

NOTICE OF FILING

Details of Filing

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| Document Lodged: | Affidavit - Form 59 - Rule 29.02(1) |
| Court of Filing | FEDERAL COURT OF AUSTRALIA (FCA) |
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| 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 |



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.

Affidavit

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

Affidavit of: **Monica Helen Allen**
Address: Level 17, 20 Martin Place, Sydney, New South Wales
Occupation: Solicitor
Date: 30 March 2025



I Monica Helen Allen, of Level 17, 20 Martin Place, Sydney, solicitor, say on oath:

1. I am a Special Counsel at BlackBay Group Pty Ltd trading as BlackBay Lawyers (BlackBay), the solicitors for the Appellant.
2. I swore an affidavit on 27 March 2025 in support of the Appellant's interlocutory application of the same date (27 March Affidavit).
3. I have become aware that there are minor errors in the transcript of the audio recording between the Second Respondent and Person 17 as set out in paragraph 11 of my 27 March Affidavit. A corrected version of the transcript is set out below:

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|---------------|---|
| Nick McKenzie | You've got that um Danielle and Emma like trying to tell you yet again I know you won't burn me so you can't tell Dean please or Monique or anyone that I've told you this. |
|---------------|---|

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 monica.allen@blackbaylawyers.com
Address for service Level 17, 20 Martin Place, Sydney, New South Wales, 2000
(include state and postcode)

[Version 3 form approved 02/05/2019]

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|---------------|---|
| Nick McKenzie | You know the fact they've actively like briefing us on his legal strategy in respect of you like yeah we... yeah we're not learning like we anticipated most of it. One or two things now we know, <u>which is helpful it's just how it was. But the point -</u> the reason I told you that was to say like we've got this, and they're not hostile to you despite your worst fears. They're not. I've told you that so many times now as well. And I had to tell you that extra bit to sort of prove in your mind. |
| Person 17 | Maybe that's what has to happen like so - |
| Nick McKenzie | (voice raised) I shouldn't - I shouldn't tell you. I've just breached my fucking ethics in doing that like this is where like, this has put me in a shit position now like. If Dean knew that and then you know I'd get my arse fucking handed to me on a platter like |
| Person 17 | Well that's where I say you know you've got to trust me as well and I've not done anything - |
| Nick McKenzie | (NM talks over) I know I know that's why I'm telling you |
| Person 17 | I know I know so - |
| Nick McKenzie | I wouldn't tell anyone else, I haven't told anyone like no one else I'd tell is, no one knows about the police investigation. It's a sensitive ongoing police investigation. Phone taps, task force, there's a new - there's a whole new task force is being set up in Brisbane, an entire new task force. There's police living in his apartment block under assumed identities as we speak. Like the guy is fucked. |

Sworn by the deponent
via AV link pursuant to the Electronic
Transactions Amendment (Remote
Witnessing) Act 2021
on 30 March 2025
Before me

Signature of witness
Victoria-Jane Otavski
Solicitor

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Signature of deponent