

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 12/11/2018 3:43:15 PM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged: Non-Prescribed Notice/Request
File Number: NSD2179/2017
File Title: GEOFFREY ROY RUSH v NATIONWIDE NEWS PTY LIMITED &
ANOR
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF
AUSTRALIA



A handwritten signature in blue ink, reading 'Warwick Soden'.

Dated: 12/11/2018 3:43:20 PM AEDT

Registrar

Important Information

As required by the Court's Rules, 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 and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



NSD 2179/2017

GEOFFREY RUSH

Applicant

NATIONWIDE NEWS PTY LIMITED & JONATHON MORAN

Respondents

1. *Conversation with Damien Trehella*

- (a) The email from Damien Trehella, to the AACTA Board on 14 November 2017, is at Tab 144 of the Court Book (Ex R-3).
- (b) In relation to his conversation with Mr Trehella, Mr Rush's evidence was that:
- (i) It came at the end of a "very frantic day" (T156.46-47).
 - (ii) He knew he had a conversation with Mr Trehella but was not sure whether it was on 10 November 2017 (T157.13-17; 157.29-30).
 - (iii) By that time, the word "discomfort" had not been used (T157.22). He and Ms Menelaus were "fantasising or imagining a potential scenario" (T157.25-26).
 - (iv) He went on to say, at T163.23-29:

20 And so you said words to the effect to Mr Trehella that in passing and just confidentially, you, yourself, had been baited on some similar issue or some issue of this kind, which you said was a symptom of the current climate or words to that effect?---Yes. Correct. "By way of example" I think is a very important caveat within that sentence.

25 Yes. Yes?---Because, as you can well imagine, my wife being a writer and an actress and me being an actor, we were speculating to our hearts content and all I could come up with in confidence to him was we think or the only issue he could think of, which was still not certain in my mind, but I was giving by way of example. It's this sort of thing that has been buzzing in the international press and had been – I don't think anything had broken in Australia until later in November, but this is his crystallisation of what that phone call included.

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- (v) He thinks he may have told Mr Trehella about the enquiries from the *Australian*, because he thought it was part of his responsibility as President of AACTA to alert it to what the media were up to: T165.5-11.
- (vi) He accepted at T166.7-8 that he thought Ms Norvill was the only one you could have made the allegation. He explains the process of reasoning by which he came to that conclusion at T166.10 to 43. In

effect, he eliminated the other females from the cast and crew, and was left with Ms Norvill "purely by deduction and speculation" (T166.41-42).

- (vii) If he referred to the carrying of Ms Norvill, to Mr Trewhella, he was "speculating" and "assuming": T168.10-11. He thought she might have felt unsafe in case he dropped her: T180.20-21. He might have told Mr Trewhella that Ms Menelaus and he had come to that conclusion as "the most likely scenario": T168.37-38.
- (viii) The words "allegedly some discomfort" are Mr Trewhella's words: T169.6-12. Mr Rush was speculating that Ms Norvill may have felt vulnerable during that scene: T.169.9-11.
- (ix) He does not think he would have used those words: T169.33-40.
- (x) He denied he would have said those words because he was conscious he had caused discomfort: T169.44-47.
- (xi) He denied that again at T170:

And those words indicated a consciousness, on your part, that you had, in some way, disturbed her?---But this was – these were all speculative analyses by me and my wife about where is all this coming from. We were trying to narrow it down, and hitting brick walls.

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2. **Conversation with Neil Armfield**

- (a) In his evidence in chief, Mr Armfield recalled having a conversation with Ms Norvill about a personal issue - her friend coming out from America - but that it had "nothing to do with Mr Rush. That is at T295.4-24:

I've got one final question, Mr Armfield. Did you notice how Ms Norvill and Mr Rush were getting on during the rehearsals and the performances of the play?---I thought wonderfully. They – it – it – it felt like a – it felt like a – a deep friendship.

Thank you. Just one final thing. Did Ms Norvill ever complain to you about anything in relation to the play that you recall, Mr Armfield?---Everyone who plays Cordelia, I think, has a – and plays Cordelia alone, rather than in double with the fool, has a – you know, has a problem in the second half of the – of the play where – where she's – where she's absent. And it wasn't a complaint. Eyrn Jean came up with ideas, like that maybe she – when she returns to the play, she – her – her face should be painted. You know, there were a number of thoughts that – in the – in the – in the playing of the part that – that – that she came up – that, you know, she came and – and talked to me about. But there was no – I – I can't – I can't recall any – any complaint as such.

Did she ever report any personal issue to you?---I remember she had a friend coming in to – to see the show that she was very anxious about in – who had – a friend who was coming out from America she was – had invited to see the show and that she wasn't sure if it was – when she came out if she wanted her to come and – and see it.

But nothing to do with Mr Rush?---Nothing to do with Mr Rush, no.

- (b) Mr Armfield was not cross-examined about that evidence.
- (c) In cross-examination, Ms Norvill said she thought, during that conversation with Mr Armfield, they were speaking about Mr Rush. That is at T556.7-8.

The reason I ask you the question is whether that was something you thought – if you weren't in a good place, it was something you thought that you would raise with Mr Armfield?---If I wasn't in a good place?

5 Yes?---Yes, yes, I remember having – I remember Neil being in my dressing room and saying that I wasn't in a good place. He asked; I said I wasn't in a good place. My assumption was that he was speaking about Geoffrey because he had given the note to Geoffrey. That was what I thought the conversation was about.

10 MR McCLINTOCK: Ms Norvill, there's nothing in your statement about that conversation with Mr Armfield in your dressing room, is there?---No, it doesn't mean it didn't happen.

15 There is nothing in your evidence this morning about that conversation with Mr Armfield, was there?---No.

You've never told anyone that before, have you, Ms Norvill?---Yes, I've told people that before.

20 I see. It was something that you've just fabricated as you sit there, isn't it?---No, I didn't fabricate it.

3. **Conversation with Robyn Nevin**

- (a) Ms Norvill gave evidence in chief about the alleged conversation with Ms Nevin during *King Lear* at T524.7-32. She said she asked Ms Nevin whether she had ever experienced "unwanted advances or sexual harassment" and that Ms Nevin replied "no, I can't help you with that. That has never happened to me".
- (b) In cross-examination, at T608.34, Ms Norvill admitted that conversation was not in her statement. She also admitted at 609.2 that, during the conversation, she did not say "Geoffrey".
- (c) Ms Nevin had firmly denied that conversation occurred, at T473.13-26:

15 During the run of *King Lear* and, in particular, during the technical production week which I think started around about 16 November 2015, do you recall having a conversation with Ms Norvill, first of all, about the general subject of unwelcome sexual attention - - -?---No.

- - - or harassment? You don't?---No.

20 No. Might you have had a conversation with her on that topic?---Would you repeat the question?

Yes. Might you have had a conversation with her on that topic?---Not – no, not at that point. No.

25 You say it didn't happen - - -?---It didn't happen.