

NOTICE OF FILING

Details of Filing

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File Title: JOSEPH TOLTZ & ORS v NICK RIEMER & ANOR
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.



Statement of claim

No. of 2025

Federal Court of Australia
District Registry: NSW
Division: Human Rights

Joseph Toltz and others
Applicants

Nick Riemer and another
Respondents

Jurisdiction

1. This proceeding is within the jurisdiction of the Federal Court of Australia conferred by section 46PO of the *Australian Human Rights Commission Act 1986* (Cth) and section 39B(1A)(c) of the *Judiciary Act 1903* (Cth).

Parties

2. The Applicants are all natural persons capable of suing.
3. The First Applicant (**Dr Joseph Toltz**), is and at all relevant times was, a researcher at Sydney University specialising in Jewish music and its migrations, and Manager of Research Support in the Faculty of Arts and Social Sciences.
4. The Second Applicant (**Professor Emeritus Suzanne Rutland**), is and at all relevant times was, a Professor Emeritus of The University of Sydney (**Sydney University**), Department of Hebrew, Biblical & Jewish Studies.
5. The Third Applicant (**Mr Ariel Eisner**):
 - a. is and at all relevant times was an elected officer of the Australasian Union of Jewish Students (**AUJS**);

Particulars

- (i) AUJS is the peak representative body for Jewish university students across Australia and New Zealand.

Filed on behalf of (name & role of party) The Applicants
Prepared by (name of person/lawyer) Hamish Rotstein
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- (ii) From 7 October 2023, the Third Applicant was the head of politics for AUJS NSW.
 - (iii) From January 2025 to the present, the Third Applicant has been the national head of campaigns for AUJS.
 - b. was until he graduated in November 2024, a student enrolled at Sydney University studying a Bachelor of Architecture.
6. The Fourth Applicant (**Mr Yaniv Levy**):
- a. is and at all relevant times was a Research Education Lead in the Faculty of Medicine and Health at Sydney University; and
 - b. was a student at Sydney University enrolled in a Graduate Diploma of Crosscultural and Applied Linguistics from Semester 1 2024 until he withdrew on about 6 August 2024.
7. Each Applicant is a **Jewish person** or a person who is, or is eligible to be, an Israeli citizen (**Israeli person**).
8. For the purposes of the *Racial Discrimination Act 1975* (Cth):
- a. Jewish people constitute a group of people with a shared race, descent and/or ethnic origin.
 - b. Israeli people constitute a group of people with a shared ethnic origin and/or nationality.
9. Israel is a nation state and the national home of and for Jewish people. Its citizens are mostly Jewish people.
10. Zionists are predominantly Jewish people and/or Israeli people who believe in Israel being a nation state and the national home of and for the Jewish people. A substantial proportion of Jewish and/or Israeli people identify themselves as Zionists.
11. The first respondent (**Dr Riemer**) is and at all relevant times was:
- a. a Senior Lecturer in the Discipline of English and Writing at Sydney University;
 - b. President of the Sydney University Branch of the National Tertiary Education Union (**USYD NTEU**), and from about 18 October 2024 its Vice President;

Particulars

- (i) The President of USYD NTEU was required to be a member of the academic staff of Sydney University.

(ii) Dr Riemer has, since about 18 October 2024, been Vice-President (academic) of USYD NTEU, a position that also needs to be filled by an academic staff member of Sydney university.

c. Head of the Sydney Staff for Boycott, Divestment and Sanctions (**BDS**) movement at Sydney University.

12. The Second Respondent (**Sydney University**) is a body corporate incorporated under s 5 of the *University of Sydney Act 1989* and is capable of being sued.

Dr Riemer's X (Twitter) and FaceBook Pages

13. At all material times Dr Riemer operated and still operates an X page (**Riemer X Page**) at the web address: <https://x.com/nickriemer1?lang=en>

Particulars

a. The First Respondent's handle is '@NickRiemer1.'

b. At least since 7 October 2023 the First Respondent has referred to himself as being an 'academic,' 'President, USYD @NTEUnion' (recently 'Vice-president (academic)), USYD @NTEUnion, and Author, Boycott Theory & the Struggle for Palestine (2023).

c. The First Respondent joined that site on January 2013.

14. In around October 2024 the Riemer X Page had approximately 5,220 Followers and at the time of the Statement of Claim has about 5,519 Followers.

15. The Riemer X Page is and was at all relevant times accessible by members of the public whether or not they 'follow' Dr Riemer.

16. The Riemer X Page is regularly updated with various publications including text, photos and audio-visual recordings of remarks and speeches.

17. A number of the publications which appear on the Riemer X Page include links to various written or spoken material by Dr Riemer or material the content of which he endorses or on which he comments.

18. Dr Riemer still operates and has at all material times operated a Facebook page (**Riemer Facebook Page**) at the web address: <https://www.facebook.com/nick.riemer.9>

19. The Riemer Facebook Page is and was at all relevant times accessible by members of the public whether or not they 'follow' Dr Riemer.

20. The Riemer Facebook Page was or has been regularly updated with various publications including text, photos and audio-visual recordings of remarks and speeches. Dr Riemer stated that he does not post much on Facebook anymore since Facebook "*cancel pro-*

Palestinian content so much.” Accordingly the Riemer X Page is more recently and extensively used by him than Facebook.

The first and second intifadas

21. The intifadas were, and were known as, the armed and violent uprising of Palestinians against Israeli occupation of the West Bank (including East Jerusalem) and Gaza strip.
22. The first intifada began in December 1987 and ended in September 1993. The second intifada began in December 2000 and had run its course by late 2005. The two uprisings resulted in the death of more than 5,000 Palestinians and some 1,400 Jews or Israelis.
23. The first intifada began with rioting but after the first year it shifted from throwing rocks and Molotov cocktails at Israeli targets to attacking Jews or Israelis with rifles, hand grenades and explosives.
24. The second intifada was much more violent than the first. The violence included directly attacking Jewish or Israeli civilian centres, but also attacks on vehicles and civilians through suicide bombings, drive by shootings and rocket attacks. Over 1,000 Jews or Israelis were killed, and thousands of Jews or Israelis were severely injured, in those attacks. During the approximate five-year uprising, more than 4,300 fatalities were registered with a similar ratio of Palestinian to Jewish or Israeli deaths to the first intifada of the second intifada being slightly more than 3 to 1.
25. The Palestinians engaging in the violence described above against Jewish persons or Israeli persons did so because they were, or were believed to be, Jewish persons or Israeli persons.

Hamas

26. Since 4 March 2022 Hamas has been listed by the Attorney General of the Commonwealth as a terrorist organisation under the *Criminal Code Act 1995* (Cth): s 102.1.
27. The Statement of Reasons for listing Hamas as a terrorist organisation include that it is guided by Islamic principles of “*destroying Israel*”.
28. The Hamas Covenants express an intention is to dismantle Israel as “*the Zionist entity*” and to create an Islamic State in its place.
29. The Hamas Covenants identify Hamas’ *raison d’être* as “*obliterating*” Israel and “*killing the Jews*”.

7 October 2023

30. On 7 October 2023, Hamas members illegally invaded the State of Israel and killed, raped, maimed, sexually abused or tortured more than 1,200 Jewish people and/or Israeli people.
31. During the 7 October 2023 invasion, Hamas members also kidnapped, abducted and took as hostages more than 250 persons who were overwhelmingly Jewish people or Israeli people including women, children and the elderly.
32. Hamas's acts described above were taken because Hamas's leadership, commanders, members and operatives in the field believed the men, women and children intended by them to be subjected, and in fact subjected, to those acts:
 - a. were Jewish persons or Israeli persons; and
 - b. were subjected to those acts because they were or were believed to be in almost all cases Jewish persons or Israeli persons.

DR RIEMER'S IMPUGNED ACTS UNDER s 18C of the *Racial Discrimination Act 1975 (Cth)* (RDA)

- a. **'The call for a Global Intifada'**
33. On 1 November 2023, Dr Riemer posted the following post calling for a meeting of students to promote "Palestine: the case for a global intifada" (**the Riemer Global Intifada X Post**), which post was coupled with a Hamas bulldozer picture showing the widely publicised bulldozing by Hamas on 7 October 2023 of the Israeli security fence separating Gaza from Israel.



Nick Riemer
@NickRiemer1

A student meeting on Palestine at @Sydney_Uni has been banned on the false grounds that it 'may be linked to support for terrorist activities', without a shred of evidence. I've written to VC @mscott in protest: the university must be a place for critical & independent thought.



34. The photo at the bottom of the post when clicked on becomes visible as a larger picture. The photo states at the top "A student meeting hosted by Solidarity".

Particulars

- a. Solidarity is a pro-Palestinian student group that closely follows and mimics Dr Riemer. Further particulars to be provided.



35. In Dr Riemer's letter to the Vice Chancellor of Sydney University, Mark Scott, which is annexed to the post, Dr Riemer protests a decision by Mark Scott to ban an intended Solidarity student meeting (that in any event ensued) on 1 November 2023 which was to

support a global intifada as set out in the headline 'Palestine: the case for a global intifada'.



36. The Riemer Global Intifada X Post has been constantly displayed on the Riemer X Page since 1 November 2023, attracted over 124,700 views as at the time of filing the Complaint (October 2024), and about 125,100 views as at the date of the Statement of Claim.

37. On 1 November 2023 - the same day as Dr Riemer posted the Riemer Global Intifada X Post - the Solidarity meeting did take place in a public open-air space location at Sydney University.

38. There was group chanting at the meeting by persons, including Dr Nick Riemer, as follows:

"...Israel out of Gaza, Israel out of Palestine, long live the intifada! Free, free the West Bank, Israel out of Gaza, Israel out of Palestine long live the intifada!"

39. The individual speech made by Dr Riemer at the meeting included the following statement:

"...we have a right to organise around supporting Palestinians. It's not just a slogan. Their resistance is justified because of the occupation, at all times, violent or not."

40. The Riemer Global Intifada X Post and Dr Riemer's participation in the chant and the quoted section of his speech conveyed the following imputations:

- a. The violent uprising against Jewish people and Israeli people in Israel in support of a Palestinian state in the first and second intifadas should extend to a violent global uprising against Jews and Israelis in Australia and other parts of the world in support of the Palestinian resistance.
- b. That the events of 7 October were to be celebrated and endorsed.
- c. That Hamas' Intifada and its related violence against Israelis and Jews, including on 7 October, is justified until Israel, Israelis and Jews are removed from Palestine.

b. **Riemer's 8 October Post**

41. On 8 October 2023, the day after the 7 October Hamas attacks in Israel, Dr Riemer posted the following to his Riemer X Page (**Riemer's 8 October Post**):



Nick Riemer
@NickRiemer1

...

No progressive should feel the need to publicly condemn any choices by the Palestinian resistance. Doing so just adds to the perception that their cause is unjust. Condemnation is the speech-act you perform when breaking contact off with someone, not when standing in solidarity.

10:44 AM · Oct 8, 2023 · **315.6K** Views

42. In about October 2024, Dr Riemer's 8 October Post had in excess of 319,100 views and at the date of this Statement of Claim it had about 320,000 views and remains accessible.
43. Dr Riemer's 8 October Post conveyed the following imputations:
- a. Hamas' cause, and what it did, on 7 October 2023 against Jewish people and Israeli people in pursuit of that cause should not be considered to be unjust;
 - b. people should express solidarity with, and support of, Hamas' objectives and activities against Jewish people and Israeli People;
 - c. people should express their solidarity with, and support of, Hamas' cause and its activities on 7 October 2023 in support of that cause.

c. **Riemer's 7 October Repost**

44. On 7 October 2023 Dr Riemer reposted the following tweet on his Riemer X account:



45. As at about March 2024, Riemer's 7 October repost had over 42,000 views.
46. The post (endorsed by the Repost) proceeds on the basis that the Jewish people and/or Israeli people who had been murdered, maimed, kidnapped, raped or sexually abused were Zionists by virtue of being Jewish and/or Israeli.
47. The 7 October repost had the following imputation:
- a. There is no basis or reason for anyone to be upset or shocked by the murder, maiming, kidnapping, rape and sexual abuse by Hamas of Jewish people and Israeli people on 7 October 2023.

d. **Riemer's Overland Article published on 15 October 2023**

48. On 15 October 2023, Dr Riemer published an article in *Overland* which was and remains able to be viewed at: <https://overland.org.au/2023/10/it-has-never-been-more-vital-to-stand-with-palestine/>
49. *Overland* is an established Australian literary and cultural magazine published quarterly in print as well as online.

50. The article describes the author as follows: “Nick Riemer works in the English and linguistics departments at the University of Sydney. He is currently president of the Sydney University branch of the National Tertiary Education Union.”

51. The article contained the following extracts:

“That is just one reason why solidarity with Palestinians is essential for anyone who wants to retain their own fundamental freedoms. Palestine solidarity is not just internationalism or anticolonialism or antiracism or even humanitarianism; it is not just an expression of compassion, or altruism, or basic decency: it is a necessity for the defence of democratic prerogatives against authoritarianism and neo-fascism in Western nations. In cheering on the antidemocratic suppression of protest Zionists sometimes thought of as ‘liberal’ have let their masks slip. Their support for Israeli apartheid and permanent war against Palestinians can only mean opposition to democracy in their own countries” [P 3/13]

...

The official representatives of democracy, with honourable rare exceptions, have failed democracy again.

...

Condemning a person means abandoning the effort to understand them. After a condemnation, all that is left is absolute rejection and banishment: renouncing the devil and all his works. Condemning is what a judge does when they sentence a prisoner to death. Once someone is condemned, there’s no point in talking about why they might have done what they have done: the final verdict is delivered; no more remains to be said. This is exactly why Zionists demand that we condemn Hamas: to block any move towards understanding it and what might motivate its resistance to Israeli colonisation – to erase the understanding of why Palestinians fight back.” [P-4/13]

52. The first extract set out above has the following imputation:

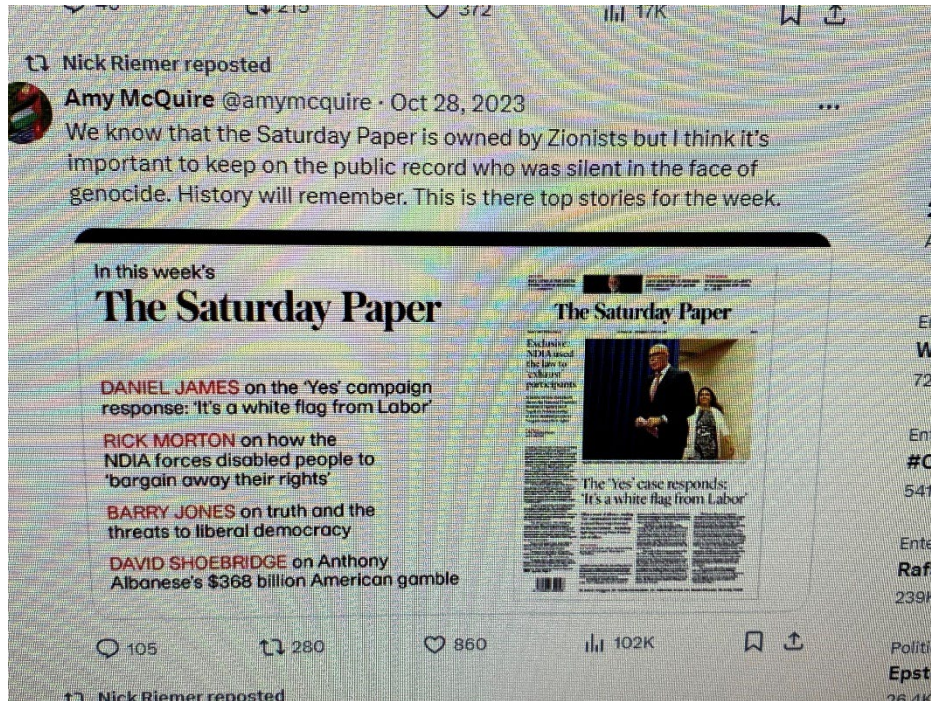
- a. contrary to the false image that Jewish people and Israeli people have cultivated, Jewish people and Israeli people have now been exposed as racist supporters of apartheid and of a permanent war against Palestinians as well as being people who surreptitiously oppose democracy in their own countries.

53. The third extract set out above has the following imputation:

- a. Jewish people and Israeli people demand condemnation of Hamas only so as to erase any understanding of why there is Palestinian resistance to Israel’s occupation of the Palestinian territories.

e. **The Saturday Paper “Owned By Zionists” Repost**

54. On 28 October 2023, Dr Riemer reposted an Amy McQuire post as follows:



55. As at about March 2024, the Saturday Paper “Owned by Zionists” Repost had about 102,000 views.
56. The Saturday Paper “Owned by Zionists” Repost had the following imputations:
- a. Jewish people misuse their ownership of the media to conceal from the public the genocide that Jewish people and Israeli people are engaging in Gaza;
 - b. the silence of Jewish people and Israeli people about that genocide will fail because history will remember and record it.
57. By making those imputations, the “Owned by Zionists” Repost repeats and amplifies the well known antisemitic trope that the Jews control the media.
- f. **The “No room for Zionism in our Unions” Speech and Posts**
58. Dr Riemer made two X Posts on 12 November 2023. The first Post quotes Dr Riemer’s own speech at a rally the day before:



Nick Riemer
@NickRiemer1



There were some hugely powerful & moving speeches from Palestinians at yesterday's Botany protest which I hope we captured on video. I spoke on why there's no room for racism, settler-colonialism, apartheid or Zionism in our unions. 🇵🇸



11:08 AM · Nov 12, 2023 · 6,629 Views



Nick Riemer @NickRiemer1 · Nov 12, 2023



Replying to @NickRiemer1

That's why there is no room for racism, for settler-colonialism, for apartheid in our unions, and there is no room for Zionism in our unions.



59. At the time of filing this Statement of Claim, the “No room for Zionism in our Unions” Posts had about 6,706 and 526 views respectively and remain accessible online.
60. The “No room for Zionism in our Unions” Speech and Posts had the following imputations:
- a. Jewish people and Israeli people should be excluded from any participation in Unions in Australia including in the National Tertiary Education Union.
 - b. Because of the racism, settler-colonialism and apartheid engaged in by Jewish people and Israeli people there is no room for such people in the Union movement in Australia, including in the National Tertiary Education Union.
- g. The Lattouf sacking Post**
61. On 12 November 2023, being the same day as Dr Riemer posted the “No room for Zionism in our Unions” Speech and Posts, Dr Riemer posted the following:



62. At the time of filing this Statement of Claim, the Lattouf sacking Post had over 25,600 views.
63. The Lattouf sacking Post had the following imputations:
- a. Jewish people and/or Israeli people are “unbridled McCarthyists” when they supported the sacking of ABC presenter Antoinette Lattouf.
 - b. Those Jewish people and/or Israeli people are a threat to the public and that threat is getting worse.
- h. **The Zionists are racists Post**
64. On 29 December 2023, Dr Riemer reposted the following in two postings on the Riemer X Page:

🔄 Nick Riemer reposted

M Mondoweiss 
@Mondoweiss  ...

"Palestinians bear no responsibility to coddle the feelings of Zionist racists. We collectively refuse to provide Zionists with reassurances to placate and soothe their political anxieties." - @RandaAFattah

bit.ly/3voU77K

#ZionistFragility



mondoweiss.net


1:00 PM · Dec 29, 2023 · 5,688 Views

Particulars

- a. A repost of Mondoweiss.
 - b. A repost of Randa Abdel-Fattah.
65. At the time of filing the Complaint in October 2024, the Zionists are racists Reposts had over 112,600 views (Randa Abdel-Fattah repost) and 5,862 views (Mondoweiss).
66. The Zionists are racists Reposts had the following imputation:
- a. Jewish people, Israeli people and Zionists are racists.
- i. **The Zionists smartwash Repost**
67. On 24 December 2023, Dr Riemer reposted the following post:



68. At the time of filing the Complaint in October 2024, the Zionists smartwash Repost had about 940 views.
69. The Zionists smartwash Repost had the following imputation:
- a. Jewish people, Israeli people and Zionists deceptively and falsely proclaim that the atrocities committed by Israel were normal lawful activities.
 - j. **The Zionists' Licence to Lie and Slander Post**
70. On 2 February 2024, Dr Riemer posted the following Post:

 **Nick Riemer**
@NickRiemer1


Now even the police reject the slur about antisemitism at the October Palestine rally. Zionists are losing their licence to lie & slander.

Time for all the servile politicians who unhesitatingly jumped on the bandwagon to rethink their loyalties, but I'm not holding my breath.

From 1h ago

22.28 GMT

NSW police say no evidence offensive antisemitic phrase chanted at pro-Palestine protest last year

 Tory Shepherd

New South Wales police say an independent analysis of audio and video files from a pro-Palestine protest at the Sydney Opera House last year found no evidence for claims that anyone had chanted “gas the Jews”.

People reported hearing the comments **at the protest in October last year**, and the reports are being investigated by **Strike Force Mealing**.

In a statement this morning, police said they would continue their investigation and urged anyone with information to **contact Crime Stoppers**. Police said:

“Strike Force Mealing was established to investigate reported unlawful activity committed during an unauthorised protest at the Sydney Opera House on 9 October 2023.

Police received reports following the protest suggesting that an offensive antisemitic phrase was chanted during the event.

As a result of independent forensic analysis of audio-video files of the demonstration provided to investigators, police have no evidence that this phrase was used.

Police also obtained statements from several individuals who attended the protest indicating they heard the phrase however these statements have not attributed the phrase to any specific individual.

We'll bring you more after a press conference due to start shortly.

10:52 AM · Feb 2, 2024 · 6,938 Views

63 97 247 10

71. At the time of filing this Statement of Claim, Riemer's Zionists' Licence to Lie and Slander Post had about 7,085 views and remains accessible.
72. The Zionists' "Licence to Lie and Slander" Post had the following imputation:
 - a. Jewish people, Israeli people and Zionists are people who lie and slander in pursuing their causes.
73. By making those imputations, the "Zionists' Licence to Lie and Slander" Post repeats and amplifies the well known antisemitic trope that the Jews are deceptive.
 - k. **The Zionists support genocide Repost**

74. On 5 March 2024, Dr Riemer reposted the following post:



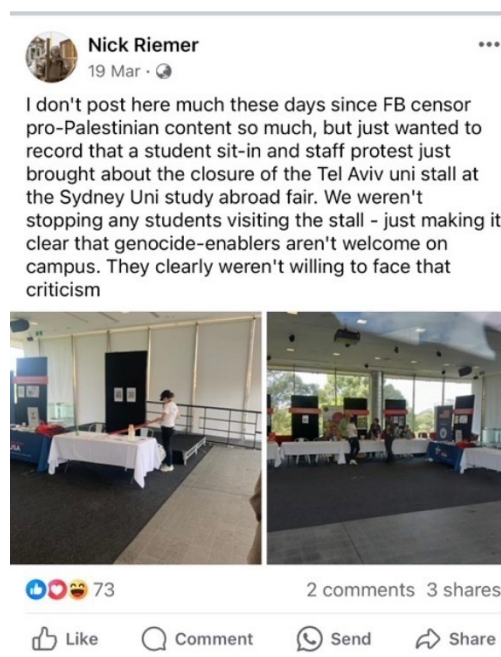
75. At the time of filing the Complaint in October 2024, Dr Riemer's "Zionists support genocide" Repost had in excess of 67,900 views.

76. The "Zionists support genocide" Repost had the following imputations:

- a. Jewish people, Israeli people and Zionists support genocide;
- b. Jewish people, Israeli people and Zionists are hypocrites.

I. **The genocide enablers Post**

77. On 19 March 2024, Dr Riemer posted the following post on his Facebook page which remains accessible:



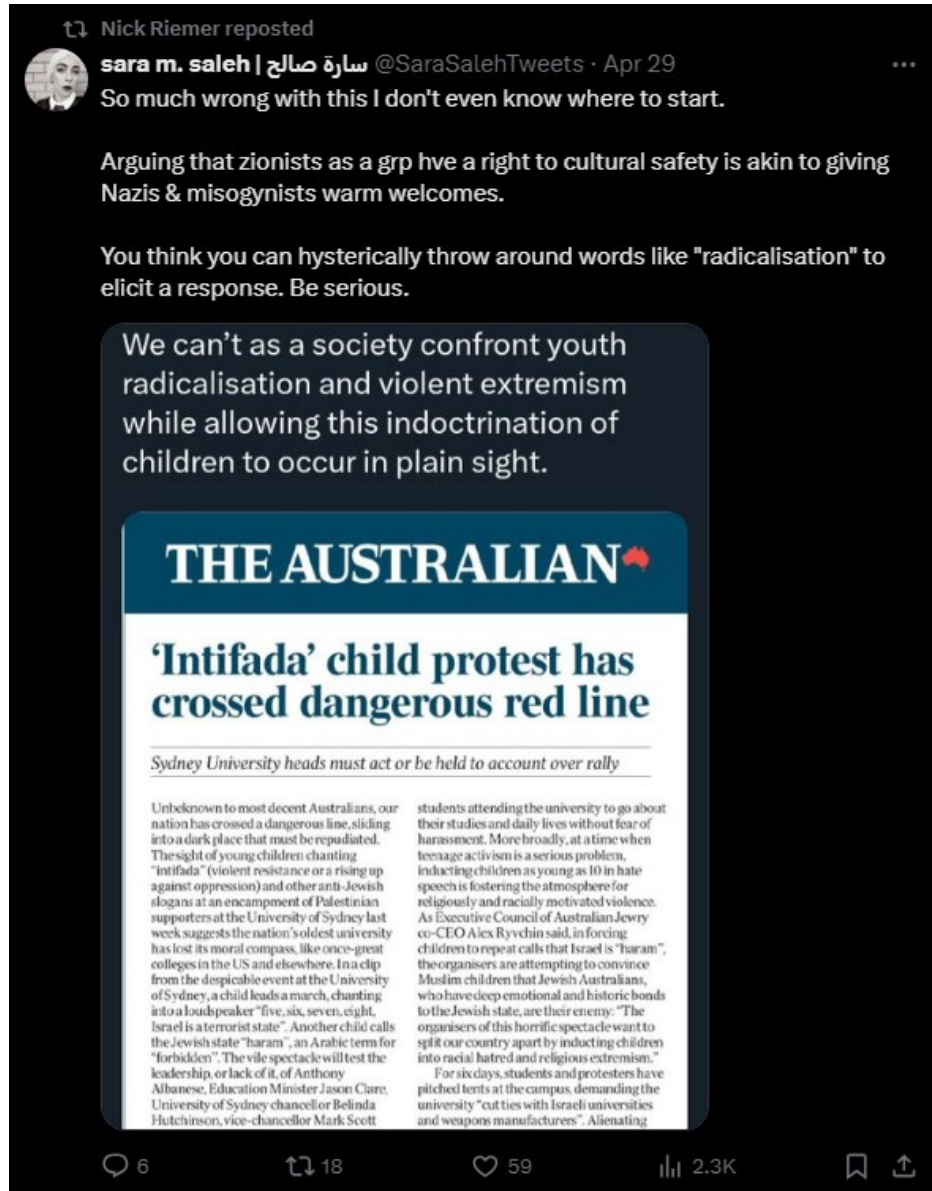
78. The "genocide enablers" Post had the following imputation:

- a. The Israeli people at the Tel Aviv University stall at Sydney University and other Jewish people or Israeli people are genocide enablers.

b. That Jewish people and Israeli people are not welcome on the Sydney University campus.

m. **The akin to Nazis Repost**

79. On 29 April 2024, Dr Riemer reposted the following post:



80. At the time of filing the Complaint, the “akin to Nazis” Repost had about 2,376 views.

81. The “akin to Nazis” Repost had the following imputations:

- a. Jewish people, Israeli people and Zionists, are akin to Nazis and misogynists.
- b. Jewish people, Israeli people and Zionists have no right to cultural safety.

n. **The Genocide Post and Speech**

82. On 3 May 2024, Dr Riemer posted on his X Page the “Genocide” Post and Speech as set out below.

“Safety means opposing Genocide”:

...

A ‘march for a single campus’: Let’s reflect on that. Zionists clearly think that if they talk about safety, then they’ll be able to make people think that they’re the victims, and forget that, actually, they’re supporting a genocidal slaughter. They think safety on campus will turn the debate in their favour and put us on the back foot.”

...

“What happens when we tell Zionists that there just is no identity that can have as its condition the dispossession and slaughter of an entire people? They instantly tell us that we’re making them feel unsafe”

83. At the time of filing the Complaint in about October 2024, Riemer’s Genocide Post and Speech had in excess of 34,300 views.
84. The paragraphs set out above, and the speech contain the following imputations:
- a. Jewish people, Israeli people and Zionists support the genocidal slaughter of Palestinians.
 - b. Jewish people, Israeli people and Zionists mislead people into thinking they feel unsafe when what they are really doing seeking freedom to support genocide.

Contravention of s 18C - Dr Riemer

85. Dr Riemer’s postings, repostings, chant, speeches and the article described above (**the impugned acts**) each caused words, sounds and/or images to be communicated to the public. They were:
- a. done in a public place; and were
 - b. done in the sight and hearing of people who were in a public place; and
 - c. not acts done in private.
86. Dr Riemer’s making of each of the impugned acts, by conveying any or all of the imputations alleged, when considered individually and/or cumulatively and/or collectively, were reasonably likely in all the circumstances, to offend, insult, humiliate or intimidate Jewish people or Israeli people in Australia.
87. The impugned acts were done or made because of the race, national or ethnic origin of the people reasonably likely to be offended, insulted, humiliated or intimidated by the posting including because:
- a. References to Zionists are, properly understood, to be a reference to (at least) a majority of Jewish people and Israeli people in Australia;

- b. The subject matter of the impugned acts was related by context to events that were themselves directly related to the race, ethnic origin or national origin (Jewish and/or Israeli) of the victims of the events of October 7; and
- c. Dr Reimer has a tendency to engage in conduct which does and is intended to offend and/or insult and/or humiliate and/or intimidate Jewish people and Israeli people.

88. In the premises, Dr Riemer contravened s 18C of the *Racial Discrimination Act 1975* (Cth) and engaged in unlawful discrimination within the meaning of ss 3(1) and 46P of the *Australian Human Rights Commission Act 1986* (Cth).

Dr Riemer’s Overland article and No Room for Zionism in our Unions Speech and Post – Vicarious liability of Sydney University

89. Dr Riemer is an employee of Sydney University.
90. The Overland article and the “No Room for Zionism in our Unions” Speech and Posts were made in connection with Dr Riemer’s duties as an employee of Sydney University.
- a. The Overland Article is a formal academic publication by Dr Riemer which includes the statement: “*Nick Riemer works in the English and linguistics departments at the University of Sydney. He is currently president of the Sydney University branch of the National Tertiary Education Union.*”
 - b. The “No Room for Zionism in our Unions” Speech and Posts relates to the participation of Jewish and Israeli people in Unions.
 - c. The Enterprise Agreement, cl 366(b)(ii)(iii)(iv), holds the Parties to that Agreement, including Sydney University, the NTEU, and all staff (including Dr Riemer), to protect the right of participation in Unions and to engage in community services “*without fear of harassment, intimidation or unfair treatment in their employment*” and “*staff must not engage in harassment, vilification or intimidation.*”
 - d. The Overland Article and the “No Room for Zionism in our Unions” Speech and Posts, had the potential to and, did have an adverse effect on the workplace with which he was connected at Sydney University.
 - e. That public speech of this kind by its employees is connected to their duties of employment by Sydney University is demonstrated by:
 - i. the *University of Sydney Enterprise Agreement 2023-2026* (eg. cl 354, 360, 361, 362, 366 and 368);

- ii. Sydney University Staff and Affiliates Code of Conduct 2021 (eg. cl 3, 5, 7, 8, 11, 15, 19, 20, 21, 23, 24);
- iii. Public Comment Policy of Sydney University (eg. Guidelines and Pt 2);
- iv. *University of Sydney Act 1989* (NSW) (eg. s 2); and
- v. *Charter of Freedom of Speech and Academic Freedom 2019*.

91. The Overland article and the “No Room for Zionism in our Unions” Speech and Posts are acts that would have been unlawful had they been done by Sydney University for the reasons set out at paragraphs [48]-[53], [58]-[60], and [85]-[88] above.
92. Sydney University failed to take all reasonable steps to prevent Dr Riemer from publishing the Overland article and from making the No Room for Zionism our Unions Speech and Posts.
93. In the premises above, Dr Riemer’s Overland Article and the “No Room for Zionism in our Unions” Speech and Posts (and their non-removal) were acts of Dr Riemer done in connection with his duties as an employee or agent of Sydney University for the purposes of imposing vicarious liability on Sydney University for the unlawful discrimination by Dr Riemer for the purposes of s 18E of the RDA.

Complaint to the Australian Human Rights Commission

94. On about 31 October 2024, the Applicants lodged with the Australian Human Rights Commission under sections 46P and 46PB of the *Australian Human Rights Commission Act 1986* (Cth) a complaint against the Respondents alleging unlawful discrimination (**AHRC Complaint**).
95. The unlawful discrimination alleged above is the same or the same in substance as the unlawful discrimination alleged in the AHRC Complaint.
96. On 14 April 2025, a delegate of the President of the Australian Human Rights Commission terminated the AHRC Complaint under section 46PH(1B)(b) of the *Australian Human Rights Commission Act 1986* (Cth), on the ground that there was no reasonable prospect of the matter being settled by conciliation.

Particulars

- a. AHRC Notice of Termination in File No. 2024-15487 dated 14 April 2025 including Attachment A (Reasons for decision), Attachment B (A copy of the complaint) and Attachment C (A copy of the amendment to the complaint).

Relief

97. In the premises, the Applicants are entitled to the relief claimed in the Originating Application.

Date: 13 June 2025



Signed by Hamish Rotstein
Lawyer for the Applicants

This pleading was prepared by Adam Butt and settled by Saul Holt KC.

Certificate of lawyer

I Hamish Rotstein certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 13 June 2025



Signed by Hamish Rotstein
Lawyer for the Applicant