

NOTICE OF FILING

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File Title:	JOSEPH TOLTZ & ORS v NICK RIEMER & 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.

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Form 33
Rule 16.32

Defence

No. 950 of 2025

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

Joseph Toltz and others named in Schedule A
Applicants

Nick Riemer and another named in the schedule
Respondents

To the **Further Amended Statement of Claim** dated 30 July 2026, the Second Respondent says as follows (adopting the definitions used in the FASOC unless otherwise indicated).

Jurisdiction

1. It admits paragraph 1.

Parties

2. It does not know and cannot admit if the Applicants are all ordinarily resident in Australia but otherwise admits paragraph 2.
3. It admits paragraph 3 and says further that Dr Joseph Toltz has been employed in the professional position of Manager of Research Support in the Faculty of Arts and Social Sciences since 1 January 2021.
4. As to paragraph 4:
 - a. it admits subparagraph (a);
 - b. it admits subparagraph (b); and
 - c. save that it admits that Professor Emeritus Suzanne Rutland OAM is an Israeli citizen, it does not know and cannot admit subparagraph (c).
5. As to paragraph 5:
 - a. it does not know and cannot admit subparagraph (a);
 - b. save that it admits that Mr Ariel Eisner was its student, studying a Bachelor of Architecture from February 2022 until November 2024, does not know and cannot admit subparagraph (b); and

- c. save that it admits that Mr Ariel Eisner is a Jewish person, it does not know and cannot admit subparagraph (c).
- 6. As to paragraph 6:
 - a. it admits subparagraph (a);
 - b. it admits subparagraph (b);
 - c. it admits subparagraph (c); and
 - d. save that it admits that Mr Yanis Levy is an Israeli citizen, it does not know and cannot admit subparagraph (d).
- 7. As to paragraph 7:
 - a. it repeats and relies upon paragraphs 3-6 above with respect to subparagraph (a);
 - b. it repeats and relies upon paragraphs 3-6 above with respect to subparagraph (b);
 - c. it does not know and cannot admit subparagraph (c).
- 8. As to paragraph 8, it:
 - a. admits sub-paragraph (a); and
 - b. as to sub-paragraph (b), admits that persons born in Israel constitute a group of persons with a shared national origin and otherwise denies sub-paragraph (b).
- 9. As to paragraph 9, it:
 - a. admits subparagraph (a);
 - b. admits paragraph (b);
 - c. says that subparagraph (c) lacks the proper particulars and is liable to be struck out and under cover of this objection does not know and cannot admit the sub-paragraph.
- 10. As to paragraph 10:
 - a. it denies subparagraph (a) and says that Zionism is a political ideology or philosophy which is not exclusive to persons who are Jewish or Israeli; and
 - b. it says that subparagraph (b) lacks the proper particulars and is liable to be struck out and under cover of this objection does not know and cannot admit the sub-paragraph.
- 11. As to paragraph 11:

- a. it admits subparagraph (a);
- b. save that it admits that Dr Riemer was President of the University of Sydney Branch of the National Tertiary Education Industry Union (USYD NTEU) from 2022 to 2024, and has been Vice President (Academic) of USYD NTEU since about 18 October 2024, it does not know and cannot admit subparagraph (b); and
- c. does not know and cannot admit subparagraph (c).

12. It admits paragraph 12.

Dr Riemer's X (Twitter) and FaceBook Pages

- 13. It admits paragraph 13 and says further that Dr Riemer has always operated the Riemer X Page in his personal capacity, independent of his employment with it.
- 14. It does not know and cannot admit paragraph 14.
- 15. It does not know and cannot admit paragraph 15.
- 16. It does not know and cannot admit paragraph 16.
- 17. It does not know and cannot admit paragraph 17.
- 18. It admits paragraph 18 and says further that Dr Riemer has always operated the Riemer Facebook Page in his personal capacity, independent of his employment with it.
- 19. It does not know and cannot admit paragraph 19.
- 20. It does not know and cannot admit paragraph 20.

The first and second intifadas

- 21. As to paragraph 21, it:
 - a. admits that it has been reported in Australia that the intifadas were Palestinian uprisings against the Israeli occupation of the West Bank and Gaza Strip; and
 - b. otherwise does not know and cannot admit the paragraph.
- 22. As to paragraph 22, it:
 - a. admits that it has been reported in Australia that the first intifada began in December 1987 and ended in September 1993, and the second intifada began in December 2000 and ended in late 2005; and
 - b. otherwise does not know and cannot admit the paragraph.
- 23. There is no paragraph 23 in the FASOC.
- 24. There is no paragraph 24 in the FASOC.
- 25. There is no paragraph 25 in the FASOC.

23A. It says that paragraph 23A lacks the proper particulars and is liable to be struck out and under cover of this objection does not know and cannot admit the sub-paragraph.

Hamas

26. It admits paragraph 26.

27. It denies paragraph 27 and says that the Statement of Reasons for listing Hamas as a terrorist organisation reads "their essential aim is the unification of Israel and the Palestinian Territories under Islamic rule – a goal which entails the destruction of Israel as a political entity."

28. In relation to paragraph 28, it repeats paragraph 27 of this Defence.

29. In relation to paragraph 29, it repeats paragraph 27 of this Defence.

29A. It says paragraph 29A lacks the proper particulars and is liable to be struck out and under cover of this objection does not know and cannot admit the sub-paragraph.

7 October 2023

30. In relation to paragraph 30, it admits that Hamas members engaged in acts of violence, including killings of substantial numbers of Jewish or Israeli people, in Israel on 7 October 2023 and otherwise does not know and cannot admit the paragraph.

31. It admits paragraph 31.

31A. In relation to paragraph 31A, it says:

- a. there is a lack of proper particulars and the paragraph is liable to be struck out;
- b. under cover of this objection admits there has been reported concerns about antisemitism in Australia since 7 October 2023; and
- c. otherwise does not know and cannot admit paragraph 31A.

32. There is no paragraph 32 in the FASOC.

32A. In relation to paragraph 32A, it says there is a lack of proper particulars and is liable to be struck out and under cover of this objection does not know and cannot admit the sub-paragraph.

Dr Riemer's Impugned acts under s 18C of the Racial Discrimination Act 1975 (Cth) (RDA)

a. *'The call for a Global Intifada'*

33. It does not plead to paragraph 33 as it does not contain any allegations against it.

34. It does not plead to paragraph 34 as it does not contain any allegations against it.

34A. It does not know and cannot admit paragraph 34A.

- 35. It does not plead to paragraph 35 as it does not contain any allegations against it.
- 36. It does not plead to paragraph 36 as it does not contain any allegations against it.
- 37. It does not plead to paragraph 37 as it does not contain any allegations against it.
- 38. It does not plead to paragraph 38 as it does not contain any allegations against it.
- 39. It does not plead to paragraph 39 as it does not contain any allegations against it.
- 40. It does not plead to paragraph 40 as it does not contain any allegations against it.

b. *Rierner's 8 October Post*

- 41. It does not plead to paragraph 41 as it does not contain any allegations against it.
- 42. It does not plead to paragraph 42 as it does not contain any allegations against it.
- 43. It does not plead to paragraph 43 as it does not contain any allegations against it.

c. *Rierner's 7 October Repost*

- 44. It does not plead to paragraph 44 as it does not contain any allegations against it.
- 45. It does not plead to paragraph 45 as it does not contain any allegations against it.
- 46. It does not plead to paragraph 46 as it does not contain any allegations against it.
- 47. It does not plead to paragraph 47 as it does not contain any allegations against it.

d. *Rierner's Overland Article published on 15 October 2023*

- 48. It admits paragraph 48.
- 49. It admits paragraph 49.
- 50. It admits paragraph 50 and says further that:

- a. the entire paragraph of the Overland Article published on 15 October 2023 describing Dr Rierner read as follows:

"Nick Rierner works in the English and Linguistics departments at the University of Sydney. He is currently president of the Sydney University branch of the National Tertiary Education Union.

- b. At a point in time after the original publication of the Overland Article sometime between January and September 2025, the paragraph describing Dr Rierner read as follows:

"Nick Rierner works in the English and Writing and Linguistics departments at the University of Sydney. He is currently academic vice-president of the Sydney University branch of the National Tertiary Education Union, and one of the organisers of the 'Free

Palestine, Free Speech' symposium on political expression and the contemporary university. **The views expressed in *Overland* are his own.** (emphasis added)

- 51. It admits paragraph 51.
- 52. It denies paragraph 52 and says further that the extract does not refer to Jewish people or Israeli people.
- 53. It denies paragraph 53 and says further that the extract does not refer to Jewish people or Israeli people.

e. *The Saturday Paper "Owned by Zionists" Repost*

- 54. It does not plead to paragraph 54 as it does not contain any allegations against it.
- 55. It does not plead to paragraph 55 as it does not contain any allegations against it.
- 56. It does not plead to paragraph 56 as it does not contain any allegations against it.
- 57. It does not plead to paragraph 57 as it does not contain any allegations against it.

f. *The "No room for Zionism in our Unions" Speech and Posts*

- 58. It admits paragraph 58 and repeats and relies upon paragraph 13 above.
- 58A. It admits paragraph 58A and repeats and relies upon paragraph 13 above.
- 59. Save that it admits that the post remains accessible online, it does not know and cannot admit paragraph 59.
- 60. It denies paragraph 60 and says further that the "No room for Zionism in our Unions" Speech and Posts do not refer to Jewish people or Israeli people.

g. *The Lattouf sacking Post*

- 61. It does not plead to paragraph 61 as it does not contain any allegations against it.
- 62. It does not plead to paragraph 62 as it does not contain any allegations against it.
- 63. It does not plead to paragraph 63 as it does not contain any allegations against it.

h. *The Zionists are racists Post*

- 64. It does not plead to paragraph 64 as it does not contain any allegations against it.
- 65. It does not plead to paragraph 65 as it does not contain any allegations against it.
- 66. It does not plead to paragraph 66 as it does not contain any allegations against it.

i. *The Zionist smartwash Repost*

- 67. It does not plead to paragraph 67 as it does not contain any allegations against it.
- 68. It does not plead to paragraph 68 as it does not contain any allegations against it.

69. It does not plead to paragraph 69 as it does not contain any allegations against it.

j. *The Zionists' Licence to Lie and Slander Post*

70. It does not plead to paragraph 70 as it does not contain any allegations against it.

71. It does not plead to paragraph 71 as it does not contain any allegations against it.

72. It does not plead to paragraph 72 as it does not contain any allegations against it.

73. It does not plead to paragraph 73 as it does not contain any allegations against it.

k. *The Zionists support genocide Repost*

74. It does not plead paragraph 74 as it does not contain any allegations against it.

75. It does not plead paragraph 75 as it does not contain any allegations against it.

76. It does not plead to paragraph 76 as it does not contain any allegations against it.

l. *The genocide enablers Post*

77. It does not plead to paragraph 77 as it does not contain any allegations against it.

78. It does not plead to paragraph 78 as it does not contain any allegations against it.

m. *The akin to Nazis Repost*

79. It does not plead to paragraph 79 as it does not contain any allegations against it.

80. It does not plead to paragraph 80 as it does not contain any allegations against it.

81. It does not plead to paragraph 81 as it does not contain any allegations against it.

n. *The Genocide Post and Speech*

82. It does not plead to paragraph 82 as it does not contain any allegations against it.

82A. It does not plead to paragraph 82A as it does not contain any allegations against it.

83. It does not plead to paragraph 83 as it does not contain any allegations against it.

84. It does not plead to paragraph 84 as it does not contain any allegations against it.

Contravention of section 18C – Dr Riemer

85. It admits paragraph 85 with respect to *Riemer's Overland Article published on 15 October 2023* and *The "No room for Zionism in our Unions" Speech and Posts*. It otherwise does not plead to paragraph 85 as it does not contain any allegations against it.

86. It denies paragraph 86 and repeats and relies upon paragraphs 50, 52, 53 and 60 above.

87. There is no paragraph 87 in the FASOC.

88. It denies paragraph 88 and repeats and relies upon paragraphs 50, 52, 53 and 60 above.
89. In relation to paragraph 89, it:
- a. denies the paragraph with respect to *Rierner's Overland Article published on 15 October 2023* and *The "No room for Zionism in our Unions" Speech and Posts*;
 - b. repeats and relies upon paragraphs 50, 52, 53 and 60 above; and
 - c. in the alternative, relies on the defence in ss 18D(b) and (c)(ii) of the *Racial Discrimination Act 1975* (Cth) because *Rierner's Overland Article published on 15 October 2023* and *The "No room for Zionism in our Unions" Speech and Posts* were done reasonably and in good faith:
 - i. in a statement or publication made for a genuine political or humanitarian purpose in the public interest; and/or
 - ii. a fair comment on a matter of public interest and the comment is an expression of a genuine belief held by Dr Rierner; and
 - d. otherwise does not plead to paragraph 89 as it does not contain any allegations against it.

Dr Rierner's Overland Article and No Room for Zionism in our Unions Speech and Posts – Vicarious liability of Sydney University

90. It admits paragraph 90.
91. It denies paragraph 91 and says further:
- a. it admits subparagraph (a), repeats and relies on paragraph 50 of this Defence above and says further that the Overland Article was published in Dr Rierner's personal capacity and not in connection with his duties as its employee.
 - i. sometime between January and September 2025, the Overland Article includes in the biography for Dr Rierner the phrase "the views expressed in Overland are his own."
 - ii. the subject matter of the article is not related to Dr Rierner's area of academic expertise, which he describes on his staff biography as the history and philosophy of linguistics, and semantics and pragmatics;
 - iii. it does not have any affiliation or connection with Overland;
 - iv. the Overland 'About' page describes Overland as "Australia's oldest radical literary magazine", not an academic journal;
 - v. it did not endorse or authorise Dr Rierner to publish the Overland Article.

- b. it denies subparagraph (b), it says that there is no reference to Jewish people or Israeli people in the "No Room for Zionism in our Unions Speech and Posts" and says further that the "No Room for Zionism in our Unions Speech and Posts" were made in Dr Riemer's personal capacity, or in Dr Riemer's capacity as an officer holder of the NTEU, not in his capacity as its employee.
 - c. it admits subparagraph (c).
 - d. it denies subparagraph (d) and says further that it has no record of any complaint being received by it regarding the Overland article either at the time of publication or subsequently. It only became aware of concerns with the publication when it received the AHRC Application.
 - e. it denies subparagraph (e) and says further that
 - a. the "No Room for Zionism in our Unions Speech and Posts" were made on Dr Riemer's personal X account.
 - b. the No Room for Zionism in our Unions post was made on a Sunday, noting Dr Riemer's normal working hours are Monday to Friday;
 - c. the No Room for Zionism in our Unions post related to protest that occurred outside its grounds and on a Saturday, a non-work day for Dr Riemer;
 - d. the No Room for Zionism in our Unions post made no reference to it or Dr Riemer's employment. Dr Riemer is a linguistics academic and the subject matter did not relate to his field of expertise.
92. It denies paragraph 92 and repeats and relies upon paragraphs 52, 53 and 60 above.
93. It denies paragraph 93 and says further that:
- a. it has numerous policies, charters and codes that set out its expectations regarding the conduct of members of its community (being staff member, affiliates and students), and that provide mechanisms for complaints and concerns to be raised with it.

Particulars

These policies, charters and codes include:

1. The Bullying, Harassment and Discrimination Prevention Policy 2015;
2. The Charter of Freedom of Speech and Academic Freedom;
3. The Code of Conduct – Staff and Affiliates;

4. The Public Comment Policy;
 5. The University of Sydney Enterprise Agreement 2023-2026 (**Enterprise Agreement**); and
 6. The Anti-Racism Statement.
- b. it requires employees to undertake mandatory training to prevent discrimination. Dr Riemer has completed various training courses.

Particulars

- i. 'Values Workshop – Identifying our Values' in 2015
 - ii. The 'Work Health & Safety Induction' course in 2017 and 2019;
 - iii. The 'Cyber Security' course in 2020;
 - iv. The 'Code of Conduct' course in 2022; and
 - v. The 'Respect in our community: Preventing bullying, harassment and discrimination' course in 2020.
- c. it also maintains policies and procedures regarding the management of internal complaints.

Particulars

1. Student Complaints Procedures 2015 for complaints initiated by students;
 2. Bullying, Harassment and Discrimination Resolution Procedures 2015 for complaints of harassment and discrimination initiated by staff; and
 3. Resolution of Complaints Policy 2015 which governs how it assesses complaints.
94. It denies paragraph 94 and repeats and relies on paragraphs 91, 92 and 93 above.

Complaint to the Australian Human Rights Commission

95. It admits paragraph 95.
96. It admits paragraph 96.
97. It admits paragraph 97.

Relief

98. It denies that the Applicants are entitled to the relief sought, or any relief, from it.

Date: 4 September 2026



Signed by Stephen Woodbury
Lawyer for the Second Respondent

This pleading was prepared by Bronwyn Byrnes of counsel and settled by Robert Dick SC.

Certificate of lawyer

I, Stephen Woodbury, certify to the Court that, in relation to the defence filed on behalf of the Second Respondent, the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non admission in the pleading.

Date: 4 September 2026



Signed by Stephen Woodbury
Lawyer for the Second Respondent

Schedule A

No. 950 of 2025

Applicants

First Applicant: JOSEPH TOLTZ

Second Applicant: SUZANNE RUTLAND

Third Applicant: ARIEL EISNER

Fourth Applicant: YANIV LEVY

First Respondent: NICK RIEMER**Second Respondent:** THE UNIVERSITY OF SYDNEY