

NOTICE OF FILING

Details of Filing

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



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.



Form 59
Rule 29.02(1)

Affidavit

No. NSD 689, 690 and 691 of 2023

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

Ben Roberts-Smith

Appellant

Fairfax Media Publications Pty Ltd and others

Respondents

Affidavit of: **Nicholas David McKenzie**
Address: Level 7, 717 Bourke Street, Docklands VIC 3008
Occupation: Journalist
Date: 24 April 2025

I, Nicholas David McKenzie, investigative journalist at The Age, affirm:

1. I am the Second Respondent in these proceedings.
2. I affirmed an affidavit on 14 April 2025 in response to the Appellant's Interlocutory Application filed 27 March 2025 (**First Affidavit**).
3. Since making my First Affidavit, I have identified an error in paragraph 53 of my First Affidavit. In that paragraph, I say that, on 10 March 2021, I sent Dean Levitan a series of images and screenshots I had obtained from Danielle. Those images and screenshots are exhibited at pages 158 to 208 of Exhibit NM-1. The images and screenshots indicate that the underlying messages from Danielle to me date from 1 March to 18 March 2021.

Filed on behalf of (name & role of party)	Fairfax Media Publications Pty Ltd and others, the Respondents
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[Version 3 form approved 02/05/2019]

W.D. *NAB*


It follows that the date "10 March 2021" in my First Affidavit is incorrect as some of the images could only have been provided to Mr Levitan after that date.

4. Paragraph 53 should read as follows:

"In around March 2021, I obtained a series of images and screenshots from Danielle. A copy of these documents is at pages 158 to 208 of Exhibit NM-1. I received the images and screenshots from Danielle on the dates shown on the images in the period 1 March 2021 to 18 March 2021. I provided these images and screenshots to Mr Levitan and I expect that, consistent with my usual practice, I would have sent them to Mr Levitan at or around the time that I received them from Danielle."

Affirmed by the deponent
at Melbourne
in Victoria
on 24 April 2025
Before me:

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Signature of deponent



Signature of witness

Mahnoor Gillani, Solicitor
MinterEllison
Collins Arch, 447 Collins Street
Melbourne VIC 3000

N.A. NFB