

Our Ref: MOBL:694
Your Ref: MS:5263490

10 August 2023

Marlia Saunders
Partner
Thomson Geer
Level 14
60 Martin Place
SYDNEY NSW 2000

By email: msaunders@tglaw.com.au

Dear Ms Saunders

**Bruce Lehrmann v Network Ten Pty Limited & Anor
Federal Court of Australia Proceedings No. NSD103/2023**

We refer to your letter to us of 9 August 2023 and, adopting your headings, respond as follows:

Implied Harman obligation

We appear to be in agreement regarding the effects of the implied Harman obligation.

As requested, we advise that the following documents as specified in Part 1 our client's List of Documents are subject to that obligation:

52 – 56, 66 - 72

You are not however entitled to the other information that you seek about the documents.

Otherwise, our client is aware of his obligations pursuant to the Harman implied undertaking, and we assume that you will be advising your client's employees as to their obligations in complying with the implied undertaking in relation to documents as discovered by our client in these proceedings.

We also assume that in making your reference to "...*gravely unethical*" conduct, you are not intending to suggest that either our firm, or any of our client's other legal advisers, would engage in such conduct, as the making of any such suggestion would constitute a disgraceful slur.

Non-publication orders of 24 November 2022

We disagree with your view that the definition of the word “published” in Section 81J of the Evidence (Miscellaneous Provisions) Act (**the Act**) is necessarily the same meaning that the word “publish” would be given in relation to section 111 of the Act. As you know, section 81J of the Act relates to family violence offence proceedings, and there is no reason to assume that the definition of a word utilised in a section of the Act dealing with such proceedings would also apply to a completely different section of the Act dealing with the making of non-publication orders.

In the circumstances, we do not accept that your interpretation of Section 111 is necessarily correct, and that our interpretation is therefore “wrong”. As such, and in light of the specific terms of the non-publication orders made by McCallum J on 24 November 2022, we do not agree with your view that our client would not be at risk of being in breach of the orders by producing the documents to you for inspection.

Our client therefore declines to produce the documents as requested, however he will consent to the making of an order by the Federal Court in these proceedings (or abide by any further order made by the ACT Supreme Court), in relation to production of the documents to the parties. In that regard, please provide to us any proposed orders so that we may give consideration as to the same.

Yours faithfully



Paul Svilans

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