

NOTICE OF FILING

Details of Filing

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File Title: JOSEPH TOLTZ & ORS v JOHN KEANE & ANOR
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.



Statement of claim

No. of 2025

Federal Court of Australia
District Registry: NSW
Division: Human Rights

Joseph Toltz and others
Applicants

John Keane and another
Respondents

Jurisdiction

1. This proceeding is within the jurisdiction of the Federal Court of Australia conferred by section 46PO of the *Australian Human Rights Commission Act 1986* (Cth) and section 39B(1A)(c) of the *Judiciary Act 1903* (Cth).

Parties

2. The Applicants are all natural persons capable of suing.
3. The First Applicant (**Dr Joseph Toltz**), is and at all relevant times was, a researcher at Sydney University specialising in Jewish music and its migrations, and Manager of Research Support in the Faculty of Arts and Social Sciences.
4. The Second Applicant (**Professor Emeritus Suzanne Rutland**), is and at all relevant times was, a Professor Emeritus of The University of Sydney (**Sydney University**), Department of Hebrew, Biblical & Jewish Studies.
5. The Third Applicant (**Mr Ariel Eisner**):
 - a. is and at all relevant times was an elected officer of the Australasian Union of Jewish Students (**AUJS**);

Particulars

- i. AUJS is the peak representative body for Jewish university students across Australia and New Zealand.

Filed on behalf of (name & role of party) The Applicants
Prepared by (name of person/lawyer) Hamish Rotstein
Law firm (if applicable) Rotstein Commercial Lawyers
Tel 61 3 9604 7888 Fax _____
Email hamish@rotsteins.com.au
Address for service Suite 409, 488 Bourke Street, Melbourne VIC 3000
(include state and postcode) _____

- ii. From 7 October 2023, the Third Applicant was the head of politics for AUJS NSW.
 - iii. From January 2025 to the present, the Third Applicant has been the national head of campaigns for AUJS; and
 - b. was until he graduated in November 2024 a student enrolled at Sydney University studying a Bachelor of Architecture.
6. The Fourth Applicant (**Mr Yaniv Levy**):
- a. is and at all relevant times was a Research Education Lead in the Faculty of Medicine and Health at Sydney University; and
 - b. was a student at Sydney University enrolled in a Graduate Diploma of Crosscultural and Applied Linguistics from Semester 1 2024 until he withdrew on about 6 August 2024.
7. Each Applicant is a **Jewish person** or a person who is, or is eligible to be, an Israeli citizen (**Israeli person**).
8. For the purposes of the *Racial Discrimination Act 1975* (Cth):
- a. Jewish people constitute a group of people with a shared race, descent and/or ethnic origin.
 - b. Israeli citizens and Israeli people constitute a group of persons with a shared ethnic origin and/or nationality.
9. Israel is a nation state and the national home of and for the Jewish people. Its citizens are mostly Jewish persons.
10. The First Respondent (**Professor John Keane**):
- a. is a natural person capable of being sued; and
 - b. is and at all relevant times was a Professor of Politics at Sydney University.
11. The Second Respondent (**Sydney University**) is a body corporate incorporated under s 5 of the *University of Sydney Act 1989* and capable of being sued.

Professor John Keane X (Twitter) Page

12. Professor John Keane operates and at all material times operated, as a professor of the Sydney University, from Sydney, New South Wales or elsewhere in Australia an X page (**Keane X Page**) at the web address: https://x.com/jkeaneSDN?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor

Particulars

- a. Professor Keane's title is stated to be '@jkeaneSDN'
 - b. Professor Keane cites his title as 'professor.'
 - c. Professor Keane commenced that site on March 2013.
13. In or around October 2024 the Keane X Page had approximately 7,934 Followers, and at the time of this Statement of Claim had about 7,835 Followers.
 14. The Keane X Page is and was at all relevant times accessible by members of the public whether or not they "follow" Professor Keane.
 15. The Keane X Page is regularly updated by Professor Keane posting various publications including text, photos and audio-visual recordings of remarks and speeches.
 16. A number of the publications which appear on the Keane X Page include links to various written or oral material published by Professor Keane or to material that he endorses or on which he comments.

Hammas

17. Since 4 March 2022 Hamas has been listed by the Attorney General of the Commonwealth as a terrorist organisation under the *Criminal Code Act 1995* (Cth): s 102.1.
18. The Statement of Reasons for listing Hamas as a terrorist organisation include that it is guided by Islamic principles of "*destroying Israel*".
19. The Hamas Covenants express intention is to dismantle Israel as '*the Zionist entity*' and to create an Islamic State in its place.
20. The Hamas Covenants identify Hamas' raison d'etre as "*obliterating*" Israel and "*killing the Jews*".
21. Under s 80.2E '*Prohibited symbols*', which is part of '*Subdivision CA—Publicly displaying, and trading in, prohibited symbols and giving Nazi salute*', a prohibited terrorist organisation symbol is defined as:
 - a. a symbol that a terrorist organisation (within the meaning of Division 102) uses, or members of a terrorist organisation use, to identify the organisation;
 - b. something that so nearly resembles a symbol to which paragraph a. applies that it is likely to be confused with, or mistaken for, that symbol.

7 October 2023

22. On 7 October 2023, Hamas members illegally invaded the State of Israel and killed, raped, maimed, sexually abused and tortured more than 1,200 Jewish persons or Israeli persons.

23. During the 7 October 2023 invasion, Hamas members also kidnapped, abducted and took as hostages more than 250 persons who were overwhelmingly Jewish or Israeli persons including women, children and the elderly.
24. Hamas's terrorist acts described above were taken because Hamas's leadership, commanders, members and operatives in the field believed the men, women and children intended by them to be subjected, and in fact subjected, to those acts:
 - a. were overwhelmingly Jewish persons or Israeli persons; and
 - b. were subjected to those acts because they were or were believed to be in almost all cases Jewish persons or Israeli persons.

Impugned publication made on 8 October 2023 – the Hamas Flag Post

25. On or about 8 October 2023, the first day after the 7 October 2023 Hamas terrorist attacks described in [22]-[24] above, Professor Keane published the following picture on his Keane X Page, which shows 5 green Hamas flags with Arabic writing visible on them **(the Hamas Flag Post)**:



26. The Hamas Flag Post:
 - a. continued to be and remained posted and visible on the Keane X Page as from 8 October 2023;
 - b. as at 23 October 2024, had 6,125 views; and
 - c. as at the time of the Statement of Claim, had about 6,201 views.
27. Each flag was, and was known and intended by Professor Keane to be, a Hamas flag used by the Hamas military wing.

28. Each flag was, or is, known by the Applicants, and the persons on whose behalf the Statement of Claim is filed, to be the Hamas flag.
29. The Applicants and the persons on whose behalf the Statement of Claim is filed also knew, or now know, that the Hamas flag is the flag used by the Hamas military wing.
30. At all material times the Hamas Flag was thus recognisable as the Hamas flag.
31. Professor Keane's Hamas Flag Post was and continued to be a post of a "*prohibited terrorist organisation symbol*."

Imputations

32. The Hamas Flag Post conveyed the following imputations:
 - a. The activities described in [22]-[24] above of Hamas on October 7, which involved the killing, rape, maiming, sexual abuse, kidnapping and torture of Jewish and Israeli people, because they were believed to be Jewish or Israeli, was an event that was to be celebrated, endorsed, supported and approved of.
 - b. Professor Keane celebrated, endorsed, supported and approved those activities.
 - c. Hamas and its objectives (including those outlined in [18], [19], [20] and [24] above) were to be celebrated, endorsed, supported and approved.
 - d. Professor Keane celebrated, endorsed, supported and approved of Hamas and its objectives (including those outlined in [18], [19], [20] and [24] above).

Contravention of s 18C of the *Racial Discrimination Act 1975 (Cth) (RDA)*

33. Professor Keane's posting of the Hamas Flag Post was an act which caused images to be communicated to the public. They were:
 - a. done in a public place; and were
 - b. done in the sight and hearing of people who were in a public place; and
 - c. not acts done in private.
34. Professor Keane's posting of the Hamas Flag Post and its non-removal, by conveying any, all or some of the imputations alleged in [32] was reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate the Applicants, as well as other Jewish people and Israeli people in Australia.
35. The posting and its non-removal was made or done because of the race, national or ethnic origin of the people reasonably likely to be offended, insulted, humiliated or intimidate by the posting including because:

- a. The subject matter of the post, considering its timing, was directly related to events that were themselves directly related to the race, ethnic origin or national origin (Jewish and/or Israeli) of the victims of the events of October 7;
 - b. The posting was plainly calculated to convey a message about or concerned with the race, ethnic origin or national origin (Jewish and/or Israeli) of the victims of the events of October 7;
 - c. The posting was actuated or motivated by considerations of race, ethnic origin or national origin or, in the alternative, race, or ethnic or national origin was otherwise a factor in Professor Keane's act.
36. In the premises set out in [12]-[35] above, Professor Keane contravened s 18C of the RDA and engaged in unlawful discrimination within the meaning of ss 3(1) and 46P of the *Australian Human Rights Commission Act 1986* (Cth).

Impugned publication made on 8 November 2023 – Keane's Staff Members Post

37. On about 8 November 2023, Professor Keane posted to the Keane X Page, a post which contains the under-mentioned text displayed above a letter, which was stated to have been sent by the complainants and the represented persons to him on 7 November 2023 (**Keane's Staff Members Post**). Professor Keane stated in the post that the letter was:
- “an ad hominem response to my Open Letter by a small group of pro-Israel staff members: defamatory insults ('repulsive' etc) mixed with self-righteous indignation of people convinced they are victims of non-humans (Palestinians) who imperil their Promised Land...”*
38. A screenshot of the post as it was seen on the Keane X Page is set out below.



John Keane
@jkeaneSDN



an *ad hominem* response to my Open Letter by a small group of pro-Israel staff members: defamatory insults ('repulsive' etc) mixed with self-righteous indignation of people convinced they are victims of non-humans (Palestinians) who imperil their Promised Land...

Tue 07/11/2023 11:12 AM [view more](#)

Dear John,

The University's Charter of Freedom of Speech and Academic Freedom allows you to express your views. However, those reading your letter should be aware of its inaccuracies. You accuse Israel of promoting indiscriminate warfare and genocide and the murder of innocents without compunction, and your letter culminates in a repulsive reversal of victims and perpetrators in which you liken the actions of Israel to those of the Nazis. There is also not one mention of the atrocities of October 7, which is not only deeply disappointing, but also a shockingly inhumane omission. We believe that in the context of war, any loss of civilian life is tragic: Palestinian, Israeli, and any other nationality. To draw an equivalence, however, between the acts of terror witnessed and documented via bodycams from Hamas themselves, and the awful civilian deaths of Gazans (many of whom are deliberately placed in the line of fire as human shields) by Israeli army fire, is unconscionable.

Dr Michael Abrahams-Sprod
A/Prof Avril Alba
Dr Lionel Babicz
Yulia Berlin-Firer
Professor David Celermajer
A/Prof Ilan Dar-Nimrod
Dr Jennifer Dowling
Dr Yona Gilead
Professor Judy Kay
Professor Gustav Lehrer
Dr Guy Mayraz
~~Prof Peter Morgan~~

which students are too-paying customers, nor ivory towers sheltered from the harsh realities of the world. Universities, you say using other words, are public spaces supportive of competing perceptions of 'knowledge' and 'reality', laboratories of life in which the university community breathes the air of curiosity, learns to accept that human lives can legitimately be lived in different ways, in opposition to arrogance and ignorance, lies and nonsense.

Less welcome are your strictures on tolerance. You say our University supports 'the rights of students and staff to engage in political discourse' but that anybody who utters 'pro-terrorist statements or commentary, including support for Hamas's recent terrorist attacks' will be the target of tough disciplinary proceedings, including termination of employment. Many staff and students have noted an every bias within your definition of the tolerable. It is founded on silence about such ugly matters as non-stop aerial bombardment, the illegal use of white phosphorus bombs on civilians, settler violence, bulldozers wrecking the homes of fearful innocents, death by suffocation under rubble, devilish propaganda dropped from the skies, the wilful destruction of mosques, churches, schools and universities, and crazed plans for the forcible removal of millions of people from their ancient homelands.

If toleration depends upon silence about these grim matters then it's an objectionable principle that has no place in the life of our University. Toleration purports to be a pleasing and heart-warming ethic. The word itself is from the Latin *tolerāre*, to endure, or countenance, or to bear or put up with some person or situation otherwise deemed

Gideon Levy and 9 others

3:38 PM · Nov 8, 2023 · **9,981** Views

25 Reposts **5** Quotes **63** Likes **10** Bookmarks

39. The post had the following accessible attachments:

- a. An email authored by Associate Professor Avril Alba of Sydney University (with certain modifications compared to the actual email) on 7 November 2023 to Professor Keane and Vice Chancellor Mark Scott, copying a large number of Sydney University groups, and being an email in a chain of emails among Sydney University academics. The attachment Keane put up contained a photograph of Professor Alba.
- b. A picture with the names of 17 academics from Sydney University in larger font (all of whom were Jewish and/or Israeli academics except for Peter Morgan), namely:
 1. Dr Michael Abrahams-Sprod
 2. A/Prof Avril Alba

3. Dr Lionel Babicz
4. Yulia Berlin-Firer
5. Professor David Celermajer
6. A/Prof Ilan Dar-Nimrod
7. Dr Jennifer Dowling
8. Dr Yona Gilead
9. Professor Judy Kay
10. Professor Gustav Lehrer
11. Dr Guy Mayraz
12. Professor Peter Morgan
13. Dr Loren Mowszowski
14. Professor Suzanne Rutland (Second Applicant)
15. Dr Andy Smidt
16. Dr Lynne Swarts
17. Dr Joseph Toltz (First Applicant)

- c. A letter which purports to be Professor Keane's response of 6 November 2023 to a communication of Vice Chancellor Mark Scott to all Sydney University staff and students of 26 October 2023 (in the post it appeared on a letterhead instead of being in email form).
40. The Vice Chancellor's original communication dated 26 October 2023, to which Professor Keane's 6 November email responded, was not attached to the post. In that email the Vice Chancellor and President had said that Sydney University would not tolerate support for Hamas' recent terrorist attacks.
41. No permission or authorisation was sought by Professor Keane, or was obtained by him, from any of the 17 named academics to publish their names or the content of their email.
42. Professor Keane's Staff Members Post remained on his Keane X Page from 8 November 2023 until it was removed as a result of a Sydney University disciplinary process on or about 21 May 2024.

Particulars of the disciplinary process

- (a) Complaints were made by Jewish/Israeli staff of Sydney University from 8 November 2023 onwards. This included but was not limited to complaints made directly by or on behalf of persons including: Professor Emerita Suzanne Rutland (Second Applicant), Dr Sarah Aamidor, Dr Michael Abrahams-Sprod, Associate Professor Avril Alba, Dr Lionel Babicz, Dr Larisa Barnes, Professor David Celermajer AO, Associate Professor Ronald Clarke,

Dr Jennifer Dowling, Dr Yona Gilead, Talia Gonda, Emmilly Graf, Dr Eve Guerry, Associate Professor Sabina Kleitman, Professor Emerita Ines Krass, Professor Emeritus Gustav Lehrer AO, Mr Yaniv Levy (Fourth Applicant), Associate Professor Tania Markovic, Sarah Marks, Dr Guy Mayraz, Professor Peter Morgan, Dr Loren Mowszowski, Adam Muscio, Isabella Nahon, Emeritus Professor Leo Radom, Tracie Sillers, Dr Andy Smidt, Rachel Sullivan, Dr Lynne Swarts, Dr Joseph Toltz (First Applicant), Vanina Vaisman-Levy, Yulia Berlin-Firer.

(b) Examples include:

- i. On 8 November 2023, Avril Alba, Yulia Berlin-Firer, Suzanne Rutland and Michael Abrahams-Sprod complained to Mark Scott (Vice Chancellor) and Annamarie Jagose (Provost and Deputy Vice Chancellor) about Professor Keane (and Jake Lynch).
- ii. On 9 November Dr Loren Mowszowski wrote to Mark Scott and Annamarie Jagose endorsing her colleague's complaints. Lionel Babicz wrote to Professor Jagose reinforcing Ms Berlin-Firer's complaint.
- iii. On 30 November 2023 Dr Mowszowski followed up Professors Jagose and Scott, concerned that she had had no response or acknowledgment to her email sent 3 weeks earlier.
- iv. On 1 December 2023, Peter Wertheim of the Executive Council of Australian Jewry and Mark Scott discussed concerns of Jewish staff and students including their unanswered complaints regarding Professor Keane's email.
- v. On 22 December 2023, Dr Mowszowski wrote to Naomi Connolly, Senior Manager in Workplace Relations, concerned at the slowness of the process which was compounding her distress and causing her to largely avoid attending main campus.
- vi. On 17 January 2024, Professor Rutland wrote to the Vice Chancellor, provost, Chancellor, and the Senate, supported by some 30 predominantly Jewish/Israeli staff, who comprised a newly formed Sydney University branch of the Australian Academic Alliance Against Antisemitism (**5A Group**). The letter appended 'Key Issues' concerning 'ongoing the pro-Palestinian campaign' at Sydney University since Hamas' 7 October invasion. The Issues included "*Intimidation and defamation of academic staff over University email and on social media*", noting Professor Keane's inflammatory letter

and subsequent events and the slow response of the Workplace Department.

- vii. On 22 January 2024 Dr Mowszowski sought a further update.
- viii. On 13 February 2024, Mark Scott responded to Professor Rutland's 17 January complaint on behalf of the 5A Group. Nothing expressly or adequately addressed the Keane concern.
- ix. On 19 March 2024 the 5A Group were informed that Workplace Relations completed a preliminary assessment and advised next steps to Lisa Adkins, Dean of Faculty of Art and Sciences.
- x. On 3 April 2024, Lisa Adkins sent an outcome letter regarding the Keane complaint. Professor Keane's conduct was found to contravene University policies and codes and to be Misconduct under Sydney University's Enterprise Agreement. The University would discipline Professor Keane and direct him to delete the Staff Members Post.
- xi. On 8 April 2024, Dr Mowszowski wrote to Professor Adkins and Ms Connolly, communicating 'extreme concern' that Professor Keane's Post was still on X, causing '*further insult and offense*' and questioning what consequences Keane received and how complainants could be assured disciplinary actions will be effective.
- xii. On 10 April 2024, Dr Mowszowski was advised that the University would not provide additional details regarding Professor Keane's disciplinary action. The same day she sought that Professor Keane be contacted directly to ensure the Post's removal was not significantly delayed.
- xiii. On 26 April 2024, Dr Mowszowski wrote to Professor Adkins and Ms Connolly noting the Staff Post was still online, which was perpetuating "*distress, intimidation and offence,*" undermining the complaint process and asking why he was not being held to account.
- xiv. During 28 April to 10 May 2024, Dr Babicz wrote several emails to/from Lisa Adkins and Naomi Connolly, expressing major concern about the University's lack of effective action regarding Keane's Staff Post, stating: "*considering the ongoing events on campus, including the involvement of jihadist elements external to the University, the potential threat to the safety of the people doxed by that post is increasing day by day.*" (10 May)
- xv. On 3 and 7 May 2024, Ms Connolly wrote to Dr Mowszowski, failing to address her concerns.

- xvi. On 21 May 2024, Jodi Dickson, Director of Workplace Relations, wrote to the 5A Group complainants informing them that Professor Keane had removed their names from the posts he made on X.
43. Until the date of the removal of the post from Professor Keane's X page on 21 May 2024, Professor Keane's Staff Member's Post had about 30,000-31,000 views.
44. Professor Keane's Staff Members Post conveyed the following imputations:
- a. The named Jewish and Israeli staff members regarded, treated, considered and were convinced that Palestinians are "non-humans" (meaning something less than or other than human beings).
 - b. The named Jewish and Israeli staff members were racists who regarded, treated, considered and were convinced that Palestinians challenging Israel as a Jewish homeland, or as their "Promised land", are "non-humans".
 - c. The named Jewish and Israeli persons, in seeking to defend the existence of Israel should be condemned and publically exposed as self-righteous racists without any morals, scruples or conscience.
 - d. Jewish persons and Israeli persons believe that Palestinians or Palestinians challenging Israel as a Jewish homeland or as their "Promised land" are "non humans".
 - e. Jews and Israelis, or the named Jews and Israelis, were acting like the Nazis in considering Palestinians as "non-humans" or as something less than, or other than, human beings.
45. Contrary to the imputations set out immediately above:
- a. None of the staff members identified in the post were racists nor were they persons who regarded, treated, considered or were convinced that Palestinians or Palestinians challenging Israel as a Jewish homeland or as "*their Promised land*" were "*non-humans*".
 - b. Jewish persons and Israeli persons as a group or otherwise did not regard, treat, consider and were not convinced that Palestinians or Palestinians challenging Israel as a Jewish homeland or as their "*Promised Land*" were "*non-humans*".
46. The reference to "non-humans" has particular resonance for Jewish and Israeli people given its historical use to describe Jewish people in that way.

Contravention of s 18C of the RDA

47. Professor Keane's posting of, and failure to remove prior to 21 May 2024, Keane's Staff Members Post were acts which caused words and images to be communicated to the public. They were:

- a. done in a public place; and were
 - b. done in the sight and hearing of people who were in a public place; and
 - c. not acts done in private.
48. Professor Keane's posting of, and his failure to remove prior to 21 May 2024, Keane's Staff Members Post, by conveying any or all of the imputations alleged above and by attributing the false characteristics alleged to those named Jewish and Israeli Staff Members and to Jewish persons and Israeli persons on the basis of their group membership or otherwise, was reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate the Jewish and Israeli Staff Members named in Keane's Staff Members Post and other Jewish persons and Israeli persons.
49. The posting and its non-removal prior to 21 May 2024 was made or done because of the race, national or ethnic origin of the people reasonably likely to be offended, insulted, humiliated or intimidated by the posting including because:
- a. The post referred to and criticised only Jewish and Israeli people;
 - b. It did so by reference to their position as being "pro-Israel";
 - c. The subject matter of the post was related by context to events that were themselves directly related to the race, ethnic origin or national origin (Jewish and/or Israeli) of the victims of the events of October 7;
 - d. The posting was plainly calculated to convey a message about or concerned with the race, ethnic origin or national origin (Jewish and/or Israeli) of the people named;
 - e. Professor Keane had earlier posted the Hamas Flag Post which provides context for the real reason why the Staff Members Post was actuated by race and/or ethnic origin and/or national origin or, in the alternative, race, or ethnic or national origin was otherwise a factor in Professor Keane's conduct; and
 - f. Professor Keane has a tendency to engage in conduct which does and is intended to offend and/or insult and/or humiliate and/or intimidate Jewish people and Israeli people.
50. In the premises set out in [37]-[49] above, Professor Keane contravened s 18C of the RDA and engaged in unlawful discrimination within the meaning of ss 3(1) and 46P of the *Australian Human Rights Commission Act 1986* (Cth).

Professor Keane's Staff Members Post – Vicarious liability of Sydney University

51. Professor Keane is an employee of Sydney University.

52. The posting, and the non-removal until on or about 21 May 2024, of Professor Keane's Staff Members Post was made in connection with his duties as an employee of Sydney University:
- a. the communications that precipitated the Staff Members Post were internal staff University email exchanges about University matters;
 - b. the Staff Members Post had the potential to (and actually did) adversely affect the working relationship of the named employees of Sydney University, and for other Jewish/Israeli employees;
 - c. The following documents make it clear that communications of this kind are directly connected to employment by Sydney University:
 - i. Sydney University Complaint Procedures;
 - ii. the *University of Sydney Enterprise Agreement 2023-2026* (eg. cll 354, 360, 361, 362, 366 and 368);
 - iii. Sydney University Staff and Affiliates Code of Conduct 2021 (eg. cll 3, 5, 7, 8, 11, 15, 19, 20, 21, 23, 24);
 - iv. Public Comment Policy of Sydney University (eg. Guidelines and Pt 2);
 - v. *University of Sydney Act 1989* (NSW) (eg. s 2);
 - vi. *Charter of Freedom of Speech and Academic Freedom 2019*.
53. The Staff Members Post and its non-removal are acts that would have been unlawful had they been done by Sydney University for the reasons set out at paragraphs [37]-[50] above.
54. Sydney University failed to take all reasonable steps to prevent Professor Keane from publishing the Staff Members Post considering:
- a. the correspondence referred to or described in [37]-[41] above;
 - b. the disciplinary process and the complaints described in [42] and the failure of Sydney University to act on those complaints appropriately, with due diligence or due expedition.
55. In the premises above, Professor Keane Staff Members Post and its non-removal were acts of Professor Keane done in connection with his duties as an employee or agent of Sydney University for the purposes of imposing vicarious liability on Sydney University for the unlawful discrimination by Professor Keane pursuant to s 18E of the RDA.

Complaint to the Australian Human Rights Commission

56. On about 31 October 2024, the Applicants lodged with the Australian Human Rights Commission under sections 46P and 46PB of the *Australian Human Rights Commission*

Act 1986 (Cth) a complaint against the Respondents alleging unlawful discrimination (**AHRC Complaint**).

57. The unlawful discrimination alleged above is the same or the same in substance as the unlawful discrimination alleged in the AHRC Complaint.
58. On 14 April 2025, a delegate of the President of the Australian Human Rights Commission terminated the AHRC Complaint under section 46PH(1B)(b) of the *Australian Human Rights Commission Act 1986 (Cth)*, on the ground that there was no reasonable prospect of the matter being settled by conciliation.

Particulars

- a. AHRC Notice of Termination in File No. 2024-15489 dated 14 April 2025 including Attachment A (Reasons for decision), Attachment B (A copy of the complaint) and Attachment C (A copy of the amendment to the complaint).

Relief

59. In the premises, the Applicants are entitled to the relief claimed in the Originating Application.

Date: 13 June 2025



Signed by Hamish Rotstein
Lawyer for the Applicants

This pleading was prepared by Adam Butt and settled by Saul Holt KC.

Certificate of lawyer

I Hamish Rotstein 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: 13 June 2025



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Signed by Hamish Rotstein
Lawyer for the Applicant