint privilege held by both Ten and your client. Ten does not consent to any actual or purported waiver of privilege;
2. there are potential contempt issues in relation to scandalising the court by undermining the approach taken by McCallum CJ in her judgment;
3. the submissions contain factual inaccuracies and misrepresentations as to conversations; and
4. the way the criticisms of the media are expressed is likely to be reported on adversely to your client.

These are all issues which have been raised with your client previously when she wanted Ten to file a submission on her behalf.

While Ten does not agree to the approach taken in the submissions and considers that the submissions are contrary to your client's best interests, Ten does not seek to restrict your client from making those submissions on her own initiative other than to require that all references to privileged communications be removed and that there is no actual, or purported, waiver in the submissions of any privilege that is for the benefit of Ten. For the avoidance of doubt, this should not be taken as an approval or endorsement of the submission by Ten. Further, Ten does not approve or endorse these submissions being released to any media.

Please refer your query regarding indemnification to Andrew Stewart at Baker McKenzie, who is acting for Ten on all matters relating to your clients claims for reimbursement of costs.

Kind regards

Marlia Saunders | Partner
Thomson Geer

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tglaw.com.au

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From: Anthony Jefferies <[REDACTED]>
Sent: Wednesday, 5 April 2023 6:28 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Anthony Jefferies <[REDACTED]>; David Collinge <[REDACTED]>
Subject: Lisa Wilkinson - ACT Inquiry submission [TGLAW-Legal.FID3680207] [GDL-1.220244.WILKIL]

Dear Marlia

Thank you for your below email.

Draft submissions

We confirm that we are in the process of drafting submissions to the ACT Board of Inquiry (**Inquiry**) to be submitted by next Tuesday's deadline.

While we are still finalising the draft submissions and compiling the relevant annexures, **attached** is a current draft for your urgent review.

Given the deadline immediately after the long weekend, we would appreciate any comments or proposed amendments that your client, Network Ten, may have by 3pm tomorrow afternoon.

Costs in respect of the Inquiry

You will recall the agreement previously reached with Network Ten that Thompson Geer would be acting on behalf of Ms Wilkinson in relation to legal support both in preparing submissions for the Inquiry and appearances by solicitors and counsel at the Inquiry. It is clear that the submissions relate to her employment with Network, as evidenced by Network Ten seeking input into those submissions; it is clear that those submissions relate to her employment with Network Ten.

Given the position reached in relation to representation of Ms Wilkinson, and noting that your firm is requesting a copy of Ms Wilkinson's submissions on behalf of Network Ten for Network Ten's approval – we assume that your client will indemnify Ms Wilkinson for her reasonable costs including counsel fees in respect of the Inquiry.

We look forward to your prompt reply.

Kind regards

Anthony Jefferies
Partner



Gillis Delaney Lawyers

Level 40, 161 Castlereagh Street, Sydney, NSW 2000

Direct: [REDACTED]

Tel: [REDACTED] | Fax: [REDACTED]

[REDACTED] | www.gdlaw.com.au

From: Saunders, Marlia <[REDACTED]>
Sent: Monday, April 3, 2023 2:27 PM
To: Anthony Jefferies <[REDACTED]>
Cc: David Collinge <[REDACTED]>
Subject: Lisa Wilkinson - ACT Inquiry submission [TGLAW-Legal.FID3680207]

Subject to common interest privilege

Dear Anthony

We spoke to Sue Chrysanthou SC on Friday and understand that you are preparing a submission on behalf of Lisa Wilkinson for the ACT Board of Inquiry.

Sue indicated that the draft submission will be sent to us for review by Network Ten prior to it being submitted. Our client appreciates the opportunity to review the submission and provide any input prior to it being finalised. In particular, we note that our client wishes to ensure that any privilege over legal advice not be waived in the submission.

To assist you in preparing the submission, we have set out below a chronology of our attempts to contact Shane Drumgold about the issue of him not warning Lisa about her upcoming Logies speech:

- I spoke to Mr Drumgold via phone on 22 June 2022 and encouraged him to correct the record immediately in open court the following day, which he did not do.
- I spoke to Mr Drumgold via phone on 24 October 2022 (after the jury had retired) and conveyed Lisa's concerns/distress to him, at which time he said he would give consideration to what he could say about the matter once the trial concluded.
- I attempted to contact Mr Drumgold via phone and sent him an email on 1 December 2022, the evening prior to him withdrawing the charge against Lehrmann. A copy of my email is **attached**.

- I sent another email to Mr Drumgold on 6 December 2022 asking to have a discussion with him about Lisa's situation. A copy of my email is **attached**.
- I sent a formal letter to Mr Drumgold on Lisa's behalf on 13 December 2022. A copy of my email and letter are **attached**.
- I attempted to contact Drumgold via phone on 15 December 2022 to follow up about the letter. I didn't hear anything further from him.

Please let us know if we can assist further with this.

Kind regards

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

Level 14, 60 Martin Place, Sydney NSW 2000 Australia

[REDACTED] | tgllaw.com.au

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From: Saunders, Marlia <[REDACTED]>
Sent: Tuesday, 11 April 2023 12:39 PM
To: Anthony Jefferies
Cc: David Collinge
Subject: RE: Lisa Wilkinson - ACT Inquiry submission [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3680207]

Dear Anthony

We refer to the email from Tasha Smithies to your client and her agent on 3 February 2023. It is clear that Ten was prepared to pay for external legal assistance for Ms Wilkinson in relation to drafting a submission to the ACT Board of Inquiry on the basis that I would provide that assistance given my lengthy involvement in the matter and my direct dealings with Mr Drumgold since June last year.

Ten has understood that, as of 14 February 2023 (being the date on which you filed, without forewarning or consultation, a notice of change of solicitor with the Federal Court), your client terminated the arrangement under which Thomson Geer was providing her with advice concerning matters arising out of her interview with Ms Brittany Higgins and that, instead, you have been acting for her to the exclusion of Thomson Geer. That understanding is confirmed by your communications since that date. Ten has proceeded on that basis since that date.

In relation to the draft submissions, Ten's position is as set out in my last email to you. As requested, we have identified below the relevant paragraphs that relate to the issues we have raised:

1. The following paragraphs contain references to privileged communications over which Ten asserts legal privilege:
 - a. "which had already been viewed, discussed and approved by Ms Smithies and others in the Network Ten in-house legal team as legally appropriate under the circumstances of the upcoming criminal trial".
 - b. "Ms Wilkinson believes Ms Smithies upon hearing those words would have advised her not to give the speech. She did not."
 - c. Paragraphs containing references to notes taken by Ms Smithies.
2. You are in a position to advise on contempt.
3. The following are factual inaccuracies or misrepresentations:
 - a. Ms Smithies did not seek any advice from Mr Drumgold at the meeting on 15 June 2022.
 - b. The Defences filed in the Lehrmann proceedings plead that Lehrmann was charged on 7 August 2021.
 - c. Ms Smithies did not take any notes at the meeting on 15 June 2022 in relation to Mr Drumgold's comments about the proposed Logies speech.
 - d. A solicitor from the ODPP who attended the meeting on 15 June 2022 did take notes and these were tendered on the stay application.
 - e. Ms Smithies was not provided with a written copy of the proposed Logies speech, and the advice she gave was general in nature – ie, not to refer to the trial, charges or Ms Wilkinson's evidence. Following the discussion with Ms Wilkinson on 15 June 2022, any further version of the speech was not reviewed or approved by any lawyer from the Network Ten in-house legal team.
 - f. There are no contemporaneous notes by Ms Smithies that record that no warning was given.
 - g. Mr Drumgold did not agree or give any undertaking to correct the public record on 22 June. He said he would give some thought as to how he could deal with it and "might" say something in open court.
 - h. I did not ask Mr Drumgold to honour any agreement or undertaking.
4. You are in a position to advise your client as to how the submission is likely to be reported on by the media in the event it is made public.

Kind regards

Marlia Saunders | Partner
Thomson Geer

From: Anthony Jefferies <[REDACTED]>
Sent: Thursday, 6 April 2023 4:54 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Anthony Jefferies <[REDACTED]>; David Collinge <[REDACTED]>
Subject: Lisa Wilkinson - ACT Inquiry submission [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3680207]

Dear Marlia

Thank you for your email.

For the record, Ms Chrysanthou raised the matter with you directly because of our instructions on this issue, namely that:

- (i) you spoke with Ms Wilkinson about this issue on or about 2"00pm on 7 February 2023;
- (ii) Ms Wilkinson was informed that Network 10 would not be making a submission to the Inquiry;
- (iii) Ms Wilkinson could make a submission in her own name with your assistance;
- (iv) Network 10 would pay you for that assistance to Ms Wilkinson; and
- (v) Network 10 wished to review any submission prior to having it filed with the Inquiry.

In relation to the enumerated reasons you set out (and adopting your numbering), can you please:

- (i) Identify precisely – by reference to the draft submissions – the “*communications that are privileged*” which Ten asserts a joint privilege over;
- (ii) Point to the paragraph(s) or words of the draft submissions said to raise contempt issues;
- (iii) Identify precisely what the “*factual inaccuracies and misrepresentations as to conversations*” are said to be; and
- (iv) Explain what is meant by “*the way the criticisms of the media are expressed ...*”

You will appreciate that without the above information our client cannot receive informed advice.

Please let us have your response by 12 noon Sunday 9 April 2023.

Regards

Anthony Jefferies
Partner



Gillis Delaney Lawyers
Level 40, 161 Castlereagh Street, Sydney, NSW 2000
Direct: [REDACTED]
Tel: [REDACTED] | Fax: [REDACTED]
[REDACTED] | www.gdlaw.com.au

From: Saunders, Marlia <[REDACTED]>
Sent: Thursday, April 6, 2023 1:21 PM
To: Anthony Jefferies <[REDACTED]>
Cc: David Collinge <[REDACTED]>
Subject: RE: Lisa Wilkinson - ACT Inquiry submission [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3680207]

Dear Anthony

For the record, Ten did not request or require a copy of the submissions. We were contacted by your senior counsel and informed by her that you would be providing them to us for our client's review.

Ten does not agree with the approach taken in the submissions, including for the following reasons:

1. the submissions refer to communications that are privileged for the benefit of Ten with the effect of waiving, or purporting to waive, privilege over legal advice, which is a joint privilege held by both Ten and your client. Ten does not consent to any actual or purported waiver of privilege;
2. there are potential contempt issues in relation to scandalising the court by undermining the approach taken by McCallum CJ in her judgment;
3. the submissions contain factual inaccuracies and misrepresentations as to conversations; and
4. the way the criticisms of the media are expressed is likely to be reported on adversely to your client.

These are all issues which have been raised with your client previously when she wanted Ten to file a submission on her behalf.

While Ten does not agree to the approach taken in the submissions and considers that the submissions are contrary to your client's best interests, Ten does not seek to restrict your client from making those submissions on her own initiative other than to require that all references to privileged communications be removed and that there is no actual, or purported, waiver in the submissions of any privilege that is for the benefit of Ten. For the avoidance of doubt, this should not be taken as an approval or endorsement of the submission by Ten. Further, Ten does not approve or endorse these submissions being released to any media.

Please refer your query regarding indemnification to Andrew Stewart at Baker McKenzie, who is acting for Ten on all matters relating to your clients claims for reimbursement of costs.

Kind regards

Marlia Saunders | Partner
Thomson Geer
T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tglaw.com.au

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From: Anthony Jefferies <[REDACTED]>
Sent: Wednesday, 5 April 2023 6:28 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Anthony Jefferies <[REDACTED]>; David Collinge <[REDACTED]>
Subject: Lisa Wilkinson - ACT Inquiry submission [TGLAW-Legal.FID3680207] [GDL-1.220244.WILKIL]

Dear Marlia

Thank you for your below email.

Draft submissions

We confirm that we are in the process of drafting submissions to the ACT Board of Inquiry (**Inquiry**) to be submitted by next Tuesday's deadline.

While we are still finalising the draft submissions and compiling the relevant annexures, **attached** is a current draft for your urgent review.

Given the deadline immediately after the long weekend, we would appreciate any comments or proposed amendments that your client, Network Ten, may have by 3pm tomorrow afternoon.

Costs in respect of the Inquiry

You will recall the agreement previously reached with Network Ten that Thompson Geer would be acting on behalf of Ms Wilkinson in relation to legal support both in preparing submissions for the Inquiry and appearances by solicitors and counsel at the Inquiry. It is clear that the submissions relate to her employment with Network, as evidenced by Network Ten seeking input into those submissions; it is clear that those submissions relate to her employment with Network Ten.

Given the position reached in relation to representation of Ms Wilkinson, and noting that your firm is requesting a copy of Ms Wilkinson's submissions on behalf of Network Ten for Network Ten's approval – we assume that your client will indemnify Ms Wilkinson for her reasonable costs including counsel fees in respect of the Inquiry.

We look forward to your prompt reply.

Kind regards

Anthony Jefferies
Partner



Gillis Delaney Lawyers

Level 40, 161 Castlereagh Street, Sydney, NSW 2000

Direct: [REDACTED]

Tel: [REDACTED] | Fax: [REDACTED]

[REDACTED] | www.gdlaw.com.au

From: Saunders, Marlia <[REDACTED]>
Sent: Monday, April 3, 2023 2:27 PM
To: Anthony Jefferies <[REDACTED]>
Cc: David Collinge <[REDACTED]>
Subject: Lisa Wilkinson - ACT Inquiry submission [TGLAW-Legal.FID3680207]

Subject to common interest privilege

Dear Anthony

We spoke to Sue Chrysanthou SC on Friday and understand that you are preparing a submission on behalf of Lisa Wilkinson for the ACT Board of Inquiry.

Sue indicated that the draft submission will be sent to us for review by Network Ten prior to it being submitted. Our client appreciates the opportunity to review the submission and provide any input prior to it being finalised. In particular, we note that our client wishes to ensure that any privilege over legal advice not be waived in the submission.

To assist you in preparing the submission, we have set out below a chronology of our attempts to contact Shane Drumgold about the issue of him not warning Lisa about her upcoming Logies speech:

- I spoke to Mr Drumgold via phone on 22 June 2022 and encouraged him to correct the record immediately in open court the following day, which he did not do.
- I spoke to Mr Drumgold via phone on 24 October 2022 (after the jury had retired) and conveyed Lisa's concerns/distress to him, at which time he said he would give consideration to what he could say about the matter once the trial concluded.
- I attempted to contact Mr Drumgold via phone and sent him an email on 1 December 2022, the evening prior to him withdrawing the charge against Lehrmann. A copy of my email is **attached**.

- I sent another email to Mr Drumgold on 6 December 2022 asking to have a discussion with him about Lisa's situation. A copy of my email is **attached**.
- I sent a formal letter to Mr Drumgold on Lisa's behalf on 13 December 2022. A copy of my email and letter are **attached**.
- I attempted to contact Drumgold via phone on 15 December 2022 to follow up about the letter. I didn't hear anything further from him.

Please let us know if we can assist further with this.

Kind regards

Marlia Saunders | Partner

THOMSON GEER

T [REDACTED] | M [REDACTED]

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[REDACTED] | tg@law.com.au

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Our Ref: AJJ/220244
Your Ref: MOBL657

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14 April 2023

Telephone: [REDACTED]
Facsimile: [REDACTED]
www.gdlaw.com.au

Ms Marlia Saunders
Partner
Thomson Geer
Solicitors
Level 14, 60 Martin Place
SYDNEY NSW 2000

Via email: [REDACTED]

Dear Ms Saunders

Lisa Wilkinson submissions to Sofronoff Board of Inquiry (*Inquiry*)
Your client: Network Ten Pty Limited

We refer to your email of 11 April 2023 received at 12:39pm.

Our client is concerned about the ongoing conduct of Network Ten in relation to the Inquiry and other associated matters.

In particular, we are instructed to respond to your email as follows:

A. Timing of Your Email

1. We provided you with a draft of our client's submissions under cover of our email of Wednesday 5 April 2023 requesting an urgent reply the following afternoon.
2. Your client was aware that our client was required to lodge submissions with the Inquiry by a deadline of close of business on Tuesday 11 April 2023, and therefore that there was urgency in your client providing its feedback into her submissions so that they could be finalised and lodged on time.
3. In your email of Thursday 6 April 2023, your client made a number of vague and inaccurate assertions (including as set out further below) without sufficient particularisation to enable our client to understand and address the matters raised by your client.
4. We immediately responded to your email that same afternoon, requesting the particulars required for our client to amend her proposed submissions.

5. However, your client did not respond to our email of 6 April within the reasonable time frame requested – nor indicate within that timeframe that a response would be forthcoming – and instead only sent a reply at 12:39pm on 11 April 2023, approximately four hours before the deadline for our client to lodge her submissions with the Inquiry.
6. By the time that email had been received, substantial further work had been conducted to finalise our client's submissions so that they could be submitted on time, based on an understanding that no further input was to be forthcoming from your client. Due to the lateness of your response, we were then required to urgently seek instructions from our client and confer with Senior Counsel, and then redraft significant parts of our client's submissions within a short time frame so that the submissions could be lodged by the Inquiry deadline.
7. We reiterate yet again that this course of conduct by Network Ten causes our client significant and unnecessary stress. This entire situation could have been easily avoided had your client promptly responded to the draft submissions when it had the opportunity to do so. Alternately, if your client required further time, you could have had the courtesy of advising us that a response was forthcoming so that we could plan for it.
8. In any event, we **enclose** a copy of our client's final submissions for your client's information which were lodged on 11 April 2023 and were altered prior to lodgement having regard to the content of your email.

B. Factual Inaccuracies

9. Your email of 11 April 2023 contains a number of factual inaccuracies. Given this matter will now be the subject of evidence in the Inquiry, we are of the view that the issues need to be clarified urgently.
10. In particular:
 - a. You assert at paragraph [3.c] that *"Ms Smithies did not take any notes at the meeting on 15 June 2022 in relation to Mr Drumgold's comments about the proposed Logies speech."* However:
 - i. Our client instructs us that she personally witnessed Ms Smithies taking notes during the entirety of the meeting with Mr Drumgold and the DPP.
 - ii. Further, in an email sent from Ms Smithies to you at 9:38am on 22 June 2022 with the subject line, *"Notes of meeting with the DPP"* (**Meeting Notes Email**), Ms Smithies set out detailed particulars of the conversation at the conference regarding the Logies speech, which appears consistent with Ms Smithies having taken a file note at the time of the conference.
 - b. You assert at paragraph [3.f] that *"There are no contemporaneous notes by Ms Smithies that record that no warning was given."* However:
 - i. In the Meeting Notes Email – which was sent only one week after the conference – Ms Smithies wrote, *"There was no warning that Lisa should not give a speech"*. This appears to be a contemporaneous note by Ms Smithies recording that no warning was given.

- ii. In that email, Ms Smithies additionally wrote, *"I recall Drumgold, stopped her and said it's not our place to advise you on that, we can't be seen to approve a speech or give you advice", "There was no suggestion that giving a speech was a bad idea or that Lisa should not give a speech just that they could not advise her or get involved", "I did not consider the conversation with the Counsel constituted a warning of any kind, my view was that it was up to N10 and Lisa (with advice from the Network both legal and editorial) as to what she should or should not say in any speech," and "Had we been given a warning that Lisa should not speak at the Logies (assuming she won) I would have reported this internally, discussed it with Lisa and a different approach would have been taken"*.
 - iii. In her letter to Justice McCallum of 23 June 2022, Network Ten CEO Ms Beverly McGarvey wrote, *"Neither Ms Wilkinson nor the Network 10 senior legal counsel present at the conference with the DPP on 15 June 2022 understood that they had been cautioned that Ms Wilkinson giving an acceptance speech at the Logie Awards could result in an application being made to the court to vacate the trial date. Had they understood that a specific warning had been given, Ms Wilkinson would not have given the speech."* Ms McGarvey would not have positively asserted those matters to the Court had she not been advised – presumably based on contemporaneous notes – that those matters were correct.
- c. You assert at paragraph [3.e] that *"Ms Smithies was not provided with a written copy of the proposed Logies speech, and the advice she gave was general in nature – ie, not to refer to the trial, charges or Ms Wilkinson's evidence. Following the discussion with Ms Wilkinson on 15 June 2022, any further version of the speech was not reviewed or approved by any lawyer from the Network Ten in-house legal team."* However:
- i. In the Meeting Notes Email, Ms Smithies wrote, *"After the meeting, I talked about the speech with Lisa and we changed a part of it. We discussed the fact she was a witness and that she should not refer to the trial at all, she should not touch on her evidence. It should be expressed from Lisa's (not Brittany's) perspective. Lisa read me the speech, we changed the reference to specific date in January 2021 in the first paragraph to make it more geenral [sic] and we also discussed the use of the word 'enough' which I felt was fine in the context in which it appeared in the speech... By way of background- we had considered previously and removed the word 'enough' in answers to questions provided by TV Week as in that context I had been concerned about its use. We also didn't answer all questions from TV week as we felt some related to the trial."*
 - ii. In that email, Ms Smithies further wrote, *"my view was that it was up to N10 and Lisa (with advice from the Network both legal and editorial) as to what she should or should not say in any speech," and, "I understood that the DPP could not advise Lisa or N10 on the content of a Logies speech and that this was a matter for N10."* This supports the clear contention that Ms Smithies understood that she had a responsibility to provide our client with legal advice about the content of the speech. It would be concerning if,



having such an understanding, Ms Smithies then failed to act in accordance with that responsibility by not reviewing the draft speech and providing any necessary legal input. The duty imposed on Network Ten to our client is unarguable; any abdication of the responsibility for vetting a public forum speech relating to Ms Wilkinson's work for Network Ten would appear to be a clear breach of that duty.

- iii. Further, we are instructed that on the afternoon of 19 June 2022 – four days after the conference with the DPP – our client met with *The Project's* Network Ten Executive Producer, Sarah Thornton, at the Sofitel Broadbeach and was asked by Ms Thornton to email a copy of the speech to her so that it could be shown to Ms McGarvey and to Network Ten Head Of Communications, Ms Cat Donovan. Our client said that she would appreciate that, and that she was nervous about the speech. Ms Thornton then told our client that she would show the speech to Ms Smithies for her final approval. Our client emailed the speech to Ms Thornton at 2:34pm that afternoon, and received a text message from Ms Thornton confirming receipt. Later that afternoon at 4:37pm, our client received a text message from Ms Thornton which stated, "*Tasha says speech all good. X*", indicating that Ms Smithies had reviewed and approved the speech.
11. We are extremely concerned that your email contains such inaccuracies, especially in circumstances where you, Ms Saunders, as the recipient of the Meeting Notes Email, were aware of its content and, therefore, would have been aware that the matters set out in that email contradicted your client's position in your email of 11 April 2023. This is not a situation where you were solely reliant on (erroneous) instructions from your client – you personally knew, or ought to have known, that a number of matters set out in your email were incorrect.
12. Please urgently provide an explanation for the apparent inconsistency between the matters asserted in your email of 11 April 2023 and the facts set out in contemporaneous documents including the Meeting Notes Email and the text message from Ms Thornton to our client of 19 June 2022.
13. It is of the utmost importance that our respective clients cooperate frankly and openly to ensure that all information put to the Inquiry is complete and accurate. Please give us your client's assurance that the inaccuracies contained in your 11 April email will not be repeated in any other forum.

C. Subpoena to Give Evidence - Confidential

14. On 12 April 2023 Ms Wilkinson was subpoenaed to give evidence in the Inquiry.
15. She is required to prepare a statement in response to specific questions asked by the Board of Inquiry and to produce documents. It is expected that she will be required to appear at hearings of the Inquiry in May 2023. These matters are presently confidential, and we request and expect that you and Network Ten maintain that confidentiality.
16. Ms Wilkinson will be required to be represented before the Inquiry. Network Ten has made it plain that it has no interest in appearing or making submissions, and it is plain



from the communications about this matter to date that Thompson Geer acts in the interest of Network Ten and not Ms Wilkinson.

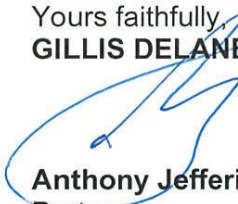
17. In that regard, Ms Chrysanthou SC will seek leave to appear on behalf of Ms Wilkinson, instructed by us. We understand that the Board of Inquiry will grant that leave on Monday 17 April 2023, given Ms Wilkinson's compelled attendance as a witness. We anticipate that attendances by Ms Chrysanthou will be required at least when Mr Drumgold gives evidence and when Ms Wilkinson gives evidence. We have been liaising with counsel assisting the Inquiry to facilitate these matters.
18. The questions and evidence primarily concern the interview with Brittany Higgins in February 2021 and Ms Wilkinson's interactions with Ms Higgins, Mr Lehmann and Mr Drumgold. Each of these matters plainly arose by reason of Ms Wilkinson's employment, which is relevant to the question of costs, discussed below.

D. Costs

19. Under cover of your email of 6 April 2023, you advised that, we should "*refer [our] query regarding indemnification to Andrew Stewart at Baker McKenzie, who is acting for Ten on all matters relating to your clients claims for reimbursement of costs*".
20. However, in your email of 11 April 2023, you now seek to make specific assertions about the arrangements for costs on behalf of Network Ten – which, yet again, contain factual and legal inaccuracies – and which appear to indicate that you are also responding on behalf of Network Ten in respect of the indemnification issue.
21. To avoid any misunderstanding and confusion, our client contends that legal costs associated with the Inquiry must be borne by Network Ten, given that her involvement in the Inquiry directly arises from her employment by Network Ten.
22. In any event, we now invite you (or Baker McKenzie) to clearly set out the precise **legal** basis on which your client asserts that our client has to bear her own legal costs and disbursements in respect of the Inquiry.
23. We request your (or Baker McKenzie's) response in relation to **this** issue by 5:00pm on Tuesday 18 April 2023.
24. Our client reserves her rights in relation to this issue, as well as the serious complaints set out above.

We await to your prompt reply.

Yours faithfully,
GILLIS DELANEY LAWYERS


Anthony Jefferies
Partner
Direct Line: [REDACTED]


David Collinge
Special Counsel
Direct Line: [REDACTED]

From: Saunders, Marlia <[REDACTED]>
Sent: Monday, 17 April 2023 3:06 PM
To: Anthony Jefferies
Cc: David Collinge; Nicola Sanchez
Subject: RE: Lisa Wilkinson - ACT Inquiry submission [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3680207]

Dear Colleagues

We refer to your letter of 14 April 2023.

Your criticisms of our conduct are baseless and unwarranted.

On Monday 3 April 2023, we provided you with a chronology and copies of our correspondence with Shane Drumgold, which our client instructed us to do of its own volition, out of goodwill in order to assist your client.

You did not provide us with a draft of the submissions until 6:28pm on Wednesday 5 April. We responded at 1:21pm the following day (within 5 business hours of receipt of your email). We had previously raised the same issues with your client on a number of occasions.

At 4:54pm, you sought more specific feedback on the submissions. This was the afternoon before Good Friday. We responded the following business day, Tuesday 11 April, at 12:38pm (again, within 5 business hours of receipt of your email) despite the fact that both myself and Ms Smithies had been away with our families for the Easter long weekend and were both on annual leave that day.

The arbitrary timeframe you provided us for a response was far from reasonable, and our response provided you with sufficient time to amend the submissions by the deadline. We note you were in a position to provide the draft submissions to us earlier, or to seek an extension of time for submitting them to the Board of Inquiry. In the circumstances, the suggestion that it was our conduct that caused any stress to your client is extremely unfair and unsupported by the timeline.

Our email of last Tuesday was not inaccurate. It is correct that Ms Smithies took no notes about Mr Drumgold's comments regarding the Logies speech during the meeting on 15 June 2022. The notes she took during the meeting related to Ms Wilkinson giving evidence at the criminal trial. The following week, after McCallum CJ's judgment and in light of a potential contempt referral in relation to Ms Wilkinson, Ms Smithies prepared an email which set out her recollection of what had transpired at the meeting on 15 June. This was not prepared contemporaneously.

The material set out in paragraph 10(c) of your letter does not reveal any inaccuracy or inconsistency. The issue we raised was that the draft submissions required clarification in this respect, and we provided such clarification.

Network Ten rejects the suggestion that it has not cooperated frankly and openly. Rather, Network Ten considers that its contrary views on the approach that has been taken both in relation to the defamation proceedings and the Inquiry have been ignored and that it has been provided with materials for review at the very last minute, with arbitrary and unreasonable deadlines given for response.

Since 6 March 2023, after you alleged Thomson Geer had a conflict on the indemnity issue, Andrew Stewart from Baker McKenzie has been acting in relation to any claims by Ms Wilkinson for indemnification. The correspondence on this matter will be passed onto Mr Stewart for a response regarding the indemnity issue. He will be instructed to respond in due course, noting your demand for a response by 5pm tomorrow is, again, arbitrary and unreasonable.

Kind regards

Marlia Saunders | Partner
Thomson Geer

T [REDACTED] | M [REDACTED]
Level 14, 60 Martin Place, Sydney NSW 2000 Australia
[REDACTED] | tglaw.com.au

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From: Nicola Sanchez <[REDACTED]>
Sent: Friday, 14 April 2023 4:58 PM
To: Saunders, Marlia <[REDACTED]>
Cc: Anthony Jefferies <[REDACTED]>; David Collinge <[REDACTED]>
Subject: Lisa Wilkinson - ACT Inquiry submission [GDL-1.220244.WILKIL] [TGLAW-Legal.FID3680207]

Dear Ms Saunders,

Please see **attached** letter in relation to the above matter.

Regards,

Nicola Sanchez
Associate

 **Gillis Delaney Lawyers**
Level 40, 161 Castlereagh Street, Sydney, NSW 2000
Direct: [REDACTED]
Tel: [REDACTED] | Fax: [REDACTED]
[REDACTED] | www.gdlaw.com.au

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8 May 2023

Mr Anthony Jeffries, Partner
Gillis Delaney Lawyers
Level 40
ANZ Tower
161 Castlereagh Street
SYDNEY NSW 2000

Dear Anthony

Network Ten Pty Limited ("Network Ten") ats Bruce Lehrman, Federal Court of Australia Proceedings No: NSD103/2023 ("Proceedings")
Your client: Lisa Wilkinson

We refer to your email of Monday 1 May and the earlier correspondence regarding Ms Wilkinson's request for confirmation that her legal costs associated with the Inquiry are covered by Network Ten. It appears to Network Ten that the basis of this request, while not articulated by Ms Wilkinson, is clause 10 of the employment agreement dated 12 July 2021, as amended by the variation letter dated 21 November 2022, (**Employment Agreement**).

Clause 10 of the Employment Agreement provides that Ms Wilkinson "*will be reimbursed for **reasonable expenses necessarily incurred by her in the performance of her duties** subject to TEN receiving satisfactory receipts from the Employee in relation to such expenses*" (emphasis added).

At this point, Network Ten has not received any receipts in relation to any expenses and therefore the question of whether she is entitled to reimbursement for the expenses to which you refer has not yet arisen. If such receipts are provided, our client will consider a request for reimbursement, noting the position referred to below in relation to Ms Wilkinson's costs of giving evidence pursuant to the Subpoena to Give evidence No 2023/66 dated 24 April 2023. However, in respect of expenses that Ms Wilkinson is incurring in relation to the Inquiry there are several matters Network Ten wishes to put on the record.

Ms Wilkinson's involvement in the Inquiry arose from a decision made by her to make submissions to the Inquiry. In Network Ten's view, there was and is no requirement for Ms Wilkinson to make any submissions to the Inquiry in the performance of her duties for Network Ten. Therefore, expenses incurred by Ms Wilkinson in respect of her submissions to the Inquiry were not reasonable expenses necessarily incurred by her in the performance of her duties. In Network Ten's view, it follows that there is no

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By email

obligation for it to reimburse Ms Wilkinson for expenses she has incurred in respect of her submissions to the Inquiry.

We note that Network Ten offered to pay the costs of Ms Saunders submitting a complaint to the Inquiry regarding Mr Drumgold QC's conduct, but Ms Wilkinson elected not to accept that offer.

Also, Ms Wilkinson provided a written statement to the Inquiry pursuant to a Subpoena issued to her by the Inquiry purportedly under ss 18(3), 26(1) and s26(3) of the *Inquiries Act 1991 (the Act)*. As we previously raised with you, none of these provisions empower the Inquiry to compel a person to provide a written statement. These provisions are limited to requiring witnesses to give evidence at the hearing or to produce at the hearing a document or thing. A procedural provision such as s 18(3) of the Act cannot empower the Inquiry to compel a potential witness to provide a statement of evidence. Ms Wilkinson has in effect voluntarily provided a written statement to the Inquiry, in circumstances where she is not now afforded the protection enjoyed by a witness when compelled to give evidence or produce a document or thing set out in s 19(3) of the Act.

Accordingly, Network Ten declines to provide the confirmation sought in respect of these matters

Further, Network Ten is concerned the service upon Ms Wilkinson of the Subpoena to give evidence arose from Ms Wilkinson's personal decision to make submissions to the Inquiry and then her voluntary provision to the inquiry of a written statement. However, Network Ten understands that the issue of the Subpoena to Give Evidence may have occurred at the sole instigation of the Inquiry.

Given that possibility, we are instructed that Network Ten will agree to reimburse Ms Wilkinson with respect to her giving evidence before the Inquiry, provided that you confirm in writing that this Subpoena was issued by the Inquiry on its own initiative and not at the suggestion of Ms Wilkinson's representatives or as a consequence of the submissions made on her behalf.

We note that to the extent Ms Wilkinson seeks reimbursement of expenses relating to any of the various matters you have raised, reimbursement of expenses under clause 10 of Ms Wilkinson's employment is only required when the expenses are reasonable (and necessarily incurred in connection with Ms Wilkinson's employment - as set out above). Therefore, you and Ms Wilkinson should ensure that with respect to her appearance at the Inquiry, any legal work for which Ms Wilkinson seeks reimbursement is undertaken:

- at reasonable rates;
- by practitioners with relevant experience and expertise and no more than the number of practitioners reasonably necessary to undertake the relevant work.

Obviously Ms Wilkinson will need to avail herself of the provisions of section 39 of the Act in respect of her expenses of complying with the subpoena to give evidence issued by

the Inquiry and the reimbursement agreed to by Network Ten based on the confirmation sought above will not include the amounts she is entitled to recover under that section.

Yours faithfully



Andrew Stewart
Partner



Fw: Lisa

From: Beverley McGarvey <[REDACTED]>
To: Jarrod Villani <[REDACTED]>; Anthony McDonald <[REDACTED]>; Tasha Smithies <[REDACTED]>
Cc: Stuart Thomas <[REDACTED]>
Date: Wed, 07 Jun 2023 19:34:50 +1000

FYI, as overseen by Stuart.
Thank you.

Beverley McGarvey
EVP & Chief Content Officer, Paramount ANZ
O [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Beverley McGarvey
Sent: Wednesday, June 7, 2023 7:33 PM
To: Nick Fordham <[REDACTED]> <[REDACTED]>
Subject:

I have just spoken to Lisa to check in to see how she was given how challenging it has been for her this week.

As you are well aware she is really not in a great place, and I hope she is taking some professional mental health care? Let me know if she is not currently obtaining ongoing professional support, and we can assist in providing her access to our independent, confidential support services.

She mentioned her legal fees, and it seems that [REDACTED] is alarmed by the amount. We objected at the outset to Lisa's choice of counsel but have nevertheless confirmed that we will reimburse Lisa for those legal costs incurred by her that Ten required to reimburse. As you know, these arrangements are in discussion between external lawyers who are best placed to resolve the full extent of Ten's obligations.

I explained that we are doing all we can do within the confines of the law to deal with the situation around the Spotlight story. I am not sure she was across that. Maybe she was but has a lot on her plate. A point of understandable consternation is the further reporting by those sections of the Australian media that are hostile to Lisa who are continuing to publish derogatory stories off the back of the Spotlight program. Understandably, she is very upset by that, but of course, we simply cannot make them stop. She made a point about we didn't tell her when she was going to be on the front of the Australian – but we are not aware, in advance of publication, when these stories will break or the content of such understand that Lisa's lawyers have been communicating with our lawyers about the actions that Ten is taking, and that Lisa's lawyers have been comfortable with both the actions taken and those that are in progress.

I just wanted to let you know we are concerned for her state of mind and appreciate this is difficult for her, noting that Ten's lawyers are taking all the actions in response to the fallout from the Spotlight story that are legally available given the restraints of the current defamation proceedings.

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Beverley McGarvey
EVP & Chief Content Officer, Paramount ANZ
O [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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Beverley McGarvey/Lisa Wilkinson. Notes from Call.

From: Beverley McGarvey <[REDACTED]>
To: Stuart Thomas <[REDACTED]>; Tasha Smithies <[REDACTED]>; Anthony McCarthy <[REDACTED]>; Jarrod Villani <[REDACTED]>
Date: Wed, 07 Jun 2023 21:49:07 +1000

Beverley McGarvey called Lisa Wilkinson at 17.19 on Wed 7 [REDACTED] a welfare check.
The call went for 30 mins.

This recollection is to the best of my knowledge as Lisa was very upset and emotional and it was a very challenging call.

I called Lisa and asked how she was given it was a tough week. I was genuinely concerned for her as we have heard she was not in a great place.

She was almost immediately upset and started talking about her legal fees and how she would have to sell her house. I would say her tone was almost hysterical. (I have subsequently confirmed with Stuart so far we have invoices for 20k from her lawyers and she [REDACTED] ng paid by us on full salary and lives in a lavish multi-dollar home with a pool and a tennis court and harbour views so I hope this is not a real risk.)

She asked would we pay her fees and this came up over and over again in the conversation and I told her to talk with Nick (her manager) as he was across this and we would do what we were obligated to do and Nick was across the detail but she had chosen her own legal team against our advice and chosen a team we objected to and we had told her [REDACTED] mes. She said if I actually cared about her, I would make sure we paid her legal fees.

She made irrational claims about our choice of lawyers because they work for News Corp, she seemed to imply, although it was confusing, that she thought that meant our lawyers were feeding stories to News Corp. (it should be noted the lawyer she has chosen has represented Lachlan Murdoch, also News Corp).

She was very angry at [REDACTED] mes and very upset at others, sobbing so much she could not talk.

The recurring theme was she did not believe we were supporting her and in fact she went so far as to accuse us of [REDACTED] ng her (she may have used a different but equally strong word).

I assured her this was not the case. She asked what moment it all went wrong - I assured her there was no moment. She asked what she had done to me and what she had done to make me, or someone else at the Network hate her.

I told her this was not the case; I told her I was concerned about her. I explained the issue seemed to be we were following legal advice and she would have preferred we follow a different path to the path our legal advice had us [REDACTED] is clear we are not aligned on the legal process.

She was extremely upset and raised her voice several [REDACTED] mes about how we have not stopped all the bad press about her, and it has destroyed her reputation. She gave some confusing examples about what we should have done [REDACTED] erently. I told her we would prefer no press on the whole issue. She maintained she would like posi

She believes the Logies was the moment it became untenable for her and she blames us for that.

Over and over again I reiterated we were taking all the steps we could as advised by our lawyers to ensure this process protected her and her brand as well as us and our brand. I told her I found her comments offensive, and we did care about her and our brand. I generally stayed calm, however, in several moments, found myself agitated and had to take a breath to calm down. I told her many people at the Network locally and overseas had spent a lot of [REDACTED] me working on this matter and it was really important to us.

She said the Spotlight program was disgraceful and I agreed noting Bruce had the right to his say but they used material they obtained from a source unknown to us. She was annoyed the material was leaked, I explained the material had been subpoenaed from us and the source was still unknown but we had lawyers working on it. She said we told her the material was confidential, I told her that was true and as far as we could tell there was no legal way for the material to have changed hands. She said she heard there would be another story on 7.

The call went over the same material several times. I told her I appreciated it was her name in the paper and therefore it was very hard for her.

She is either not across the legal detail from her team or misunderstands the parameters of the process as she is so upset by the whole matter. She in no way feels she has done anything wrong at all.

In the end I tried to end the call as we were going around in circles.

In summary she is concerned with 2 things, her reputation and her legal fees.

I have talked to Stuart already since the call and have sent a note to her manager to check she is getting professional support as I am worried for her but also to reiterate the position on the legal fees which is we will pay the costs we are obligated to pay and that is in the hands of external counsel.

Kathy Fernandez sent her an email today and will follow up with her again tomorrow.

Beverley McGarvey

EVP & Chief Content Officer, Paramount ANZ

O [REDACTED]

1 Saunders Street Pyrmont, Sydney, NSW 2009



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FW: Lisa Meeting Postonement

From: Beverley McGarvey <[REDACTED]>
To: Stuart Thomas <[REDACTED]>; Tasha Smithies <[REDACTED]>
Date: Wed, 14 Jun 2023 08:14:22 +1000

For our records

Beverley McGarvey
EVP & Chief Content Officer, Head of Paramount+, Paramount ANZ
O [REDACTED]
1 Saunders Street Pyrmont, Sydney, NSW 2009



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From: Beverley McGarvey <[REDACTED]>
Date: Wednesday, 14 June 2023 at 8:13 am
To: Nick Fordham ([REDACTED]) <[REDACTED]>
Cc: Ruby Taylor <[REDACTED]>
Subject: Lisa Meeting Postonement

Hi Nick,

Can you please come back to me on the note I sent last week on how Lisa is doing; we are concerned the strain these last few weeks are putting on her mental health. As such I do not feel it is appropriate that we meet tomorrow to discuss new projects, it feels very premature.

As you know I spoke with Lisa last week and did not feel she was in a great place, given all the on-going coverage our primary concern before we start talking about other projects is that Lisa is well enough to work and that for now she has the time and space she needs to manage the ongoing legal matters.

If you wish to pitch some ideas for her for down the line when she is feeling better we are very happy to hear them but before we start engaging directly with Lisa again we would love to hear from you about how she is, or if you prefer to keep that confidential we are happy to discuss this when she is ready.

Kind regards,
Bev

Beverley McGarvey
EVP & Chief Content Officer, Head of Paramount+, Paramount ANZ
O [REDACTED]
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Image removed by sender.

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Deals of the Week

12:26pm Tuesday, January 16th, 2024

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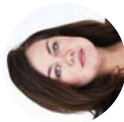
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Vindication for Lisa Wilkinson in damning report from Sofronoff inquiry

A new bombshell report has found the DPP “knowingly lied” in court over his purported warning to Lisa Wilkinson over her Logies speech.



Samantha Maiden



@samanthamaiden 5 min read August 3, 2023 - 1:44AM



Senator Linda Reynolds has attacked ACT chief prosecutor Shane Drumgold for being “recklessly indifferent to truth” regarding his claims that she was politically motivated to suppress Brittany Higgins’ alleged rape complaint.

The Director of Public Prosecutions, Shane Drumgold, “knowingly lied” to the ACT Supreme Court over his purported warning to Lisa Wilkinson over her Logies speech, according to a landmark inquiry.

The probe into Bruce Lehrmann’s trial, led by Walter Sofronoff KC, found evidence of unethical conduct by Drumgold, including his use of a note concerning a discussion he held with Ms Wilkinson just days before her speech.

The bombshell findings are certain to end Drumgold’s tenure as DPP.



[The Sofronoff report did reveal that the decision to charge and prosecute Bruce Lehrmann was the correct course of action.](#)

That finding is not a reflection on the guilt or innocence of the former Liberal staffer.

It is a finding on the conduct of the police and the Office of Director of Public Prosecutions.

Mr Lehrmann remains an innocent man under the law, as he was never convicted before the trial collapsed following an allegation of juror misconduct.

[The Australian newspaper obtained a full copy of the 600 page Sofronoff report](#) on Wednesday night.

It confirms the findings against Mr Drumgold are so serious that Mr Sofronoff considered whether he should invite the DPP to make a submission as to whether he was a fit and proper person to hold that office.

Ultimately, he determined it was not in his terms of reference.



Shane Drumgold SC speaking during public hearings of the ACT's Board of Inquiry into the Criminal Justice System, at the ACT Civil and Administrative Tribunal in Canberra.

It's a stunning outcome after Mr Drumgold effectively demanded the inquiry in a furious letter to ACT Chief Police Officer Neil Gaughan on November 1, 2022, which included what the inquiry described as "scandalous allegations" about political interference.

"The result has been a public inquiry, which was not justified by any of his allegations, that has caused lasting pain to many people and which has demonstrated his allegations to be not just incorrect, but wholly false and without any rational basis," Mr Sofronoff finds.

He accuses him of failing to disclose material to the defence when he ought to have done so.

“Mr Drumgold kept the defence in the dark about steps he was taking to deny them the documents,” Mr Sofronoff said.

“Criminal litigation is not a poker game in which a prosecutor can hide the cards.”

Mr Drumgold remains on leave from his job and has not returned to work since his bruising evidence at the Sofronoff inquiry in May.

The inquiry finds the police “performed their duties in absolute good faith, with great determination although faced with obstacles, and put together a sound case”.

It does not make adverse findings against Victims of Crime Commissioner Heidi Yates.

Curse of the Logies

Ms Wilkinson’s Logies speech sparked a four-month delay to the trial, and the Chief Justice’s stern criticism of Ms Wilkinson contributed to a firestorm of adverse publicity.

The Channel 10 broadcaster ultimately left *The Project* in the wake of the fallout and has not returned to the airwaves since late last year.

Mr Drumgold always maintained he warned her about the danger of making comments that might endanger Mr Lehmann's rape trial.

Ms Wilkinson disagreed, and Mr Sofronoff found that he preferred her evidence over the DPP's.



Lisa Wilkinson giving her speech at the Logies. Picture: Channel 9



Ms Wilkinson with Brittany Higgins.

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Mr Drumgold even presented a note concerning a video conference with Ms Wilkinson to Chief Justice Lucy McCallum that suggested he did give a warning.

When asked if it had been written contemporaneously by a junior lawyer present, he told the court this was the case.

In fact, it was updated only after Ms Wilkinson delivered her speech and the DPP was aware of the looming controversy.

As such, *The Australian* reported on Wednesday night that Mr Sofronoff has found Mr Drumgold “knowingly lied to the Chief Justice”.

“For the Chief Justice’s purposes, the note was not contemporaneous,” the report states.

“I reject that a prudent and experienced barrister would behave in that way or make a mistake of this calibre.

“This is a wholly untenable excuse for a barrister of the seniority and experience of Mr Drumgold.”

Mr Sofronoff rejected Mr Drumgold’s insistence this was an honest mistake.

“He must have known that (Chief Justice) McCallum had found, as a matter of fact, that Ms Wilkinson had engaged in wilful defiance of his ‘appropriate’ warning and that her finding was based entirely on the proofing note,” the report states.

Mr Sofronoff writes that Ms Wilkinson was a very experienced broadcaster who should have been cautious about making such a speech given the proximity of the trial, but nevertheless, the DPP had a responsibility to the court.

“Instead, he did nothing and thereby left alive a threat to the trial,” he said.

“A postponement might have endangered Ms Higgins’ health, which Mr Drumgold knew was fragile. It imperilled Mr Lehrmann’s right to the presumption of innocence. It left Ms Wilkinson under the false impression that she was at liberty to give the speech.”



Ms Higgins and Ms Wilkinson at the Marie Claire International Women's Day breakfast last year.

Picture: Lisa Maree Williams/Getty Images

Disclosure

Mr Sofronoff finds the DPP abandoned the “golden rule” of disclosure and the practice of experienced prosecutors that “if in doubt, disclose”.

The Sofronoff inquiry finds that Mr Drumgold repeatedly tried to ensure the so-called Moller Report stayed out of the hands of the defence, despite the fact they were legally entitled to it.

“Mr Drumgold could not name a source (for the privilege claim) in his instructions to his staff member because, as Mr Drumgold admitted in his evidence, he himself was the source,” the report finds.

Mr Drumgold is accused of using “dishonest means to prevent a person he was prosecuting from lawfully obtaining material”.

Linda Reynolds

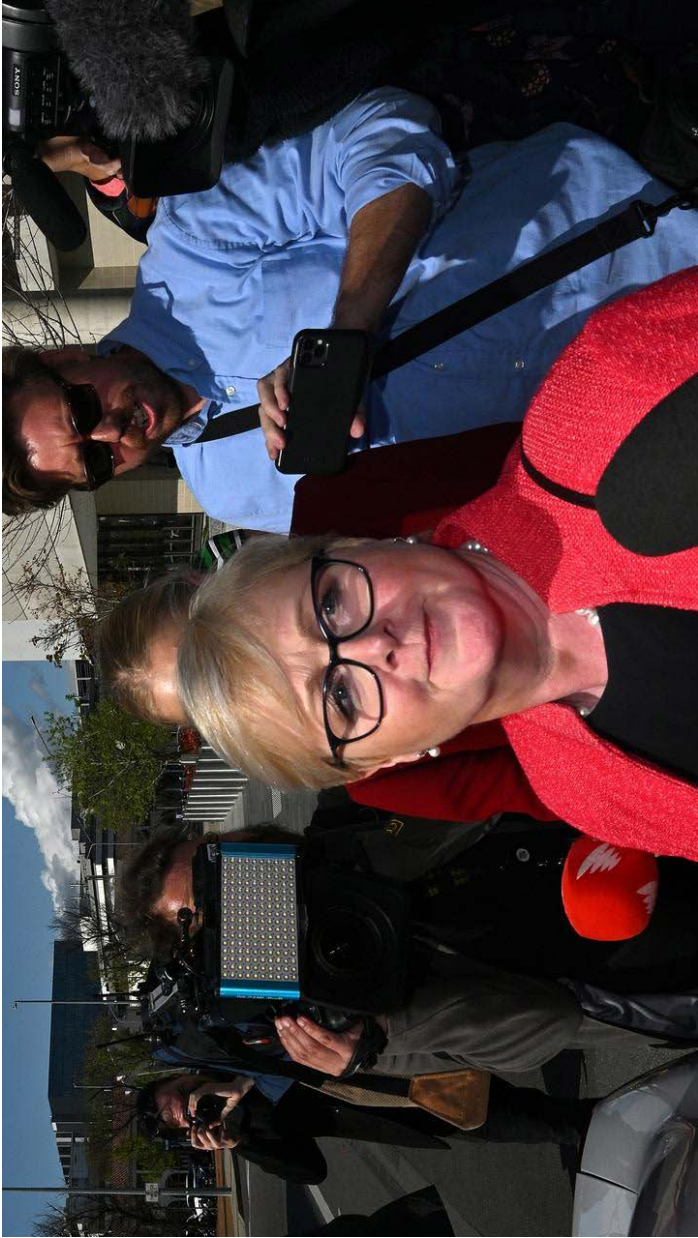
There is vindication too in the Sofronoff report for Senator Linda Reynolds.

The Sofronoff inquiry finds “there was not a single piece of evidence that anyone had applied pressure upon Ms Higgins that could legitimately be described as ‘strong political forces’”.

He does not agree with Mr Drumgold’s claims that Ms Reynolds “arranged” for her partner to attend court, and that he had been discussing Ms Higgins’ evidence with her, suggesting the claim was “tantamount to an allegation of an attempt to pervert the course of justice”.

“Mr Drumgold was examined about his understanding of this ethical principle. His ignorance deeply disturbed me. He fails to understand the difference between putting forward to a witness an allegation of misconduct as a fact and asking a witness whether or not something is a fact,” the report states.

“Mr Drumgold had no basis upon which to put that suggestion, which was intended to impute impropriety in Senator Reynolds in the eyes of the jurors.”



Senator Linda Reynolds leaving the ACT Supreme Court. Picture: Mick Tsikas/AAP



Ms Reynolds enters her vehicle, surrounded by cameras. Picture: Ben Appleton/NCA NewsWire

“The suggestion that Senator Reynolds as well as her partner were engaging in potentially criminal conduct was an improper one and should not have been made,” Mr Sofronoff said.

“Mr Drumgold’s comments were improper. They undermined the public’s confidence in the administration of justice and (it) was a failure in his duty as DPP,” Mr Sofronoff said.

‘Improper’ comments after trial

The report finds Mr Drumgold’s speech after the trial collapsed implied he “personally believed Ms Higgins’ complaint of rape was true and that, as a consequence, Mr Lehrmann was guilty”.

“The comments were improper and should not have been made,” the report states.

“It was not necessary for Mr Drumgold to express his views on the prospects of conviction at the time of discontinuance.

“Nor was it his function to identify himself with the complainant to a degree that he made a public statement of support.

“The motive for this was good; the decision was bad.”

News.com.au has contacted Shane Drumgold, his legal representative, Bruce Lehrmann and Lisa Wilkinson for comment.



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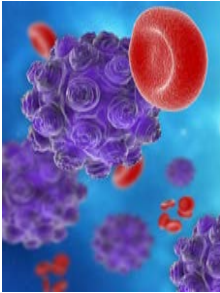
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