

## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged: Subpoena to Give Evidence - Form 43A - Rule 24.13(1)(a)  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 17/04/2025 6:18:18 PM AEST  
Date Accepted for Filing: 22/04/2025 3:03:43 PM AEST  
File Number: NSD689/2023  
File Title: BEN ROBERTS-SMITH v FAIRFAX MEDIA PUBLICATIONS PTY LTD  
(ACN 003 357 720) & ORS  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA  
Reason for Listing: Interlocutory Hearing  
Time and date for hearing: 01/05/2025, 10:15 AM  
Place: Please check Daily Court List for details



*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.



## Subpoena to Give Evidence

No. NSD 689 of 2023

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

**Ben Roberts-Smith VC MG**

Appellant

**Fairfax Media Publications Pty Limited** and others named in the schedule

Respondents

To: Dean Levitan  
c/- MinterEllison  
Collins Arch , 447 Collins Street  
MELBOURNE VIC 3000

**You are ordered to attend to give evidence.** See next page for details.

**Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.**

Please read Notes 1 to 8 at the end of this subpoena.

The last date for service of this subpoena is [date]. (See Note 1)

Date:

Signed by an officer acting with the authority  
of the District Registrar

Filed on behalf of (name & role of party)	Ben Roberts-Smith VC MG, Appellant		
Prepared by (name of person/lawyer)	Monica Allen		
Law firm (if applicable)	BlackBay Lawyers		
Tel	+ 61 2 8005 3077	Fax	-
Email	<a href="mailto:monica.allen@blackbaylawyers.com">monica.allen@blackbaylawyers.com</a>		
<b>Address for service</b> (include state and postcode)	Level 17, 20 Martin Place, Sydney, New South Wales, 2000		



Issued at the request of the Appellant, whose address for service is:

Place: Level 17, 20 Martin Place, Sydney, NSW 2000

Email: [monica.allen@blackbaylawyers.com](mailto:monica.allen@blackbaylawyers.com)

**Details of subpoena**

Date, time and place at which you must attend to give evidence, unless you receive a notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date: 1 May 2025

Time: 10.15 am

Place: Law Courts Building, 184 Phillip St, Queens Square, Sydney NSW 2000

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.



## **Notes**

### **Last day for service**

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

### **Informal service**

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

### **Addressee a corporation**

3. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

### **Conduct money**

4. You need not comply with the subpoena in so far as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date your attendance is required.

### **Applications in relation to subpoena**

5. You have the right to apply to the Court:
  - (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
  - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

### **Loss or expense of compliance**

6. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

### **Contempt of court - arrest**

7. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
8. Note 7 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.



No. NSD 689 of 2023

Federal Court of Australia

District Registry: New South Wales

Division: General

Second Respondent: Nick McKenzie

Third Respondent Chris Masters

Fourth Respondent David Wroe