

## NOTICE OF FILING

### Details of Filing

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*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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## Reply

No. VID 404 of 2025

Federal Court of Australia  
District Registry: Victoria  
Division: General

### **ALON CASSUTO**

Applicant

### **MARY KOSTAKIDIS**

Respondent

In reply to the Defence to the Further Amended Statement of Claim filed by the Respondent dated 28 November 2025, the Applicant says as follows (adopting the definitions in the Further Amended Statement of Claim dated 31 October 2025) (**FASOC**):

1. Save for the admissions herein, the Applicant denies each and every allegation in the Respondent's Defence and joins issues with the Respondent in respect of the matters raised in her Defence.
2. In response to paragraph 16(b)(ii), the Applicant denies the paragraph and says further that, before the October 7 Attack, the Respondent posted frequently about the State of Israel, Zionists and Jews.

### **Particulars**

So far as the Applicant is aware, before the October 7 Attack, the Respondent posted about the State of Israel, Jews and/or Zionists at least 158 times.

3. In response to paragraph 24A, the Applicant denies the paragraph and says further that:
  - a. the Respondent's statement that "The Israeli govt getting some of its own medicine. Israel has started something it can't finish with this genocide. #Gaza" was not a fair comment because it was:

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- i. not expressed as a statement of opinion, but rather purported to be a statement of fact or facts (including that Israel was committing or had committed a genocide); and
  - ii. further and in the alternative:
    - 1. not based upon facts which were true; and/or
    - 2. not based upon facts which were expressly stated or notorious; and
- b. the 4 January Post was not made reasonably and in good faith for the purposes of s 18D(c)(ii) of the *Racial Discrimination Act 1975* (Cth) because:
- i. the Respondent did not contextualise or explain who Mr Nasrallah was, namely, the leader of a terrorist organisation committed to the destruction of the State of Israel and the killing of Jews;
  - ii. the Respondent did not disclaim the content of the Nasrallah Video;
  - iii. the Respondent's statement that "The Israeli govt getting some of its own medicine. Israel has started something it can't finish with this genocide. #Gaza" was an endorsement:
    - 1. of the perpetration of harm against Israelis and/or Jews as the "Israeli govt" "getting some of its own medicine"; and/or
    - 2. of the contents of the speech by Mr Nasrallah, the leader of a terrorist organisation, which, among other things, called for the removal of Israelis and/or Jewish people from the State of Israel;
  - iv. the 4 January Post was not done in a way designed to minimise the offence or insult, humiliation or intimidation likely to be suffered by Jewish Australians and/or Israeli Australians;

### **Particulars**

The Applicant repeats the particulars to paragraph 22 of his FASOC.

- v. the 4 January Post was disproportionate to what was necessary to carry out an activity for the purposes of s 18D(c) of the *Racial Discrimination Act 1975* (Cth);
- vi. of the Respondent's history of posting about Israel and/or Jews as pleaded at paragraph 17 of the FASOC and paragraph 2 above; and/or

- vii. insofar as the Respondent contends that the making of the 4 January Post was objectively reasonable or made in good faith relying upon the matters pleaded at paragraphs 12(c) to (i) of the Defence, those matters do not support such a plea because:
1. paragraphs 12(g), (h) and (i) of the Defence plead 'reporting' 20 months, 22 months, 19 months, and 15 months after the 4 January Post and cannot bear any rational relationship with the 4 January Post;
  2. the particularised report upon which the Respondent relies at paragraph 12(f) of the Defence quotes from data from the "Ministry of Health" in Gaza, which is controlled by the terrorist organisation, Hamas, and lacks credibility or reliability;
  3. the particularised article upon which the Respondent relies at paragraph 12(g) of the Defence quotes data from the "Government Media Office" in Gaza, which is controlled by the terrorist organisation, Hamas, and lacks credibility or reliability; and
  4. the particularised article upon which the Respondent relies at paragraph 12(h) of the Defence quotes data from the "Ministry of Health" in Gaza and/or "Palestinian Ministry of Health, Gaza Government Media Office", which are controlled by the terrorist organisation, Hamas, and lacks credibility or reliability.
4. In response to paragraph 26A, the Applicant denies the paragraph and says further that:
- a. the 13 January Post was not made reasonably and in good faith for the purposes of s 18D(c)(i) of the *Racial Discrimination Act 1975* (Cth) because:
    - i. the Respondent did not contextualise or explain who Mr Nasrallah was, namely, the leader of a terrorist organisation committed to the destruction of the State of Israel and the killing of Jews;
    - ii. the Respondent did not disclaim the content of the Nasrallah Video;
    - iii. nine days earlier, in the 4 January Post, the Respondent had commented on the Nasrallah Video in the manner referred to in paragraph 3 above;
    - iv. the 13 January Post was not done in a way designed to minimise the offence or insult, humiliation or intimidation likely to be suffered by Jewish Australians and/or Israeli Australians; and/or

### Particulars

The Applicant repeats the particulars to paragraph 22 of his FASOC.

- v. of the Respondent's history of posting about Israel and/or Jews as pleaded at paragraph 17 of the FASOC and paragraph 2 above.

5. In response to paragraph 29, the Applicant:

- a. says that the paragraph is embarrassing and liable to be struck out because it does not plead any material fact in support of a claim or defence; and

- b. under cover of the foregoing objection:

- i. admits that:

- 1. he filed the complaint on 14 July 2024, approximately six months after the 4 January Post and 13 January Post;
    - 2. on 14 July 2024, the Zionist Federation of Australia held a press conference and published a statement which described the complaint made by the Applicant to the AHRC that day (and upon the full terms of which the Applicant may rely);

- ii. in response to sub-paragraph (a), says that:

- 1. his solicitors wrote to Ms Kostakidis by letter dated 8 July 2024, which included the following (as was the fact):
      - a. "The purpose of this letter is to privately offer you an opportunity to make amends, withdraw and publicly apologise to Mr Cassuto and to members of his Jewish and Israeli communities for certain unlawful and antisemitic posts that you have published on social media since 7 October 2024" (paragraph 4);
      - b. "Mr Cassuto's objective is to stop the proliferation of antisemitism and hateful content emanating from social media accounts like your own which are threatening and insulting to him, his friends and his community. They are dangerous and contribute to the extremism that threatens the social cohesion of Australian communities – in particular the Jewish community. They are also contrary to the laws of Australia" (paragraph 19);

- c. “Mr Cassuto’s preference is to avoid a costly, time consuming and protracted process” (paragraph 20);
  - d. that the Applicant proposed to not take the matter further if the Respondent agreed in principle to an apology in agreed terms, the removal of the 4 January and 13 January Posts and other antisemitic materials from her social media account, and an undertaking not to repeat the same or similar conduct in the future (paragraph 21); and
  - e. if the Respondent did not agree to these matters by 12 July 2024, the Applicant would file a complaint in the AHRC or other legal process without further notice (paragraph 21);
2. the Respondent did not respond to the Applicant’s solicitors 8 July 2024 letter by 12 July 2024; and
  3. the Applicant’s solicitors repeated his offer to resolve the matter in the same terms as had been offered on 8 July 2024, by letter dated 17 July 2024;
- iii. says that:
1. he has at all times complied with the requirements of the legislative scheme;
  2. there is no legislative or other requirement to file his complaint in a lesser period as implied by sub-paragraph (b), nor does the Respondent contend there is such a requirement; and
  3. so far as the Applicant is aware, neither the Applicant, nor his legal representatives, are members of the Creative WhatsApp Group pleaded in sub-paragraph (c), nor does the Respondent contend that they are; and
- iv. otherwise denies the paragraph.

Date: 15 December 2025



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Signed by Leon Zwier

Arnold Bloch Leibler  
Solicitors for the Applicant



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Signed by Raphael Leibler

This pleading was prepared by T K Jeffrie and C Mintz of counsel and settled by M I Borsky KC.

**Certificate of lawyer**

We, Leon Zwier and Raphael Leibler certify to the Court that, in relation to the reply filed on behalf of the Applicant, the factual and legal material available to us 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: 15 December 2025



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Signed by Leon Zwier

Arnold Bloch Leibler  
Solicitors for the Applicant



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Signed by Raphael Leibler