

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 9/04/2018 11:15:57 AM AEST 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: Affidavit - Form 59 - Rule 29.02(1)
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 that reads 'Warwick Soden'.

Dated: 9/04/2018 11:16:01 AM AEST

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.



Affidavit

No. NSD2179 OF 2017

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

Geoffrey Roy Rush

Applicant

Nationwide News Pty Limited and another
Respondents

Affidavit of: Nicholas William Grant Pullen
Address: Level 26, 530 Collins Street, Melbourne Vic 3000
Occupation: Lawyer, HWL Ebsworth Lawyers
Date: 9 April 2018

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	Affidavit of Nicholas William Grant Pullen sworn on 5 April 2018		1

I, Nicholas William Grant Pullen, say on oath:

1. I am a partner of HWL Ebsworth Lawyers and have the carriage of this matter for the Applicant.
2. The facts outlined in this Affidavit are matters within my knowledge and are true to the best of my information and belief based on the instructions provided to me by the Applicant.

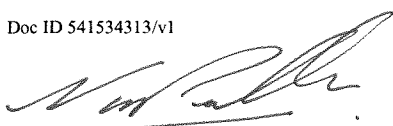
Filed on behalf of:	The Applicant		
Prepared by:	Nicholas William Grant Pullen	Lawyer's code	179
Name of law firm:	HWL Ebsworth Lawyers		
Address for service:	Level 26, 530 Collins Street, Melbourne, Victoria, 3000		
Email:	npullen@hwle.com.au	DX	564, Melbourne
Tel: 03 8644 3408	Fax: 1300 365 323	Attention:	Nicholas Pullen

Handwritten signature of Nicholas William Grant Pullen in black ink.

Handwritten signature of Geoffrey Roy Rush in black ink.

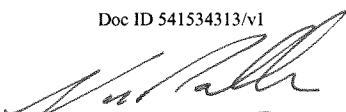
Ongoing hurt to the Applicant

3. Since the publication of the matters complained of on 30 November 2017 and 1 December 2017 (**Publications**) the Applicant has continued to suffer tremendous emotional and social hardship.
4. The Applicant has found that as a direct result of the Publications he has been constantly associated in Australia and internationally with the "#MeToo" movement that involves allegations of sexual misconduct against colleagues in the entertainment industry.
5. Due to the Publications and the continuing coverage by the Respondents of the matter complained of, the Applicant:
 - (a) has been virtually housebound. In the first three months after release of the Publications he rarely left his home;
 - (b) feels uncomfortable when in public and will rarely attend public events;
 - (c) whenever in public is full of anxiety as he believes people are staring at him in a way that is very challenging, frightening and unnerving;
 - (d) has lost his appetite and barely eats;
 - (e) wakes up every morning with a terrible sense of dread about his future career;
 - (f) is seriously concerned about the ongoing effect on his children and his wife especially in the circles of friends and colleagues with whom they normally socialise;
 - (g) is worried for the well being of his children from the impact of the continuing coverage;
 - (h) believes that his worth to the theatre and film industry, together with the community at large, is now irreparably damaged;
 - (i) suffers lack of sleep and anxiety requiring medication; and
 - (j) has retreated from and lacks the necessary motivation to conduct his normal activities in the theatre and film industries.



Articles published by the First Respondent

6. Between the publication of the matters complained of (on 30 November 2017 and 1 December 2017) and the filing of the Applicant's Statement of Claim (on 8 December 2017), the following articles about or concerning the Applicant have been published by *The Daily Telegraph*, either in its newspaper or on its website:
- (a) 2 December 2017. Article entitled "*Rush rethink on awards - AACTA board in crisis talks ahead of next week's gala ceremony*", published on page 3 of the newspaper.
 - (b) 2 December 2017. Article entitled "*Sex scandals or power trip?*", published on page 42 of the newspaper, in which the Applicant is named in the same paragraph as Louis C.K and Kevin Spacey (and others), in reference to a so-called "*tidal wave of inappropriate behaviour claims*".
 - (c) 3 December 2017. Article entitled "*Rush quits arts academy*", published on page 13 of the newspaper. In that article, as is referred to at paragraph 2(i)(iii) of the Applicant's Reply (filed on 28 March 2018), it is alleged that the accusations against the Applicant were said to be "*accusations of repeatedly inappropriately touching a cast member during The Sydney Theatre Company's stage production of King Lear, which ran from November 2015 to January 2016*".
 - (d) 4 December 2017. Article entitled "*Ugly open secret is centre stage - TV and theatre star's warning*", published on page 11 of the newspaper. In that article, as is referred to at paragraph 2(i)(iv) of the Applicant's Reply, the Applicant is named, and a photograph of the Applicant is published, alongside comments made by actor Yael Stone in relation to the #metoo movement, including the following comments: "*The scale of this unspoken culture, and the abuse of power manifested in sexual aggression, shouldn't really come as a surprise...Now we are discovering that this culture also exists in Australia, the truth is hitting home, and it hurts*".



- (e) 5 December 2017. Article entitled "*AACTA Awards: Stars of stage and screen urge industry to tackle cancer of sexual harassment*", which was published online. In that article, as is referred to at paragraph 2(i)(v) of the Applicant's Reply:
- (i) A prominent photograph of the Applicant was published immediately above the following words: "*This year's event has been overshadowed by a series of sexual harassment and bullying allegations levelled at some of entertainment's biggest stars following Hollywood's earth-shaking Harvey Weinstein scandal*";
 - (ii) A paragraph referring to the Applicant having been "*accused of 'inappropriate behaviour' towards a female co-star*" was published immediately above the following words: "*TV presenter Don Burke is also facing allegations he denies and dozens of other well-known figures are expected to be accused of misconduct*"; and
 - (iii) The article concluded with the following words: "*A poll released last month by WIFT revealed 58 per cent of respondents have experienced sexual harassment in the workplace*".
- (f) 5 December 2017. Article entitled "*It'll be ugly but worth it - Stars of stage and screen urge industry to tackle cancer of harassment*", which was published on the front page and on pages 8 and 9 of the newspaper.
- (g) 7 December 2017. Article entitled "*Rush 'just playful': Director*", published on page 3 of the newspaper. As is referred to at paragraph 2(i)(vii) of the Applicant's Reply, that article appears immediately above another article entitled "*Spacey was sex suspect*".
- (h) 7 December 2017. Article entitled "*'Brave' women win praise at glam awards*", which was published on page 3 of the newspaper. As is referred to at paragraph 2(i)(viii) of the Applicant's Reply, that article:
- (i) Commences with the following words: "*Women speaking out against abuse and harassment in the entertainment industry were last night hailed as 'pioneers', while two more big names revealed they had also been victims*"; and

(ii) Refers to the Applicant in the same paragraph as Don Burke, as follows:
"The industry is reeling after allegations against former AACTA president Geoffrey Rush, who stood down after being accused of 'inappropriate behaviour' towards a female co-star during a production of King Lear - a claim he strongly denies. And TV presenter Don Burke is facing multiple allegations, which he also denies".

(i) 7 December 2017. Article entitled "*Sydney Theatre Company and King Lear director backs Geoffrey Rush*", which was published online.

7. A copy of the articles referred to at paragraph 6, above, appear at pages 1 to 21 of Exhibit NP-1.

8. Following the filing of the Applicant's Statement of Claim (on 8 December 2017), articles have continued to be published by *The Daily Telegraph* about or concerning the Applicant, including:

(a) 9 December 2017. Article entitled "*Hurt actor takes action - Telegraph faces defamation suit*", published on page 10 of the newspaper. As is referred to at paragraph 2(q) of the Applicant's Reply, it is stated in that article:

The Daily Telegraph stands by its reporting of the complaint made against Rush during his last stint at the STC for the production of King Lear.

Editor Christopher Dore said the newspaper would defend its accurate reporting in court.

'The Daily Telegraph accurately reported the Sydney Theatre Company received a complaint alleging that Mr Geoffrey Rush had engaged in inappropriate behaviour', Mr Dore said. 'We will defend our position in court'.

(b) 12 December 2017. Article entitled "*Geoffrey Rush's bizarre Golden Globe nomination rant*", which was published online.

(c) Following the filing of the Applicant's Interlocutory Application on 5 February 2018, and following the parties' first appearance before the Court on 8 February 2018, the following further articles were published:

(i) 8 February 2018. Article entitled "*Geoffrey Rush tries to 'strike out' parts of defamation defence*", which was published online.

- (ii) 9 February 2018. Article entitled "*Rush in bid to block defence - Actor's attempt to suppress claims*", which was published on page 17 of the newspaper.
- (d) Following the orders of 19 February 2018, which lifted the interim suppression orders over the Respondents' Amended Defence (which had been served on 15 February 2018 and was then filed on 20 February 2018), a further article - entitled "*STOP DOING IT*" - was published- on the front page and on pages 6 and 7 of the newspaper as well as online.
- (e) Following the orders of 20 March 2018, a further article, entitled "*Rush case to head for trial: Tele may appeal truth defence ruling*", was published on 21 March 2018 on page 12 of the newspaper as well as online.
- (f) Following the case management hearing on 27 March 2018, a further article, entitled "*STC could be a party in Rush legal case after King Lear complaints*", was published on 28 March 2018 on page 9 of the newspaper as well as online.
9. A copy of the articles referred to at paragraph 8, above, appear at pages 22 to 36 of Exhibit NP-1.
10. In addition to the articles referred to in paragraphs 6 and 8, above, the following further articles have been published by other newspapers of the First Respondent:
- (a) 9 December 2017. An article published by *The Australian*, entitled "*Celluloid Ceiling*". That article, as referred to at paragraph 2(i)(ix) of the Applicant's Reply, includes the following words: "*Now, however, the tsunami of sexual harassment, assault and inappropriate behaviour allegations is engulfing some of the arts and screen industry's most powerful men, including Australia's Don Burke and Geoffrey Rush, who have both firmly denied the claims of misconduct*".
- (b) 3 February 2018. An article published by *The Australian*, entitled "*Rush tries to censor paper's defence*".
- (c) 8 February 2018. An article published by *The Australian*, entitled "*Geoffrey Rush secures interim order to gag The Daily Telegraph's evidence*". That article, as referred to at paragraph 2(i)(x) of the Applicant's Reply, includes the following words: "*Mr Rush sued Nationwide News, publisher of The Daily Telegraph, in December after it published a story detailing an investigation into the actor by the Sydney Theatre Company over alleged sexual misconduct...*".

- (d) 20 February 2018. Article published by *The Australian*, entitled "*Actress at heart of case against Rush revealed*".
- (e) 20 February 2018. Article published in *The Courier Mail*, entitled "STOP DOING IT", in hardcopy on page 9 of the newspaper as well as online.
- (f) 20 February 2018. Article published in *The Herald Sun*, entitled "*Court hears that actress repeatedly asked Geoffrey Rush to...STOP DOING IT*", in hardcopy on page 5 of the newspaper as well as online.
- (g) 16 March 2018. Article published in *The Australian*, entitled "*Theatre bosses put sex rules on centre stage*".
- (h) 19 March 2018. Article published in *The Australian*, entitled "*The Diary*". That article, as referred to at paragraph 2(i)(xv) of the Applicant's Reply, includes the following words:

[T]he Telegraph's amended defence documents, which were at one point suppressed, include allegations Rush inappropriately touched Eryn Jean Norvill while they were on stage in a Sydney Theatre Company production of King Lear. Rush strenuously denies the allegations. The newspaper's particulars of qualified privilege claim Norvill complained to the STC that Rush 'had touched her genitals during the production of King Lear without her consent'. Rush denies this claim and the actor said it had not been raised with him by the complaint or the STC.

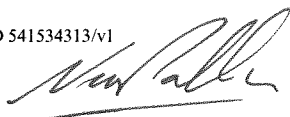
- 11. A copy of the articles referred to at paragraph 10, above, appear at pages 37 to 53 of Exhibit NP-1.

Further Articles Published Overseas

- 12. In addition to the Australian articles referred to at paragraphs 6, 8 and 10, above, the matters complained of have also received international publicity. The following are examples, which are no means exhaustive, of articles published overseas:

In the UK

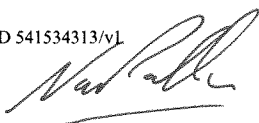
- (a) On 29 November 2017, article published in *The Daily Mail*, which includes a comment that the Applicant's "*alleged misconduct went on for months*".
- (b) On 30 November 2017, article entitled "*Geoffrey Rush Denies Allegations of 'Inappropriate Behaviour' in Play*" published in *The Independent*.



- (c) On 30 November 2017, article entitled "*Geoffrey Rush Denies Allegation of 'Inappropriate Behaviour'*" published in *The Huffington Post*, which speculates whether or not there was "*a complaint about sexually inappropriate behaviour*".
- (d) On 30 November 2017, article entitled "*Geoffrey Rush Denies Allegation of 'Inappropriate Behaviour' in 'King Lear' Production*" published in *Yahoo News UK*.
- (e) On 1 December 2017, article entitled "*Geoffrey Rush Denies 'Inappropriate Behaviour' during King Lear Production*" published in *The Times UK*.
- (f) On 2 December 2017, article entitled "*Geoffrey Rush Steps Away from Academy President Role after Allegations of 'Inappropriate Behaviour'*" published in *Metro UK*. The article comments with the words: "*Another day, another wave of disturbing allegations in Hollywood. This time, it's the turn of Oscar-winning actor Geoffrey Rush...*"
- (g) On 2 December 2017, article entitled "*Geoffrey Rush Quits Screen Industry Post Over 'Inappropriate Behaviour'*" published in *The Telegraph UK*.
- (h) On 2 December 2017, article entitled "*Geoffrey Rush Quits Industry Post Over 'Inappropriate Behaviour Claim'*" published in *The Guardian*.
- (i) On 2 December 2017, article entitled "*Geoffrey Rush Quits as President of Australian Screen Academy after Claim of 'Inappropriate Behaviour'*" published in *The Standard UK*.
- (j) On 3 December 2017, article entitled "*Rush Out - Oscar Winner Geoffrey Rush Quits as President of Film Academy After Allegation of Sexual Harassment*" published in *The Sun*.
- (k) On 3 December 2017, article entitled "*Geoffrey Rush Resigns from Australian Film Body*" published in *Click Lancashire*.
- (l) On 3 December 2017, article entitled "*Geoffrey Rush Steps Down from Australian Screen Academy Following Allegation*" published in *The Westmorland Gazette*.

In the USA

- (m) On 29 November 2017, article entitled "*Geoffrey Rush Denies 'Inappropriate Behaviour' during Sydney Theatre Company Play*" published in *People*.



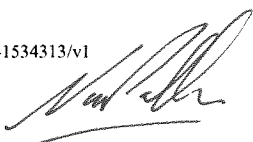
- (n) On 29 November 2017, article entitled "*Geoffrey Rush Denies Allegation of 'Inappropriate Behaviour' in 'King Lear' Production*" published in *Variety*.
- (o) On 29 November 2017, article entitled "*Geoffrey Rush Denies Allegations of 'Inappropriate Behaviour'*" published in *The Hollywood Reporter*. That article includes the following:

The issue of harassment in the workplace has dominated the Australia news this week as allegations of indecent assault, sexual harassment and bullying against Don Burke, the host and producer of former top-rated Nine Network lifestyle program, Burke's Backyard, were detailed by former female employees. In total, over 200 women have come forward with complaints against Burke since Fairfax Media and the Australian Broadcasting Corp broke the story earlier in the week.

- (p) On 30 November 2017, article entitled "*Geoffrey Rush Denies 'Inappropriate Behaviour' at Theater*" published in *Fox Boston*.
- (q) On 30 November 2017, article entitled "*Geoffrey Rush Denies 'Inappropriate Behaviour' at Theater*" published in *NBC New York*. That article includes the following:

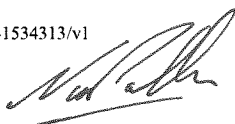
Harvey Weinstein's ouster from the Weinstein Company in light of multiple sexual misconduct allegations against him is causing thousands of other women to speak up and speak out against powerful abusers in the workplace.

- (r) On 30 November 2017, article entitled "*Geoffrey Rush Denies 'Inappropriate Behaviour' Allegations*" published in *Screen Rant*. That article opens with the words: "*Amid the barrage of sexual harassment allegations over the past few months, Geoffrey Rush is the latest actor to be accused of inappropriate behaviour*".
- (s) On 30 November 2017, article entitled "*Geoffrey Rush Denies 'Inappropriate Behaviour' at Theater*" published in *Business Insider*.
- (t) On 30 November 2017, article entitled "*Geoffrey Rush Denies Allegation of 'Inappropriate Behaviour' during 'King Lear' Production*" published in *IndieWire*.



- (u) On 30 November 2017, article entitled "*Actor Geoffrey Rush Denies Allegations of 'Inappropriate behaviour'*" published in *Syracuse*.
- (v) On 30 November 2017, article entitled "*Geoffrey Rush Denies Allegations of 'Inappropriate Behaviour'*" published in *Fox News*.
- (w) On 1 December 2017, article entitled "*Geoffrey Rush Denies 'Inappropriate Behaviour' at Theater*" published in *Chicago Tribune*.
- (x) On 2 December 2017, article entitled "*Geoffrey Rush Resigns from Academy Presidency, Blaming 'Unjustifiable' Reports about Inappropriate Behaviour*" published in *Vulture*. That article opens with the words: "*Earlier this week, Geoffrey Rush became the latest prominent man in Hollywood to be embroiled in the post-Harvey Weinstein reckoning...*"
- (y) On 2 December 2017, article entitled "*Geoffrey Rush Resigns from the Australian Academy over Accusations of 'Inappropriate Behaviour'*" published in *AV Club*.
- (z) On 2 December 2017, article entitled "*Geoffrey Rush Quits Industry Job after 'Inappropriate Behaviour' Claim*" published in *ABS-CBN*.
- (aa) On 3 December 2017, article entitled "*Geoffrey Rush Quits Industry Job after 'Inappropriate Behavior' Claim*" published in *Rappler*.
- (bb) On 4 December 2017, article entitled "*Geoffrey Rush Steps Down as Australian Academy President Amid Allegations of Inappropriate Behaviour*" published in *Los Angeles Times*.
- (cc) On 8 December 2017, article entitled "*Geoffrey Rush Sues Sydney Newspaper over Sexual Predator Allegations*" published in *USA Today*.
- (dd) On 8 December 2017, article entitled "*Geoffrey Rush Sues Australia's Daily Telegraph for 'False, Pejorative and Demeaning Claims'*" published in *The Wrap*. That article appears just above a photograph of Harvey Weinstein, Kevin Spacey, and others, and just above the following words:

In the wake of the Harvey Weinstein sexual misconduct scandal, women and men alike have been more vocal about speaking out against unwanted sexual advances and contact. The accusations have been many, and the reaction and fallout has been swift across the industry.



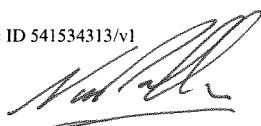
- (ee) On 13 December 2017, article entitled *"Want to Know if You're Watching Something Made by an Alleged Sexual Harasser? Check this Database"* published in *Rotten Apples*. That article opens with the words: *"Every day, it seems like yet another powerful figure in Hollywood is accused of sexual misconduct. These accusations pervade just about every level of Hollywood..."*
- (ff) On 30 January 2018, article entitled *"After Weinstein: More than 100 High-Powered Men Accused of Sexual Misconduct"* published in *USA Today*. The Applicant appears in that that article, which opens with the words: *"Since the allegations of sexual abuse by Hollywood producer Harvey Weinstein surfaced on Oct.5, women have been stepping forward to publicly share their stories of sexual misconduct"*.
- (gg) On 20 February 2018, article entitled *"Geoffrey Rush Inappropriately Touched Actress, Lawyer tells Courtroom"* published in *Fox News*.
- (hh) On 30 March 2018, article entitled *"The Never Ending List of Accused Perverts"* published in *Lone Conservative*. The Applicant's name appears in that list of *"celebrities and public figures who have recently been accused of sexual misconduct"*.

In Canada

- (ii) On 2 December 2017, article entitled *"Geoffrey Rush Steps Down as President of Australian Academy after Allegations of 'Improper Behaviour' while Performing with Theatre Company"* published in *ET Canada*.
- (jj) On 4 April 2018, article entitled *"A bit of Geoffrey Rush goes too far in in Final Portrait"*, published on the website of *Georgia Straight*. That article, which is about the Applicant's role in the 2017 film *"Final Portrait"*, includes the following sentence: *"Hard to say if Rush's current #MeToo problems inform the role or hinder it"*.

In India

- (kk) On 30 November 2017, article entitled *"Geoffrey Rush Denies Allegations of 'Inappropriate Behaviour in Play'"* published in *Hindustan Times*.
- (ll) On 30 November 2017, article entitled *"Geoffrey Rush: Never Involved in any 'Inappropriate Behaviour'"* published in *Times of India*.



(mm) On 1 December 2017, article entitled "Geoffrey Rush Denies Inappropriate Behaviour at Theatre" published in *The Indian Express*.

In Ireland

(nn) On 19 February 2018, article entitled "Geoffrey Rush's Repeated Touching Made Actor 'Uncomfortable', Court Told" published in *The Irish Times*.

In France


(oo) On 2 December 2017, article entitled "Geoffrey Rush Quits Industry Post Over 'Inappropriate Behaviour' Claim" published in *Echo Service*.

In Japan

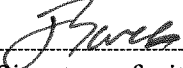
(pp) On 3 December 2017, article entitled "Geoffrey Rush Quits Industry Job after 'Inappropriate Behaviour' Claim" published in *Japan Today*.

13. A copy of the articles referred to at paragraph 12, above, appear at pages 54 to 305 of Exhibit NP-1.

Sworn / ~~Affirmed~~ by the deponent
at (place) Sydney
on (date) 09 / 04 / 2019



Signature of deponent

Before me:


Signature of witness

Full name of witness: JEREMY JOSEPH MAREL

Qualification of witness: SOLICITOR