

NOTICE OF FILING

Details of Filing

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File Title: JOSEPH TOLTZ & ORS v JOHN KEANE & ANOR
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads "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. NSD951 of 2025

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

Joseph Toltz and others

Applicants

John Keane and another

Respondents

Affidavit of: **Joseph Toltz**
Address: 41 Renwick Street Alexandria NSW 2015
Occupation: Manager, Research Support at the University of Sydney
Date: 01/08/2025

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Filed on behalf of (name & role of party) The Applicants
 Prepared by (name of person/lawyer) Hamish Rotstein
 Law firm (if applicable) Rotstein Commercial Lawyers
 Tel (03) 9404 7888 Fax _____
 Email hamish@rotsteins.com.au
 Address for service Suite 409, 488 Bourke Street, Melbourne VIC 3000
 (include state and postcode)

Joseph Toltz *[Signature]*

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I, Joseph Toltz of 41 Renwick Street Alexandria NSW 2015, Manager, Research Support at the University of Sydney, affirm

1. I am the First Applicant in the proceeding, and I am authorised to make this affidavit on the Applicants' behalf.
2. Unless otherwise stated, the contents of this affidavit are true to the best of my knowledge, information and belief, based on my own inquiries and information provided to me by others.

Consent of Group Members

3. I make this affidavit in support of the Applicants' interlocutory application for orders as follows:
 - (a) leave for myself and the Second Applicant (Emeritus Professor Suzanne Rutland OAM) to continue the proceeding on our own behalf and on behalf of the following people:
 - i. Lionel Babicz
 - ii. Yulia Berlin-Firer
 - iii. David Celermajer AO
 - iv. Ilan Dar-Nimrod
 - v. Jennifer Dowling
 - vi. Yona Gilead
 - vii. Judy Kay
 - viii. Gustav Lehrer FAA AM
 - ix. Guy Mayraz
 - x. Peter Morgan
 - xi. Loren Mowszowski
 - xii. Andy Smidt
 - xiii. Lynne Swarts

(Represented Persons);

 Joseph Toltz

(b) leave to amend the title of the proceeding accordingly; and

(c) leave to amend the Originating Application and the Statement of Claim in the proceeding in the form attached to this affidavit as exhibit **JT4**.

4. On 30 July 2025, on my instructions the Applicants' solicitors sent an email to each of the Represented Persons attaching a proposed version of the amended Originating Application and Statement of Claim and asking the Represented Persons to confirm their consent to the Application being made by the First and Second Applicants representing them in the proceeding.

Now produced and shown to me and marked "**JT1**" is a true copy of that email and attachments.

5. Also on 30 July 2025, on my instructions the Applicants' solicitors sent a further email to Yona Gilead providing the same proposed amended Originating Application and Statement of Claim with minor changes in paragraph [8e] of the amended Statement of Claim, and again seeking Dr Gilead's consent to being represented by myself and Professor Rutland in this proceeding.

Now produced and shown to me and marked "**JT2**" is a true copy of that email and attachments.

6. Between 30 - 31 July 2025 I, my colleague the Second Applicant, and/or the Applicants' solicitors received email responses with written consent from each of the Represented Persons. I have been provided with copies of all such email responses and truly believe that they are received from the Represented Persons and manifest their consent in writing to this application being made by the First and Second Applicant on their behalf and that the First and Second Applicant may represent them in the proceeding.

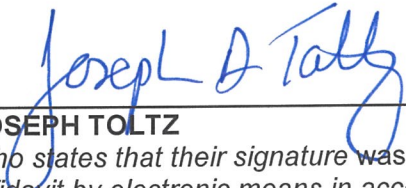
Now produced and shown to me and marked "**JT3**" is a true copy of those emails.

7. Following my receipt of the written consents of the Represented Persons as referred to in paragraph 6 of this my affidavit, I instructed the Applicants' solicitors to produce to me the amended Originating Application and amended Statement of Claim for purposes of filing and serving consistent with the above which they have so done.

Now produced and shown to me and marked "**JT4**" is a true copy of the amended Originating Application and Statement of Claim in the proceeding referred to in this paragraph 7 of this my affidavit.

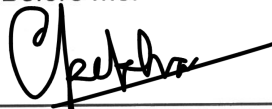
 Joseph D Talty³

AFFIRMED at
Sydney in the State
of New South Wales
on this 1st day of
August 2025



JOSEPH TOLTZ
*Who states that their signature was made to this
affidavit by electronic means in accordance with the
Part 3 of the Oaths and Affirmations Act 2018 (Vic).*

Before me:



UPEHA WEDAGE

of Suite 409, 488 Bourke Street, Melbourne VIC 3000
Australian Legal Practitioner within the meaning of the
Legal Profession Uniform Law (Victoria)

A person authorised under section 19(1) of the Oaths and Affirmations Act 2018 to
take an affidavit.

Who states that their signature was made to this affidavit by electronic means, the
witnessing of the execution of this document was done by audio-visual link and all
the requirements of Part 3 of the Oaths and Affirmations Act 2018 (Vic).

I also observe the following:

JOSEPH TOLTZ signed and initialed this affidavit by electronic means and not by
hand/handwriting.

JOSEPH TOLTZ has affirmed this affidavit in my presence by audio-visual link.

This affidavit that I am signing in my capacity as an authorised affidavit taker is an
electronic copy, not an original.

Schedule of Parties

Applicants

Second Applicant: Suzanne Rutland OAM

Third Applicant: Ariel Eisner

Fourth Applicant: Yaniv Levy

Respondents

Second Respondent: The University of Sydney

~~Opelha~~ Joseph A Tully⁵

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

Joseph Toltz and others
Applicants

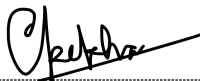
John Keane and another
Respondents

Affidavit of: **Joseph Toltz**
Address: 41 Renwick Street Alexandria NSW 2015
Occupation: Manager, Research Support at the University of Sydney
Date: 01/08/2025

Certificate identifying Exhibit

This is the Certificate identifying Exhibit "JT1" annexed to the Affidavit of Joseph Toltz dated 1 August 2025

Before me:



UPEKHA WEDAGE
of Suite 409, 488 Bourke Street, Melbourne VIC 3000
Australian Legal Practitioner within the meaning of the
Legal Profession Uniform Law (Victoria)
A person authorised under section 19(1) of the Oaths
and Affirmations Act 2018 to take an affidavit.

Date: 1 August 2025

Filed on behalf of (name & role of party) The Applicants
Prepared by (name of person/lawyer) Hamish Rotstein
Law firm (if applicable) Rotstein Commercial Lawyers
Tel (03) 9404 7888 Fax _____
Email hamish@rotsteins.com.au
Address for service Suite 409, 488 Bourke Street, Melbourne VIC 3000
(include state and postcode)

From: [Elijah Rasic](#)
To: [Joseph Toltz](#); [Suzanne Rutland](#)
Cc: [Daniel McCoach](#); [Hamish Rotstein](#)
Bcc: [peter@hereford.net.au](#); [smidtandy@gmail.com](#); [gilehrer@yahoo.com.au](#); [jennifer.yasminke@gmail.com](#); [lionel.babicz@gmail.com](#); [lynne.swarts@gmail.com](#); [david.celermajer@health.nsw.gov.au](#); [g.mayraz@gmail.com](#); [yuliaberlin@gmail.com](#); [idarnimrod@gmail.com](#); [judy.kay@gmail.com](#); [loren@reneuro.com.au](#); [wiselgilead@gmail.com](#); [adambutt@wentworthchambers.com.au](#)
Subject: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor
Date: Wednesday, 30 July 2025 9:10:47 AM
Attachments: [image001.png](#)
[image002.png](#)
[Keane Statement of Claim 30 July AB.pdf](#)
[originating application Keane 30 July AB.pdf](#)

Dear all,

As foreshadowed, we are writing to obtain your consent to be represented by Dr Joseph Toltz and Emeritus Professor Suzanne Rutland in Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor (**Keane Proceeding**) which is being brought as a representative proceeding under Rule 9.21 of the *Federal Court Rules 2011*.

For your information and provided to you on a confidential basis, please see **attached** the applicable statement of claim and originating application on behalf of the Applicants.

This email is sent to obtain your written consent to enable Dr Toltz and Professor Rutland to be able to certify to the Court that you have consented to the application being made by them on your behalf. We would be grateful for your prompt response so that we can progress matters efficiently.

To manifest your consent, would you please reply to this email by stating “I consent to Dr Toltz and Professor Rutland representing me in the Keane Proceeding.”

We kindly ask that you direct all responses to our office only and that you limit your responses to strictly the wording provided above if you do so consent.

Please be in touch with our office at the telephone details below if you have any questions.

Looking forward to your response.

Kind regards,

Elijah Rasic
Law Graduate



Member of Consulegis, an international network of law firms

A Suite 409, 488 Bourke Street, Melbourne VIC 3000 Australia

T (61 3) 9604 7888

E elijah.rasic@rotsteins.com.au

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Amended Statement of claim

No. _____ of 2025

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

Joseph Toltz ~~and others~~ on behalf of himself and the represented persons listed in Schedule A
Applicants

John Keane and another
Respondents

Jurisdiction

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

Parties

2. The Applicants and the persons named in Schedule A are all natural persons capable of suing and ordinarily resident in Australia.
3. The First Applicant (**Dr Joseph Toltz**) is and at all relevant times was:
 - a. a researcher at The University of Sydney (**Sydney University**), specialising in Jewish music and its migrations, and Manager of Research Support in the Faculty of Arts and Social Sciences; and
 - b. a Jewish person.
4. The Second Applicant (**Professor Emeritus Suzanne Rutland** **OAM**) is and at all relevant times was:
 - a. a Professor Emeritus of The Sydney University of Sydney, Department of Hebrew, Biblical & Jewish Studies; and
 - b. a Jewish person and an Israeli citizen.

Filed on behalf of (name & role of party) The Applicants
Prepared by (name of person/lawyer) Hamish Rotstein
Law firm (if applicable) Rotstein Commercial Lawyers
Tel 61 3 9098 8785 Fax _____
Email hamish@rotsteins.com.au
Address for service Level 4, 488 Bourke Street, Melbourne VIC 3000
(include state and postcode) _____

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.
- 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; and
- b. was until he graduated in November 2024 a student enrolled at Sydney University studying a Bachelor of Architecture; and
- c. is and at all relevant times was a Jewish person.

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; and
- c. is and at all relevant times was a Jewish person and an Israeli citizen.

7. Each Applicant:

- a. is a **Jewish person** or a person who is, or is eligible to be, an Israeli citizen (**Israeli person**) and identifies as Zionist.

Particulars

- i. 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.

8. The First and Second Applicants also bring this proceeding under Rule 9.21 of the Federal Court Rules 2011 on behalf of persons listed in Schedule A, as to whom:

- a. Dr Lionel Babicz is a Jewish person and an Israeli citizen who is and at all relevant times was an academic at Sydney University teaching Japanese Studies

- and Asian Studies in the School of Languages and Culture. He also identifies as Zionist.
- b. Ms Yulia Berlin-Firer is a Jewish person and an Israeli citizen who is and at all relevant times was a casual academic staff member at Sydney University teaching in the Department of Hebrew, Biblical and Jewish Studies and involved in administration for that Department. She also identifies as Zionist.
 - c. Professor David Celermajer AO is a Jewish person who is and at all relevant times was the Scandrett Professor of Cardiology at Sydney University, Faculty of Medicine and Health. He also identifies as Zionist.
 - d. Associate Professor Dr Ilan Dar-Nimrod is a Jewish person and an Israeli citizen who is and at all relevant times was an Associate Professor at Sydney University in the School of Psychology, Faculty of Science. He believes in Israel being a nation state and the national home of and for the Jewish people
 - e. Dr Yona Gilead is a Jewish person and an Israeli citizen who is and at all relevant times was the Malka Einhorn Modern Hebrew Senior Lecturer and Program Coordinator at the Faculty of Arts and Social Sciences at Sydney University (retiring at the end of July this year). She also identifies as Zionist.
 - f. Professor Judy Kay is a Jewish person who is and at all relevant times was a Professor of Computer Science in the Faculty of Engineering at Sydney University. She also identifies as Zionist.
 - g. Emeritus Professor Gustav Lehrer FAA AM is a Jewish person who is and at all relevant times was a Professor Emeritus of Sydney University, School of Mathematics and Statistics, recognised internationally for his mathematical research. He also identifies as Zionist.
 - h. Dr Guy Mayraz is a Jewish person and an Israeli citizen who was at all relevant times until early July 2024, a behavioural economist teaching at Sydney University, School of Economics, thereafter has had an adjunct status with Sydney University. He also identifies as Zionist.
 - i. Associate Professor Andy Smidt is a Jewish person who was until about February 2024, a Senior Lecturer and Faculty Disability Liaison Officer at Sydney University, Sydney School of Health Sciences, Faculty of Medicine and Health. She also identifies as Zionist.
 - j. Dr Jennifer Dowling is a Jewish person who is and at all relevant times was the Manager, Education Innovation and Design in the Faculty of Arts and Social

Sciences at Sydney University. She believes in Israel being a nation state and the national home of and for Jewish people.

- k. Dr Lynne Swarts is a Jewish person who, at Sydney University: (a) is and at all relevant times was a Sessional Academic and Guest Lecturer in the Hebrew, Biblical and Jewish studies Department; (b) was until 2023 a Research Affiliate in the History Department; and (c) in first semester 2024 became a Senior Academic Tutor at St Andrews College (which is part of Sydney University). She also identifies as Zionist.
 - l. Dr Loren Mowszowski is a Jewish person and a dual Australian-Israeli citizen who was, until about mid-July 2024, a Senior Research Fellow, Clinical Neuropsychologist and Leader of the Cognitive Intervention Research Stream for the Healthy Brain Ageing Program at the Brain and Mind Centre and Faculty of Science, at Sydney University. She also identifies as Zionist.
 - m. Professor Peter Morgan, who is addressed more fully in [9] below, is and at all relevant times was Director of the European Studies Program at the School of Languages and Cultures at Sydney University.
9. Whereas Professor Morgan does not identify as Jewish or Israeli, he is nevertheless an affected or aggrieved person protected by the operation of the *Racial Discrimination Act 1975 (Cth) (RDA)* and the AHRC Act for Professor Keane's unlawful discrimination set out below, by reason of the following facts, matters and circumstances:
- a. He has more than an intellectual or emotional concern in the subject matter of Professor Keane's Staff Member's Post;
 - b. He has a grievance beyond a general member of the public by being expressly named and vilified in Keane's Staff Member's Post, or directly impugned in the unlawful vilification of his (senior) academic associates of Sydney University;
 - c. The target or imputations of the Staff Members Post as set out below were to offend, insult, humiliate or intimidate named Jewish and Israeli staff members, because of their race, ethnicity or nationality, to paint them as racist, or as devoid of morals, scruples or conscience when it comes to Palestinians, or as akin to Nazis in considering Palestinians as less than human;
 - d. He was either painted as, and could be seen to be by viewers of the Post as, a Jew or Israeli with those negative features, or as a person associated with and supporting Jews or Israelis with those negative features. Either outcome is a substantial grievance and the sort of mischief that the RDA seeks to redress.

- e. Further or alternatively, he is aggrieved as an associate of, or a person with a close connection with, the named Jewish/Israeli staff members, as a person who was supporting them in the email written by Associate Professor Avril Alba (see [42.a] below), and then vilified in Professor Keane's escalation on his X Page.
 - f. Further or alternatively, Professor Morgan, in a representative role with the Applicant and represented person staff members, was aggrieved by virtue of his special responsibility to safeguard the interests of Jewish or Israeli staff/academics at least at Sydney University, in joining and supporting Jewish/Israeli representative staff/academics attempting to do the same, and was vilified for so doing.
 - g. The reliance in the Amended Statement of Claim concerning Professor Keane in respect of the Hamas Flag Post and the Staff Members Post is cumulative, with the consequence that both can be relied upon together for the purposes of establishing the causation and racial elements in s18C of the RDA.
10. Each of the persons named in [8] above:
- a. Have the same interest in the proceeding in that they were exposed to the same unlawful conduct, namely to Professor Keane's Staff Members' Post and his Hamas Flag Post the details of which are set out below.
 - b. By reason of that exposure are entitled to the same relief and remedies as the First and Second Applicants by virtue of the operation of s18C of the RDA and s46PO(4) of the AHRC Act; and
 - c. Each has consented in writing to be represented in this proceeding.
11. For the purposes of the RDA *Racial Discrimination Act 1975* (Cth):
- a. Jewish ~~people~~ persons constitute a group of people with a shared race, descent and/or ethnic origin.
 - b. Israeli citizens and Israeli ~~people~~ persons constitute a group of persons with a shared ethnic origin and/or nationality.
12. Israel is a nation state and the national home of and for the Jewish people. Its citizens are mostly Jewish persons.
13. The First Respondent (**Professor John Keane**):
- a. is a natural person capable of being sued; and
 - b. is and at all relevant times was a Professor of Politics at Sydney University.

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

Professor John Keane X (Twitter) Page

15. Professor John Keane operates and at all material times operated, as a professor of the Sydney University, from Sydney, New South Wales or elsewhere in Australia an X page (**Keane X Page**) at the web address: https://x.com/jkeaneSDN?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor

Particulars

- a. Professor Keane's title is stated to be '@jkeaneSDN'
 - b. Professor Keane cites his title as 'professor.'
 - c. Professor Keane commenced that site on March 2013.
16. In or around October 2024 the Keane X Page had approximately 7,934 Followers, and at the time of this Amended Statement of Claim had about ~~7,835~~ 7,873 Followers.
17. The Keane X Page is and was at all relevant times accessible by members of the public whether or not they "follow" Professor Keane.
18. The Keane X Page is regularly updated by Professor Keane posting various publications including text, photos and audio-visual recordings of remarks and speeches.
19. A number of the publications which appear on the Keane X Page include links to various written or oral material published by Professor Keane or to material that he endorses or on which he comments.

Hammas

20. 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.
21. The Statement of Reasons for listing Hamas as a terrorist organisation include that it is guided by Islamic principles of "*destroying Israel*".
22. The Hamas Covenants express intention is to dismantle Israel as '*the Zionist entity*' and to create an Islamic State in its place.
23. The Hamas Covenants identify Hamas' raison d'être as "*obliterating*" Israel and "*killing the Jews*".

24. Under s 80.2E '*Prohibited symbols*', which is part of '*Subdivision CA—Publicly displaying, and trading in, prohibited symbols and giving Nazi salute*', a prohibited terrorist organisation symbol is defined as:
- a. a symbol that a terrorist organisation (within the meaning of Division 102) uses, or members of a terrorist organisation use, to identify the organisation;
 - b. something that so nearly resembles a symbol to which paragraph a. applies that it is likely to be confused with, or mistaken for, that symbol.

7 October 2023

25. On 7 October 2023, Hamas members illegally invaded the State of Israel and killed, raped, maimed, sexually abused and tortured more than 1,200 Jewish persons or Israeli persons.
26. During the 7 October 2023 invasion, Hamas members also kidnapped, abducted and took as hostages more than 250 persons who were overwhelmingly Jewish or Israeli persons including women, children and the elderly.
27. Hamas's terrorist 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 overwhelmingly 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.

Impugned publication made on 8 October 2023 – the Hamas Flag Post

28. On or about 8 October 2023, the first day after the 7 October 2023 Hamas terrorist attacks described in [\[25\]-\[27\]](#) above, Professor Keane published the following picture on his Keane X Page, which shows 5 green Hamas flags with Arabic writing visible on them (**the Hamas Flag Post**):



29. The Hamas Flag Post:
 - a. continued to be and remained posted and visible on the Keane X Page as from 8 October 2023;
 - b. as at 23 October 2024, had 6,125 views; and
 - c. as at the time of the Amended Statement of Claim, had about ~~6,204~~ 6,232 views.
30. Each flag was, and was known and intended by Professor Keane to be, a Hamas flag used by the Hamas military wing.
31. Each flag was, or is, known by the Applicants, and the persons on whose behalf the Amended Statement of Claim is filed, to be the Hamas flag.
32. The Applicants and the persons on whose behalf the Amended Statement of Claim is filed also knew, or now know, that the Hamas flag is the flag used by the Hamas military wing.
33. At all material times the Hamas Flag was thus recognisable as the Hamas flag.
34. Professor Keane's Hamas Flag Post was and continued to be a post of a "*prohibited terrorist organisation symbol.*"

Imputations

35. The Hamas Flag Post conveyed the following imputations:
 - a. The activities described in [25]-[27] above of Hamas on October 7, which involved the killing, rape, maiming, sexual abuse, kidnapping and torture of Jewish and Israeli ~~people~~ persons, because they were believed to be Jewish or Israeli, was an event that was to be celebrated, endorsed, supported and approved of.

- b. Professor Keane celebrated, endorsed, supported and approved those activities.
- c. Hamas and its objectives (including those outlined in [21], [22], [23] and [27] above) were to be celebrated, endorsed, supported and approved.
- d. Professor Keane celebrated, endorsed, supported and approved of Hamas and its objectives (including those outlined in [21], [22], [23] and [27] above).

Contravention of s 18C of the *Racial Discrimination Act 1975 (Cth)* (RDA)

36. Professor Keane's posting of the Hamas Flag Post was an act which caused 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.
37. Professor Keane's posting of the Hamas Flag Post and its non-removal, by conveying any, all or some of the imputations alleged in [35] was reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate the Applicants, the persons in Schedule A, as well as other Jewish ~~people~~ persons and Israeli ~~people~~ persons in Australia.
38. The posting and its non-removal was made or done because of the race, national or ethnic origin of the people reasonably likely to be offended, insulted, humiliated or intimidate by the posting including because:
- a. The subject matter of the post, considering its timing, was directly related 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;
 - b. The posting was plainly calculated to convey a message about or concerned with the race, ethnic origin or national origin (Jewish and/or Israeli) of the victims of the events of October 7;
 - c. The posting was actuated or motivated by considerations of race, ethnic origin or national origin or, in the alternative, race, or ethnic or national origin was otherwise a factor in Professor Keane's act.
39. In the premises set out in [15]-[38] above, Professor Keane contravened s 18C of the RDA and engaged in unlawful discrimination within the meaning of ss 3(1) and 46P of the AHRC Act. ~~*Australian Human Rights Commission Act 1986 (Cth)*~~.

Impugned publication made on 8 November 2023 – Keane’s Staff Members Post

40. On about 8 November 2023, Professor Keane posted to the Keane X Page, a post which contains the under-mentioned text displayed above a letter, which was stated to have been sent by the complainants and the represented persons to him on 7 November 2023 (**Keane’s Staff Members Post**). Professor Keane stated in the post that the letter was:

“an ad hominem response to my Open Letter by a small group of pro-Israel staff members: defamatory insults (‘repulsive’ etc) mixed with self-righteous indignation of people convinced they are victims of non-humans (Palestinians) who imperil their Promised Land...”

41. A screenshot of the post as it was seen on the Keane X Page is set out below.



John Keane
@jkeaneSDN

⋮

an *ad hominem* response to my Open Letter by a small group of pro-Israel staff members: defamatory insults (‘repulsive’ etc) mixed with self-righteous indignation of people convinced they are victims of non-humans (Palestinians) who imperil their Promised Land...

10e 07/11/2023 11:12 AM
[view more](#)

Dear John,

The University’s Charter of Freedom of Speech and Academic Freedom allows you to express your views. However, those reading your letter should be aware of its inaccuracies. You accuse Israel of promoting indiscriminate warfare and genocide and the murder of innocents without compunction, and your letter culminates in a repulsive reversal of victims and perpetrators in which you liken the actions of Israel to those of the Nazis. There is also not one mention of the atrocities of October 7, which is not only deeply disappointing, but also a shockingly inhumane omission. We believe that in the context of war, any loss of civilian life is tragic: Palestinian, Israeli, and any other nationality. To draw an equivalence, however, between the acts of terror witnessed and documented via bodycams from Hamas themselves, and the awful civilian deaths of Gazans (many of whom are deliberately placed in the line of fire as human shields) by Israeli army fire, is unconscionable.

Dr Michael Abrahams-Sprod
A/Prof Avril Alba
Dr Lionel Babicz
Yulia Berlin-Firer
Professor David Celermajer
A/Prof Ilan Dar-Nimrod
Dr Jennifer Dowling
Dr Yona Gilead
Professor Judy Kay
Professor Gustav Lehrer
Dr Guy Mayraz
~~Prof Datar M...~~

when students are fee-paying customers, nor ivory towers sheltered from the harsh realities of the world. Universities, you say using other words, are public spaces supportive of competing perceptions of ‘knowledge’ and ‘reality’, laboratories of life in which the university community breathes the air of curiosity, learns to accept that human lives can legitimately be lived in different ways, in opposition to arrogance and ignorance, lies and nonsense.

Less welcome are your strictures on tolerance. You say our University supports ‘the rights of students and staff to engage in political discourse’ but that anybody who utters ‘pro-terrorist statements or commentary, including support for Hamas’s recent terrorist attacks’ will be the target of tough disciplinary proceedings, including termination of employment. Many staff and students have noted an every bias within your definition of the tolerable. It is founded on silence about such ugly matters as non-stop aerial bombardment, the illegal use of white phosphorus bombs on civilians, settler violence, bulldozers wrecking the homes of fearful innocents, death by suffocation under rubble, devilish propaganda dropped from the skies, the wilful destruction of mosques, churches, schools and universities, and crazed plans for the forcible removal of millions of people from their ancient homelands.

If toleration depends upon silence about these grim matters then it’s an objectionable principle that has no place in the life of our University. Toleration purports to be a pleasing and heart-warming ethic. The word itself is from the Latin *tolerāre*, to endure, or countenance, or to bear or put up with some person or situation otherwise deemed

 Gideon Levy and 9 others

3:38 PM · Nov 8, 2023 · **9,981** Views

25 Reposts
5 Quotes
63 Likes
10 Bookmarks

42. The post had the following accessible attachments:
- a. An email authored by Associate Professor Avril Alba of Sydney University (with certain modifications compared to the actual email) on 7 November 2023 to

Professor Keane and Vice Chancellor Mark Scott, copying a large number of Sydney University groups, and being an email in a chain of emails among Sydney University academics. The attachment Keane put up contained a photograph of Professor Alba.

- b. A picture with the names of 17 academics from Sydney University in larger font (all of whom were Jewish and/or Israeli academics except for Peter Morgan), namely:

1. Dr Michael Abrahams-Sprod
2. A/Prof Avril Alba
3. Dr Lionel Babicz
4. Yulia Berlin-Firer
5. Professor David Celermajer
6. A/Prof Ilan Dar-Nimrod
7. Dr Jennifer Dowling
8. Dr Yona Gilead
9. Professor Judy Kay
10. Professor Gustav Lehrer
11. Dr Guy Mayraz
12. Professor Peter Morgan
13. Dr Loren Mowszowski
14. Professor Suzanne Rutland (Second Applicant)
15. Dr Andy Smidt
16. Dr Lynne Swarts
17. Dr Joseph Toltz (First Applicant)

- c. A letter which purports to be Professor Keane's response of 6 November 2023 to a communication of Vice Chancellor Mark Scott to all Sydney University staff and students of 26 October 2023 (in the post it appeared on a letterhead instead of being in email form).

43. The Vice Chancellor's original communication dated 26 October 2023, to which Professor Keane's 6 November email responded, was not attached to the post. In that email the Vice Chancellor and President had said that Sydney University would not tolerate support for Hamas' recent terrorist attacks.
44. No permission or authorisation was sought by Professor Keane, or was obtained by him, from any of the 17 named academics to publish their names or the content of their email.

45. Professor Keane's Staff Members Post remained on his Keane X Page from 8 November 2023 until it was removed as a result of a Sydney University disciplinary process on or about 21 May 2024.

Particulars of the disciplinary process

(a) Complaints were made by Jewish/Israeli staff of Sydney University from 8 November 2023 onwards. This included but was not limited to complaints made directly by or on behalf of persons including: Professor Emerita Suzanne Rutland (Second Applicant), Dr Sarah Aamidor, Dr Michael Abrahams-Sprod, Associate Professor Avril Alba, Dr Lionel Babicz, Dr Larisa Barnes, Professor David Celermajer AO, Associate Professor Ronald Clarke, Dr Jennifer Dowling, Dr Yona Gilead, Talia Gonda, Emmilly Graf, Dr Eve Guerry, Associate Professor Sabina Kleitman, Professor Emerita Ines Krass, Professor Emeritus Gustav Lehrer AO, Mr Yaniv Levy (Fourth Applicant), Associate Professor Tania Markovic, Sarah Marks, Dr Guy Mayraz, Professor Peter Morgan, Dr Loren Mowszowski, Adam Muscio, Isabella Nahon, Emeritus Professor Leo Radom, Tracie Sillers, Dr Andy Smidt, Rachel Sullivan, Dr Lynne Swarts, Dr Joseph Toltz (First Applicant), Vanina Vaisman-Levy, Yulia Berlin-Firer.

(b) Examples include:

- i. On 8 November 2023, Avril Alba, Yulia Berlin-Firer, Suzanne Rutland and Michael Abrahams-Sprod complained to Mark Scott (Vice Chancellor) and Annamarie Jagose (Provost and Deputy Vice Chancellor) about Professor Keane (and Jake Lynch).
- ii. On 9 November Dr Loren Mowszowski wrote to Mark Scott and Annamarie Jagose endorsing her colleague's complaints. Lionel Babicz wrote to Professor Jagose reinforcing Ms Berlin-Firer's complaint.
- iii. On 30 November 2023 Dr Mowszowski followed up Professors Jagose and Scott, concerned that she had had no response or acknowledgment to her email sent 3 weeks earlier.
- iv. On 1 December 2023, Peter Wertheim of the Executive Council of Australian Jewry and Mark Scott discussed concerns of Jewish staff and students including their unanswered complaints regarding Professor Keane's email.
- v. On 22 December 2023, Dr Mowszowski wrote to Naomi Connolly, Senior Manager in Workplace Relations, concerned at the slowness

of the process which was compounding her distress and causing her to largely avoid attending main campus.

- vi. On 17 January 2024, Professor Rutland wrote to the Vice Chancellor, provost, Chancellor, and the Senate, supported by some 30 predominantly Jewish/Israeli staff, who comprised a newly formed Sydney University branch of the Australian Academic Alliance Against Antisemitism (**5A Group**). The letter appended 'Key Issues' concerning 'ongoing the pro-Palestinian campaign' at Sydney University since Hamas' 7 October invasion. The Issues included "*Intimidation and defamation of academic staff over University email and on social media*", noting Professor Keane's inflammatory letter and subsequent events and the slow response of the Workplace Department.
- vii. On 22 January 2024 Dr Mowszowski sought a further update.
- viii. On 13 February 2024, Mark Scott responded to Professor Rutland's 17 January complaint on behalf of the 5A Group. Nothing expressly or adequately addressed the Keane concern.
- ix. On 19 March 2024 the 5A Group were informed that Workplace Relations completed a preliminary assessment and advised next steps to Lisa Adkins, Dean of Faculty of Art and Sciences.
- x. On 3 April 2024, Lisa Adkins sent an outcome letter regarding the Keane complaint. Professor Keane's conduct was found to contravene University policies and codes and to be Misconduct under Sydney University's Enterprise Agreement. The University would discipline Professor Keane and direct him to delete the Staff Members Post.
- xi. On 8 April 2024, Dr Mowszowski wrote to Professor Adkins and Ms Connolly, communicating 'extreme concern' that Professor Keane's Post was still on X, causing '*further insult and offense*' and questioning what consequences Keane received and how complainants could be assured disciplinary actions will be effective.
- xii. On 10 April 2024, Dr Mowszowski was advised that the University would not provide additional details regarding Professor Keane's disciplinary action. The same day she sought that Professor Keane be contacted directly to ensure the Post's removal was not significantly delayed.
- xiii. On 26 April 2024, Dr Mowszowski wrote to Professor Adkins and Ms Connolly noting the Staff Post was still online, which was perpetuating

“distress, intimidation and offence,” undermining the complaint process and asking why he was not being held to account.

- xiv. During 28 April to 10 May 2024, Dr Babicz wrote several emails to/from Lisa Adkins and Naomi Connolly, expressing major concern about the University’s lack of effective action regarding Keane’s Staff Post, stating: *“considering the ongoing events on campus, including the involvement of jihadist elements external to the University, the potential threat to the safety of the people doxed by that post is increasing day by day.”* (10 May)
 - xv. On 3 and 7 May 2024, Ms Connolly wrote to Dr Mowszowski, failing to address her concerns.
 - xvi. On 21 May 2024, Jodi Dickson, Director of Workplace Relations, wrote to the 5A Group complainants informing them that Professor Keane had removed their names from the posts he made on X.
46. Until the date of the removal of the post from Professor Keane’s X page on 21 May 2024, Professor Keane’s Staff Member’s Post had about 30,000-31,000 views.
47. Professor Keane’s Staff Members Post conveyed the following imputations:
- a. The named Jewish and Israeli staff members regarded, treated, considered and were convinced that Palestinians are “non-humans” (meaning something less than or other than human beings).
 - b. The named Jewish and Israeli staff members were racists who regarded, treated, considered and were convinced that Palestinians challenging Israel as a Jewish homeland, or as their “Promised land”, are “non-humans”.
 - c. The named Jewish and Israeli persons, in seeking to defend the existence of Israel should be condemned and publically exposed as self-righteous racists without any morals, scruples or conscience.
 - d. Jewish persons and Israeli persons believe that Palestinians or Palestinians challenging Israel as a Jewish homeland or as their “Promised land” are “non humans”.
 - e. Jews and Israelis, or the named Jews and Israelis, were acting like the Nazis in considering Palestinians as “non-humans” or as something less than, or other than, human beings.
48. Contrary to the imputations set out immediately above:
- a. None of the staff members identified in the post were racists nor were they persons who regarded, treated, considered or were convinced that Palestinians

or Palestinians challenging Israel as a Jewish homeland or as “*their Promised land*” were “*non-humans*”.

- b. Jewish persons and Israeli persons as a group or otherwise did not regard, treat, consider and were not convinced that Palestinians or Palestinians challenging Israel as a Jewish homeland or as their “*Promised Land*” were “*non-humans*”.

49. The reference to “non-humans” has particular resonance for Jewish and Israeli ~~people~~ persons given its historical use to describe Jewish persons ~~people~~ in that way.
50. The First and Second Applicants and each of the persons in Schedule A, who were all named in Keane’s Staff Members Post, suffered distress, loss and damage, including harm to their reputation, and/or psychological injury by reason of the publication and non-removal of the Keane’s Staff Members Post.

Contravention of s 18C of the RDA

51. Professor Keane’s posting of, and failure to remove prior to 21 May 2024, Keane’s Staff Members Post were acts which caused words and 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.
52. Professor Keane’s posting of, and his failure to remove prior to 21 May 2024, Keane’s Staff Members Post, by conveying any or all of the imputations alleged above and by attributing the false characteristics alleged to those named Jewish and Israeli Staff Members and to Jewish persons and Israeli persons on the basis of their group membership or otherwise, was reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate the Jewish and Israeli Staff Members named in Keane’s Staff Members Post and other Jewish persons and Israeli persons.
53. The posting and its non-removal prior to 21 May 2024 was made or done because of the race, national or ethnic origin of the people reasonably likely to be offended, insulted, humiliated or intimidate by the posting including because:
 - a. The post referred to and criticised only Jewish and Israeli people;
 - b. It did so by reference to their position as being “pro-Israel”;
 - c. The subject matter of the post 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;

- d. The posting was plainly calculated to convey a message about or concerned with the race, ethnic origin or national origin (Jewish and/or Israeli) of the people named;
- e. Professor Keane had earlier posted the Hamas Flag Post which provides context for the real reason why the Staff Members Post was actuated by race and/or ethnic origin and/or national origin or, in the alternative, race, or ethnic or national origin was otherwise a factor in Professor Keane's conduct; and
- f. Professor Keane 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.

54. In the premises set out in [40]-[53] above, Professor Keane contravened s 18C of the RDA and engaged in unlawful discrimination within the meaning of ss 3(1) and 46P of the AHRC Act. ~~*Australian Human Rights Commission Act 1986 (Cth)*~~.

Professor Keane's Staff Members Post – Vicarious liability of Sydney University

- 55. Professor Keane is an employee of Sydney University.
- 56. The posting, and the non-removal until on or about 21 May 2024, of Professor Keane's Staff Members Post was made in connection with his duties as an employee of Sydney University:
 - a. the communications that precipitated the Staff Members Post were internal staff University email exchanges about University matters;
 - b. the Staff Members Post had the potential to (and actually did) adversely affect the working relationship of the named employees of Sydney University, and for other Jewish/Israeli employees;
 - c. The following documents make it clear that communications of this kind are directly connected to employment by Sydney University:
 - i. Sydney University Complaint Procedures;
 - ii. the *University of Sydney Enterprise Agreement 2023-2026* (eg. cll 354, 360, 361, 362, 366 and 368);
 - iii. Sydney University Staff and Affiliates Code of Conduct 2021 (eg. cll 3, 5, 7, 8, 11, 15, 19, 20, 21, 23, 24);
 - iv. Public Comment Policy of Sydney University (eg. Guidelines and Pt 2);
 - v. *University of Sydney Act 1989* (NSW) (eg. s 2);
 - vi. *Charter of Freedom of Speech and Academic Freedom 2019*.

57. The Staff Members Post and its non-removal are acts that would have been unlawful had they been done by Sydney University for the reasons set out at paragraphs [40]-[54] above.
58. Sydney University failed to take all reasonable steps to prevent Professor Keane from publishing the Staff Members Post considering:
- a. the correspondence referred to or described in [40]-[44] above;
 - b. the disciplinary process and the complaints described in [45] and the failure of Sydney University to act on those complaints appropriately, with due diligence or due expedition.
59. In the premises above, Professor Keane Staff Members Post and its non-removal were acts of Professor Keane 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 Professor Keane pursuant to s 18E of the RDA.

Complaint to the Australian Human Rights Commission

60. On about 31 October 2024, the Applicants lodged with the Australian Human Rights Commission under sections 46P and 46PB of the AHRC Act ~~*Australian Human Rights Commission Act 1986 (Cth)*~~ a complaint against the Respondents alleging unlawful discrimination (**AHRC Complaint**).
61. The unlawful discrimination alleged above is the same or the same in substance as the unlawful discrimination alleged in the AHRC Complaint.
62. 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 AHRC Act ~~*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. 2024-15489 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

63. In the premises, the Applicants and each of the persons in Schedule A are entitled to the relief claimed in the Amended Originating Application.

Date: ~~13 June~~ 30 July 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 Amended Statement of Claim filed on behalf of the Applicants, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: ~~13 June~~ 30 July 2025

.....
Signed by Hamish Rotstein
Lawyer for the Applicants

Certificate of First and Second Applicants

I, Joseph Toltz, and Suzanne Rutland, certify to the Court that each person on whose behalf the application is made has consented in writing to the making of the application on the person's behalf.

Date: 30 July 2025

.....
Signed by Joseph Toltz
First Applicant

Date: 30 July 2025

.....
Signed by Suzanne Rutland
Second Applicant

**Amended Originating application under the Australian Human Rights
Commission Act 1986**

No. _____ of 2025

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

Joseph Toltz ~~and others named in the schedule~~ suing on behalf of himself and on behalf of the
persons named in Schedule A

Applicants

John Keane and another named in the schedule

Respondents

To the Respondents

The Applicants apply for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing:

Place: 184 Phillip Street, Sydney NSW 2000

Date:

.....
Signed by an officer acting with the authority
of the District Registrar

.....
Filed on behalf of (name & role of party) The Applicants
Prepared by (name of person/lawyer) Hamish Rotstein
Law firm (if applicable) Rotstein Commercial Lawyers
Tel 61 3 9098 8785 Fax _____
Email hamish@rotsteins.com.au
Address for service Level 4, 488 Bourke Street, Melbourne VIC 3000
(include state and postcode) _____

Details of claim under the Australian Human Rights Commission Act 1986

The Applicants claims that, on the grounds set out in the accompanying Amended Statement of Claim:

1. Pursuant to s18C of the *Racial Discrimination Act 1975* (Cth) (**RDA**), the first respondent engaged in unlawful discrimination based on racial hatred by posting and not removing two X posts, each of which was reasonably likely to offend, insult, humiliate or intimidate:
 - a. the Applicants,
 - b. the persons they First and Second Applicants represent, and
 - c. ~~Jewish or Israeli persons in Australia any other Jewish or Israeli persons in Australia when the posts, reposts or publications the subject of the complaint were made or published and/or maintained as posts or reposts and who were, or were reasonably likely to be, offended, insulted, humiliated or intimidated, by the unlawful discrimination alleged in this claim,~~

and were acts done because of the Jewish race, descent or ethnic origin or the Israeli ethnic or national origin of the persons set out above.
2. Pursuant to s18E of the RDA, the second respondent, by virtue of Keane's Staff Members Post and its non-removal until about 21 May 2024 being acts done in connection with Keane's duties as an employee or agent of Sydney University, is vicariously liable for his conduct such that the RDA applies to the second respondent as if it had engaged in the first respondent's conduct and the second respondent is taken to have contravened s18C of the RDA.

The First and Second Applicants also bring this application on behalf of themselves and on behalf of the persons named in Schedule A.

1. Legislation

The Applicants claims that the discrimination complained of is unlawful under sections 18C and 18E of the *Racial Discrimination Act 1975*.

Remedy sought

The Applicants asks the Court for:

1. A declaration that Professor John Keane's posting of the Hamas Flag Post and his Staff Members Post, as well as their non-removal, contravened s 18C of the RDA and therefore constituted unlawful discrimination.

2. A declaration that Sydney University, by reason of its vicarious liability for Professor Keane's unlawful discrimination of the RDA, has contravened s 18C and engaged in unlawful discrimination in respect of Keane's Staff Members Post and its non-removal.
3. Injunctions requiring Professor Keane to remove or to cause the removal of:
 - a. the Hamas Flag Post from the Keane X Page or any other internet platform page or website;
 - b. Keane's Staff Members Post from any other internet platform page or website.
4. Injunctions requiring Professor Keane not to repeat or continue the unlawful discrimination the subject of the relief set out above and, in particular, not to publish or republish the Hamas Flag Post or the Keane Staff Members Post or the imputations described in the Statement of Claim filed in this proceeding.
5. Injunctions requiring Professor Keane and Sydney University to perform any reasonable act or course of conduct, including to pay and/or redress any distress, loss or damage (including harm to repute) and psychological injury suffered by any of the Applicants complainants or the persons the First and Second Applicants they represent, in a form to be determined, and to pay aggravated and punitive damages by reason of Professor Keane's and Sydney University's unlawful discrimination.
6. An order:
 - a. for payment of damages by way of compensation for loss and damage (including harm to repute and aggravated and punitive damages) and for distress and psychological injury suffered by any of the First and Second Applicants or persons they represent, being suffered by the seventeen staff members named in Keane's Staff Members Post, because of the unlawful discrimination arising from or by reason of the Post;
 - b. alternatively, at their option, an order for the payment of an amount equal to the compensation to which they would be entitled paid to a charity or charities nominated by them.
7. Interest
8. An order for public apologies by Professor Keane and the Vice Chancellor and/or other appropriate officer of Sydney University, in a form to be determined.
9. Costs.
10. Such further or other order as the Court considers fit.

Accompanying documents

This application must be accompanied by:

1. A copy of the original complaint to the Australian Human Rights Commission; and
2. The notice of termination of complaint given by the President of the Australian Human Rights Commission.

Applicants' details

The Applicants' and represented persons' relationship to the Respondent is fellow staff members at or students of Sydney University.

The Applicants are over 18 years.

Applicants' address

The Applicants' address for service is:

Place: Rotstein Commercial Lawyers, Level 4, 488 Bourke Street, Melbourne VIC 3000

Email: hamish@rotsteins.com.au

The Applicants' address is Level 4, 488 Bourke Street, Melbourne VIC 3000

Service on the Respondent

It is intended to serve this application on the Respondent.

Date: 30 July ~~13 June~~ 2025

Signed by Hamish Rotstein
Lawyer for the Applicants

Schedule

No. of 2025

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

Applicants

Second Applicant: Suzanne Rutland OAM
Third Applicant: Ariel Eisner
Fourth Applicant: Yaniv Levy

Respondents

Second Respondent: The University of Sydney

Date: 30 July ~~13 June~~ 2025

Schedule A – Represented Persons Under Rule 9.21

No. _____ of 2025

Federal Court of AustraliaDistrict Registry: NSWDivision: Human Rights

<u>No.</u>	<u>Name</u>	<u>Consent filed</u>
<u>1</u>	<u>Lionel Babicz</u>	
<u>2</u>	<u>Yulia Berlin-Firer</u>	
<u>3</u>	<u>David Celermajer AO</u>	
<u>4</u>	<u>Ilan Dar-Nimrod</u>	
<u>5</u>	<u>Jennifer Dowling</u>	
<u>6</u>	<u>Yona Gilead</u>	
<u>7</u>	<u>Judy Kay</u>	
<u>8</u>	<u>Gustav Lehrer FAA AM</u>	
<u>9</u>	<u>Guy Mayraz</u>	
<u>10</u>	<u>Peter Morgan</u>	
<u>11</u>	<u>Loren Mowszowski</u>	
<u>12</u>	<u>Andy Smidt</u>	
<u>13</u>	<u>Lynne Swarts</u>	

Date: 30 July 2025

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

Joseph Toltz and others
Applicants

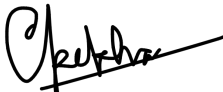
John Keane and another
Respondents

Affidavit of: **Joseph Toltz**
Address: 41 Renwick Street Alexandria NSW 2015
Occupation: Manager, Research Support at the University of Sydney
Date: 01/08/2025

Certificate identifying Exhibit

This is the Certificate identifying Exhibit "JT2" annexed to the Affidavit of Joseph Toltz dated 1 August 2025

Before me:



.....
UPEKHA WEDAGE
of Suite 409, 488 Bourke Street, Melbourne VIC 3000
Australian Legal Practitioner within the meaning of the
Legal Profession Uniform Law (Victoria)
A person authorised under section 19(1) of the Oaths
and Affirmations Act 2018 to take an affidavit.

Date: 1 August 2025

.....
Filed on behalf of (name & role of party) The Applicants
Prepared by (name of person/lawyer) Hamish Rotstein
Law firm (if applicable) Rotstein Commercial Lawyers
Tel (03) 9404 7888 Fax _____
Email hamish@rotsteins.com.au
Address for service Suite 409, 488 Bourke Street, Melbourne VIC 3000
(include state and postcode) _____

From: [Elijah Rasic](#)
To: wiseligilead@gmail.com
Cc: [Joseph Toltz](#); [Suzanne Rutland](#); [Hamish Rotstein](#); [Daniel McCoach](#)
Bcc: adambutt@wentworthchambers.com.au
Subject: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor
Date: Wednesday, 30 July 2025 2:32:36 PM
Attachments: [image001.png](#)
[image002.png](#)
[Keane Statement of Claim 30 July AB.pdf](#)
[originating application Keane 30 July AB.pdf](#)

Dear Yona,

As foreshadowed, we are writing to obtain your consent to be represented by Dr Joseph Toltz and Emeritus Professor Suzanne Rutland in Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor (**Keane Proceeding**) which is being brought as a representative proceeding under Rule 9.21 of the *Federal Court Rules 2011*.

For your information and provided to you on a confidential basis, please see **attached** the applicable statement of claim and originating application on behalf of the Applicants.

This email is sent to obtain your written consent to enable Dr Toltz and Professor Rutland to be able to certify to the Court that you have consented to the application being made by them on your behalf. We would be grateful for your prompt response so that we can progress matters efficiently.

To manifest your consent, would you please reply to this email by stating “I consent to Dr Toltz and Professor Rutland representing me in the Keane Proceeding.”

We kindly ask that you direct all responses to our office only and that you limit your responses to strictly the wording provided above if you do so consent.

Please be in touch with our office at the telephone details below if you have any questions.

Looking forward to your response.

Kind regards,

Elijah Rasic
Law Graduate



Member of Consulegis, an international network of law firms

A Suite 409, 488 Bourke Street, Melbourne VIC 3000 Australia

T (61 3) 9604 7888

E elijah.rasic@rotsteins.com.au

W www.rotsteins.com.au

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Amended Statement of claim

No. _____ of 2025

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

Joseph Toltz ~~and others~~ on behalf of himself and the represented persons listed in Schedule A
Applicants

John Keane and another
Respondents

Jurisdiction

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

Parties

2. The Applicants and the persons named in Schedule A are all natural persons capable of suing and ordinarily resident in Australia.
3. The First Applicant (**Dr Joseph Toltz**) is and at all relevant times was:
 - a. a researcher at The University of Sydney (**Sydney University**), specialising in Jewish music and its migrations, and Manager of Research Support in the Faculty of Arts and Social Sciences; and
 - b. a Jewish person.
4. The Second Applicant (**Professor Emeritus Suzanne Rutland OAM**) is and at all relevant times was:
 - a. a Professor Emeritus of The Sydney University of Sydney, Department of Hebrew, Biblical & Jewish Studies; and
 - b. a Jewish person and an Israeli citizen.

Filed on behalf of (name & role of party) The Applicants
Prepared by (name of person/lawyer) Hamish Rotstein
Law firm (if applicable) Rotstein Commercial Lawyers
Tel 61 3 9098 8785 Fax _____
Email hamish@rotsteins.com.au
Address for service Level 4, 488 Bourke Street, Melbourne VIC 3000
(include state and postcode) _____

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.
- 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; and
- b. was until he graduated in November 2024 a student enrolled at Sydney University studying a Bachelor of Architecture; and
- c. is and at all relevant times was a Jewish person.

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; and
- c. is and at all relevant times was a Jewish person and an Israeli citizen.

7. Each Applicant:

- a. is a **Jewish person** or a person who is, or is eligible to be, an Israeli citizen (**Israeli person**) and identifies as Zionist.

Particulars

- i. 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.

8. The First and Second Applicants also bring this proceeding under Rule 9.21 of the Federal Court Rules 2011 on behalf of persons listed in Schedule A, as to whom:

- a. Dr Lionel Babicz is a Jewish person and an Israeli citizen who is and at all relevant times was an academic at Sydney University teaching Japanese Studies

- and Asian Studies in the School of Languages and Culture. He also identifies as Zionist.
- b. Ms Yulia Berlin-Firer is a Jewish person and an Israeli citizen who is and at all relevant times was a casual academic staff member at Sydney University teaching in the Department of Hebrew, Biblical and Jewish Studies and involved in administration for that Department. She also identifies as Zionist.
 - c. Professor David Celermajer AO is a Jewish person who is and at all relevant times was the Scandrett Professor of Cardiology at Sydney University, Faculty of Medicine and Health. He also identifies as Zionist.
 - d. Associate Professor Dr Ilan Dar-Nimrod is a Jewish person and an Israeli citizen who is and at all relevant times was an Associate Professor at Sydney University in the School of Psychology, Faculty of Science. He believes in Israel being a nation state and the national home of and for the Jewish people.
 - e. Dr Yona Gilead is a Jewish person and an Israeli citizen who is and at all relevant times was the Malka Einhorn Modern Hebrew Senior Lecturer and Program Coordinator at the Faculty of Arts and Social Sciences at Sydney University (retiring at the end of July this year). She believes in Israel being a nation state and the national home of and for the Jewish people.
 - f. Professor Judy Kay is a Jewish person who is and at all relevant times was a Professor of Computer Science in the Faculty of Engineering at Sydney University. She also identifies as Zionist.
 - g. Emeritus Professor Gustav Lehrer FAA AM is a Jewish person who is and at all relevant times was a Professor Emeritus of Sydney University, School of Mathematics and Statistics, recognised internationally for his mathematical research. He also identifies as Zionist.
 - h. Dr Guy Mayraz is a Jewish person and an Israeli citizen who was at all relevant times until early July 2024, a behavioural economist teaching at Sydney University, School of Economics, thereafter has had an adjunct status with Sydney University. He also identifies as Zionist.
 - i. Associate Professor Andy Smidt is a Jewish person who was until about February 2024, a Senior Lecturer and Faculty Disability Liaison Officer at Sydney University, Sydney School of Health Sciences, Faculty of Medicine and Health. She also identifies as Zionist.
 - j. Dr Jennifer Dowling is a Jewish person who is and at all relevant times was the Manager, Education Innovation and Design in the Faculty of Arts and Social

Sciences at Sydney University. She believes in Israel being a nation state and the national home of and for Jewish people.

- k. Dr Lynne Swarts is a Jewish person who, at Sydney University: (a) is and at all relevant times was a Sessional Academic and Guest Lecturer in the Hebrew, Biblical and Jewish studies Department; (b) was until 2023 a Research Affiliate in the History Department; and (c) in first semester 2024 became a Senior Academic Tutor at St Andrews College (which is part of Sydney University). She also identifies as Zionist.
 - l. Dr Loren Mowszowski is a Jewish person and a dual Australian-Israeli citizen who was, until about mid-July 2024, a Senior Research Fellow, Clinical Neuropsychologist and Leader of the Cognitive Intervention Research Stream for the Healthy Brain Ageing Program at the Brain and Mind Centre and Faculty of Science, at Sydney University. She also identifies as Zionist.
 - m. Professor Peter Morgan, who is addressed more fully in [9] below, is and at all relevant times was Director of the European Studies Program at the School of Languages and Cultures at Sydney University.
9. Whereas Professor Morgan does not identify as Jewish or Israeli, he is nevertheless an affected or aggrieved person protected by the operation of the *Racial Discrimination Act 1975 (Cth) (RDA)* and the AHRC Act for Professor Keane's unlawful discrimination set out below, by reason of the following facts, matters and circumstances:
- a. He has more than an intellectual or emotional concern in the subject matter of Professor Keane's Staff Member's Post;
 - b. He has a grievance beyond a general member of the public by being expressly named and vilified in Keane's Staff Member's Post, or directly impugned in the unlawful vilification of his (senior) academic associates of Sydney University;
 - c. The target or imputations of the Staff Members Post as set out below were to offend, insult, humiliate or intimidate named Jewish and Israeli staff members, because of their race, ethnicity or nationality, to paint them as racist, or as devoid of morals, scruples or conscience when it comes to Palestinians, or as akin to Nazis in considering Palestinians as less than human;
 - d. He was either painted as, and could be seen to be by viewers of the Post as, a Jew or Israeli with those negative features, or as a person associated with and supporting Jews or Israelis with those negative features. Either outcome is a substantial grievance and the sort of mischief that the RDA seeks to redress.

- e. Further or alternatively, he is aggrieved as an associate of, or a person with a close connection with, the named Jewish/Israeli staff members, as a person who was supporting them in the email written by Associate Professor Avril Alba (see [42.a] below), and then vilified in Professor Keane's escalation on his X Page.
 - f. Further or alternatively, Professor Morgan, in a representative role with the Applicant and represented person staff members, was aggrieved by virtue of his special responsibility to safeguard the interests of Jewish or Israeli staff/academics at least at Sydney University, in joining and supporting Jewish/Israeli representative staff/academics attempting to do the same, and was vilified for so doing.
 - g. The reliance in the Amended Statement of Claim concerning Professor Keane in respect of the Hamas Flag Post and the Staff Members Post is cumulative, with the consequence that both can be relied upon together for the purposes of establishing the causation and racial elements in s18C of the RDA.
10. Each of the persons named in [8] above:
- a. Have the same interest in the proceeding in that they were exposed to the same unlawful conduct, namely to Professor Keane's Staff Members' Post and his Hamas Flag Post the details of which are set out below.
 - b. By reason of that exposure are entitled to the same relief and remedies as the First and Second Applicants by virtue of the operation of s18C of the RDA and s46PO(4) of the AHRC Act; and
 - c. Each has consented in writing to be represented in this proceeding.
11. For the purposes of the RDA *Racial Discrimination Act 1975* (Cth):
- a. Jewish ~~people~~ persons constitute a group of people with a shared race, descent and/or ethnic origin.
 - b. Israeli citizens and Israeli ~~people~~ persons constitute a group of persons with a shared ethnic origin and/or nationality.
12. Israel is a nation state and the national home of and for the Jewish people. Its citizens are mostly Jewish persons.
13. The First Respondent (**Professor John Keane**):
- a. is a natural person capable of being sued; and
 - b. is and at all relevant times was a Professor of Politics at Sydney University.

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

Professor John Keane X (Twitter) Page

15. Professor John Keane operates and at all material times operated, as a professor of the Sydney University, from Sydney, New South Wales or elsewhere in Australia an X page (**Keane X Page**) at the web address: https://x.com/jkeaneSDN?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor

Particulars

- a. Professor Keane's title is stated to be '@jkeaneSDN'
 - b. Professor Keane cites his title as 'professor.'
 - c. Professor Keane commenced that site on March 2013.
16. In or around October 2024 the Keane X Page had approximately 7,934 Followers, and at the time of this Amended Statement of Claim had about ~~7,835~~ 7,873 Followers.
17. The Keane X Page is and was at all relevant times accessible by members of the public whether or not they "follow" Professor Keane.
18. The Keane X Page is regularly updated by Professor Keane posting various publications including text, photos and audio-visual recordings of remarks and speeches.
19. A number of the publications which appear on the Keane X Page include links to various written or oral material published by Professor Keane or to material that he endorses or on which he comments.

Hammas

20. 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.
21. The Statement of Reasons for listing Hamas as a terrorist organisation include that it is guided by Islamic principles of "*destroying Israel*".
22. The Hamas Covenants express intention is to dismantle Israel as '*the Zionist entity*' and to create an Islamic State in its place.
23. The Hamas Covenants identify Hamas' raison d'être as "*obliterating*" Israel and "*killing the Jews*".

24. Under s 80.2E '*Prohibited symbols*', which is part of '*Subdivision CA—Publicly displaying, and trading in, prohibited symbols and giving Nazi salute*', a prohibited terrorist organisation symbol is defined as:
- a. a symbol that a terrorist organisation (within the meaning of Division 102) uses, or members of a terrorist organisation use, to identify the organisation;
 - b. something that so nearly resembles a symbol to which paragraph a. applies that it is likely to be confused with, or mistaken for, that symbol.

7 October 2023

25. On 7 October 2023, Hamas members illegally invaded the State of Israel and killed, raped, maimed, sexually abused and tortured more than 1,200 Jewish persons or Israeli persons.
26. During the 7 October 2023 invasion, Hamas members also kidnapped, abducted and took as hostages more than 250 persons who were overwhelmingly Jewish or Israeli persons including women, children and the elderly.
27. Hamas's terrorist 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 overwhelmingly 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.

Impugned publication made on 8 October 2023 – the Hamas Flag Post

28. On or about 8 October 2023, the first day after the 7 October 2023 Hamas terrorist attacks described in [\[25\]-\[27\]](#) above, Professor Keane published the following picture on his Keane X Page, which shows 5 green Hamas flags with Arabic writing visible on them (**the Hamas Flag Post**):



29. The Hamas Flag Post:
 - a. continued to be and remained posted and visible on the Keane X Page as from 8 October 2023;
 - b. as at 23 October 2024, had 6,125 views; and
 - c. as at the time of the Amended Statement of Claim, had about ~~6,204~~ 6,232 views.
30. Each flag was, and was known and intended by Professor Keane to be, a Hamas flag used by the Hamas military wing.
31. Each flag was, or is, known by the Applicants, and the persons on whose behalf the Amended Statement of Claim is filed, to be the Hamas flag.
32. The Applicants and the persons on whose behalf the Amended Statement of Claim is filed also knew, or now know, that the Hamas flag is the flag used by the Hamas military wing.
33. At all material times the Hamas Flag was thus recognisable as the Hamas flag.
34. Professor Keane's Hamas Flag Post was and continued to be a post of a "*prohibited terrorist organisation symbol.*"

Imputations

35. The Hamas Flag Post conveyed the following imputations:
 - a. The activities described in [25]-[27] above of Hamas on October 7, which involved the killing, rape, maiming, sexual abuse, kidnapping and torture of Jewish and Israeli ~~people~~ persons, because they were believed to be Jewish or Israeli, was an event that was to be celebrated, endorsed, supported and approved of.

- b. Professor Keane celebrated, endorsed, supported and approved those activities.
- c. Hamas and its objectives (including those outlined in [21], [22], [23] and [27] above) were to be celebrated, endorsed, supported and approved.
- d. Professor Keane celebrated, endorsed, supported and approved of Hamas and its objectives (including those outlined in [21], [22], [23] and [27] above).

Contravention of s 18C of the *Racial Discrimination Act 1975 (Cth)* (RDA)

36. Professor Keane's posting of the Hamas Flag Post was an act which caused 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.
37. Professor Keane's posting of the Hamas Flag Post and its non-removal, by conveying any, all or some of the imputations alleged in [35] was reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate the Applicants, the persons in Schedule A, as well as other Jewish ~~people~~ persons and Israeli ~~people~~ persons in Australia.
38. The posting and its non-removal was made or done because of the race, national or ethnic origin of the people reasonably likely to be offended, insulted, humiliated or intimidate by the posting including because:
- a. The subject matter of the post, considering its timing, was directly related 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;
 - b. The posting was plainly calculated to convey a message about or concerned with the race, ethnic origin or national origin (Jewish and/or Israeli) of the victims of the events of October 7;
 - c. The posting was actuated or motivated by considerations of race, ethnic origin or national origin or, in the alternative, race, or ethnic or national origin was otherwise a factor in Professor Keane's act.
39. In the premises set out in [15]-[38] above, Professor Keane contravened s 18C of the RDA and engaged in unlawful discrimination within the meaning of ss 3(1) and 46P of the AHRC Act. ~~*Australian Human Rights Commission Act 1986 (Cth)*~~.

Impugned publication made on 8 November 2023 – Keane’s Staff Members Post

40. On about 8 November 2023, Professor Keane posted to the Keane X Page, a post which contains the under-mentioned text displayed above a letter, which was stated to have been sent by the complainants and the represented persons to him on 7 November 2023 (**Keane’s Staff Members Post**). Professor Keane stated in the post that the letter was:

“an ad hominem response to my Open Letter by a small group of pro-Israel staff members: defamatory insults (‘repulsive’ etc) mixed with self-righteous indignation of people convinced they are victims of non-humans (Palestinians) who imperil their Promised Land...”

41. A screenshot of the post as it was seen on the Keane X Page is set out below.



John Keane
@jkeaneSDN

⋮

an *ad hominem* response to my Open Letter by a small group of pro-Israel staff members: defamatory insults (‘repulsive’ etc) mixed with self-righteous indignation of people convinced they are victims of non-humans (Palestinians) who imperil their Promised Land...

10e 07/11/2023 11:12 AM
[view more](#)

Dear John,

The University’s Charter of Freedom of Speech and Academic Freedom allows you to express your views. However, those reading your letter should be aware of its inaccuracies. You accuse Israel of promoting indiscriminate warfare and genocide and the murder of innocents without compunction, and your letter culminates in a repulsive reversal of victims and perpetrators in which you liken the actions of Israel to those of the Nazis. There is also not one mention of the atrocities of October 7, which is not only deeply disappointing, but also a shockingly inhumane omission. We believe that in the context of war, any loss of civilian life is tragic: Palestinian, Israeli, and any other nationality. To draw an equivalence, however, between the acts of terror witnessed and documented via bodycams from Hamas themselves, and the awful civilian deaths of Gazans (many of whom are deliberately placed in the line of fire as human shields) by Israeli army fire, is unconscionable.

Dr Michael Abrahams-Sprod
A/Prof Avril Alba
Dr Lionel Babicz
Yulia Berlin-Firer
Professor David Celermajer
A/Prof Ilan Dar-Nimrod
Dr Jennifer Dowling
Dr Yona Gilead
Professor Judy Kay
Professor Gustav Lehrer
Dr Guy Mayraz
Prof Datar M...

when students are fee-paying customers, nor ivory towers sheltered from the harsh realities of the world. Universities, you say using other words, are public spaces supportive of competing perceptions of ‘knowledge’ and ‘reality’, laboratories of life in which the university community breathes the air of curiosity, learns to accept that human lives can legitimately be lived in different ways, in opposition to arrogance and ignorance, lies and nonsense.

Less welcome are your strictures on tolerance. You say our University supports ‘the rights of students and staff to engage in political discourse’ but that anybody who utters ‘pro-terrorist statements or commentary, including support for Hamas’s recent terrorist attacks’ will be the target of tough disciplinary proceedings, including termination of employment. Many staff and students have noted an every bias within your definition of the tolerable. It is founded on silence about such ugly matters as non-stop aerial bombardment, the illegal use of white phosphorus bombs on civilians, settler violence, bulldozers wrecking the homes of fearful innocents, death by suffocation under rubble, devilish propaganda dropped from the skies, the wilful destruction of mosques, churches, schools and universities, and crazed plans for the forcible removal of millions of people from their ancient homelands.

If toleration depends upon silence about these grim matters then it’s an objectionable principle that has no place in the life of our University. Toleration purports to be a pleasing and heart-warming ethic. The word itself is from the Latin *tolerāre*, to endure, or countenance, or to bear or put up with some person or situation otherwise deemed

 Gideon Levy and 9 others

3:38 PM · Nov 8, 2023 · **9,981** Views

25 Reposts
5 Quotes
63 Likes
10 Bookmarks

42. The post had the following accessible attachments:
- a. An email authored by Associate Professor Avril Alba of Sydney University (with certain modifications compared to the actual email) on 7 November 2023 to

Professor Keane and Vice Chancellor Mark Scott, copying a large number of Sydney University groups, and being an email in a chain of emails among Sydney University academics. The attachment Keane put up contained a photograph of Professor Alba.

- b. A picture with the names of 17 academics from Sydney University in larger font (all of whom were Jewish and/or Israeli academics except for Peter Morgan), namely:

1. Dr Michael Abrahams-Sprod
2. A/Prof Avril Alba
3. Dr Lionel Babicz
4. Yulia Berlin-Firer
5. Professor David Celermajer
6. A/Prof Ilan Dar-Nimrod
7. Dr Jennifer Dowling
8. Dr Yona Gilead
9. Professor Judy Kay
10. Professor Gustav Lehrer
11. Dr Guy Mayraz
12. Professor Peter Morgan
13. Dr Loren Mowszowski
14. Professor Suzanne Rutland (Second Applicant)
15. Dr Andy Smidt
16. Dr Lynne Swarts
17. Dr Joseph Toltz (First Applicant)

- c. A letter which purports to be Professor Keane's response of 6 November 2023 to a communication of Vice Chancellor Mark Scott to all Sydney University staff and students of 26 October 2023 (in the post it appeared on a letterhead instead of being in email form).

43. The Vice Chancellor's original communication dated 26 October 2023, to which Professor Keane's 6 November email responded, was not attached to the post. In that email the Vice Chancellor and President had said that Sydney University would not tolerate support for Hamas' recent terrorist attacks.
44. No permission or authorisation was sought by Professor Keane, or was obtained by him, from any of the 17 named academics to publish their names or the content of their email.

45. Professor Keane's Staff Members Post remained on his Keane X Page from 8 November 2023 until it was removed as a result of a Sydney University disciplinary process on or about 21 May 2024.

Particulars of the disciplinary process

(a) Complaints were made by Jewish/Israeli staff of Sydney University from 8 November 2023 onwards. This included but was not limited to complaints made directly by or on behalf of persons including: Professor Emerita Suzanne Rutland (Second Applicant), Dr Sarah Aamidor, Dr Michael Abrahams-Sprod, Associate Professor Avril Alba, Dr Lionel Babicz, Dr Larisa Barnes, Professor David Celermajer AO, Associate Professor Ronald Clarke, Dr Jennifer Dowling, Dr Yona Gilead, Talia Gonda, Emmilly Graf, Dr Eve Guerry, Associate Professor Sabina Kleitman, Professor Emerita Ines Krass, Professor Emeritus Gustav Lehrer AO, Mr Yaniv Levy (Fourth Applicant), Associate Professor Tania Markovic, Sarah Marks, Dr Guy Mayraz, Professor Peter Morgan, Dr Loren Mowszowski, Adam Muscio, Isabella Nahon, Emeritus Professor Leo Radom, Tracie Sillers, Dr Andy Smidt, Rachel Sullivan, Dr Lynne Swarts, Dr Joseph Toltz (First Applicant), Vanina Vaisman-Levy, Yulia Berlin-Firer.

(b) Examples include:

- i. On 8 November 2023, Avril Alba, Yulia Berlin-Firer, Suzanne Rutland and Michael Abrahams-Sprod complained to Mark Scott (Vice Chancellor) and Annamarie Jagose (Provost and Deputy Vice Chancellor) about Professor Keane (and Jake Lynch).
- ii. On 9 November Dr Loren Mowszowski wrote to Mark Scott and Annamarie Jagose endorsing her colleague's complaints. Lionel Babicz wrote to Professor Jagose reinforcing Ms Berlin-Firer's complaint.
- iii. On 30 November 2023 Dr Mowszowski followed up Professors Jagose and Scott, concerned that she had had no response or acknowledgment to her email sent 3 weeks earlier.
- iv. On 1 December 2023, Peter Wertheim of the Executive Council of Australian Jewry and Mark Scott discussed concerns of Jewish staff and students including their unanswered complaints regarding Professor Keane's email.
- v. On 22 December 2023, Dr Mowszowski wrote to Naomi Connolly, Senior Manager in Workplace Relations, concerned at the slowness

of the process which was compounding her distress and causing her to largely avoid attending main campus.

- vi. On 17 January 2024, Professor Rutland wrote to the Vice Chancellor, provost, Chancellor, and the Senate, supported by some 30 predominantly Jewish/Israeli staff, who comprised a newly formed Sydney University branch of the Australian Academic Alliance Against Antisemitism (**5A Group**). The letter appended 'Key Issues' concerning 'ongoing the pro-Palestinian campaign' at Sydney University since Hamas' 7 October invasion. The Issues included "*Intimidation and defamation of academic staff over University email and on social media*", noting Professor Keane's inflammatory letter and subsequent events and the slow response of the Workplace Department.
- vii. On 22 January 2024 Dr Mowszowski sought a further update.
- viii. On 13 February 2024, Mark Scott responded to Professor Rutland's 17 January complaint on behalf of the 5A Group. Nothing expressly or adequately addressed the Keane concern.
- ix. On 19 March 2024 the 5A Group were informed that Workplace Relations completed a preliminary assessment and advised next steps to Lisa Adkins, Dean of Faculty of Art and Sciences.
- x. On 3 April 2024, Lisa Adkins sent an outcome letter regarding the Keane complaint. Professor Keane's conduct was found to contravene University policies and codes and to be Misconduct under Sydney University's Enterprise Agreement. The University would discipline Professor Keane and direct him to delete the Staff Members Post.
- xi. On 8 April 2024, Dr Mowszowski wrote to Professor Adkins and Ms Connolly, communicating 'extreme concern' that Professor Keane's Post was still on X, causing '*further insult and offense*' and questioning what consequences Keane received and how complainants could be assured disciplinary actions will be effective.
- xii. On 10 April 2024, Dr Mowszowski was advised that the University would not provide additional details regarding Professor Keane's disciplinary action. The same day she sought that Professor Keane be contacted directly to ensure the Post's removal was not significantly delayed.
- xiii. On 26 April 2024, Dr Mowszowski wrote to Professor Adkins and Ms Connolly noting the Staff Post was still online, which was perpetuating

“distress, intimidation and offence,” undermining the complaint process and asking why he was not being held to account.

- xiv. During 28 April to 10 May 2024, Dr Babicz wrote several emails to/from Lisa Adkins and Naomi Connolly, expressing major concern about the University’s lack of effective action regarding Keane’s Staff Post, stating: *“considering the ongoing events on campus, including the involvement of jihadist elements external to the University, the potential threat to the safety of the people doxed by that post is increasing day by day.”* (10 May)
 - xv. On 3 and 7 May 2024, Ms Connolly wrote to Dr Mowszowski, failing to address her concerns.
 - xvi. On 21 May 2024, Jodi Dickson, Director of Workplace Relations, wrote to the 5A Group complainants informing them that Professor Keane had removed their names from the posts he made on X.
46. Until the date of the removal of the post from Professor Keane’s X page on 21 May 2024, Professor Keane’s Staff Member’s Post had about 30,000-31,000 views.
47. Professor Keane’s Staff Members Post conveyed the following imputations:
- a. The named Jewish and Israeli staff members regarded, treated, considered and were convinced that Palestinians are “non-humans” (meaning something less than or other than human beings).
 - b. The named Jewish and Israeli staff members were racists who regarded, treated, considered and were convinced that Palestinians challenging Israel as a Jewish homeland, or as their “Promised land”, are “non-humans”.
 - c. The named Jewish and Israeli persons, in seeking to defend the existence of Israel should be condemned and publically exposed as self-righteous racists without any morals, scruples or conscience.
 - d. Jewish persons and Israeli persons believe that Palestinians or Palestinians challenging Israel as a Jewish homeland or as their “Promised land” are “non humans”.
 - e. Jews and Israelis, or the named Jews and Israelis, were acting like the Nazis in considering Palestinians as “non-humans” or as something less than, or other than, human beings.
48. Contrary to the imputations set out immediately above:
- a. None of the staff members identified in the post were racists nor were they persons who regarded, treated, considered or were convinced that Palestinians

or Palestinians challenging Israel as a Jewish homeland or as “*their Promised land*” were “*non-humans*”.

- b. Jewish persons and Israeli persons as a group or otherwise did not regard, treat, consider and were not convinced that Palestinians or Palestinians challenging Israel as a Jewish homeland or as their “*Promised Land*” were “*non-humans*”.

49. The reference to “non-humans” has particular resonance for Jewish and Israeli ~~people~~ persons given its historical use to describe Jewish persons ~~people~~ in that way.
50. The First and Second Applicants and each of the persons in Schedule A, who were all named in Keane’s Staff Members Post, suffered distress, loss and damage, including harm to their reputation, and/or psychological injury by reason of the publication and non-removal of the Keane’s Staff Members Post.

Contravention of s 18C of the RDA

51. Professor Keane’s posting of, and failure to remove prior to 21 May 2024, Keane’s Staff Members Post were acts which caused words and 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.
52. Professor Keane’s posting of, and his failure to remove prior to 21 May 2024, Keane’s Staff Members Post, by conveying any or all of the imputations alleged above and by attributing the false characteristics alleged to those named Jewish and Israeli Staff Members and to Jewish persons and Israeli persons on the basis of their group membership or otherwise, was reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate the Jewish and Israeli Staff Members named in Keane’s Staff Members Post and other Jewish persons and Israeli persons.
53. The posting and its non-removal prior to 21 May 2024 was made or done because of the race, national or ethnic origin of the people reasonably likely to be offended, insulted, humiliated or intimidate by the posting including because:
 - a. The post referred to and criticised only Jewish and Israeli people;
 - b. It did so by reference to their position as being “pro-Israel”;
 - c. The subject matter of the post 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;

- d. The posting was plainly calculated to convey a message about or concerned with the race, ethnic origin or national origin (Jewish and/or Israeli) of the people named;
- e. Professor Keane had earlier posted the Hamas Flag Post which provides context for the real reason why the Staff Members Post was actuated by race and/or ethnic origin and/or national origin or, in the alternative, race, or ethnic or national origin was otherwise a factor in Professor Keane's conduct; and
- f. Professor Keane 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.

54. In the premises set out in [40]-[53] above, Professor Keane contravened s 18C of the RDA and engaged in unlawful discrimination within the meaning of ss 3(1) and 46P of the AHRC Act. ~~*Australian Human Rights Commission Act 1986 (Cth)*~~.

Professor Keane's Staff Members Post – Vicarious liability of Sydney University

- 55. Professor Keane is an employee of Sydney University.
- 56. The posting, and the non-removal until on or about 21 May 2024, of Professor Keane's Staff Members Post was made in connection with his duties as an employee of Sydney University:
 - a. the communications that precipitated the Staff Members Post were internal staff University email exchanges about University matters;
 - b. the Staff Members Post had the potential to (and actually did) adversely affect the working relationship of the named employees of Sydney University, and for other Jewish/Israeli employees;
 - c. The following documents make it clear that communications of this kind are directly connected to employment by Sydney University:
 - i. Sydney University Complaint Procedures;
 - ii. the *University of Sydney Enterprise Agreement 2023-2026* (eg. cll 354, 360, 361, 362, 366 and 368);
 - iii. Sydney University Staff and Affiliates Code of Conduct 2021 (eg. cll 3, 5, 7, 8, 11, 15, 19, 20, 21, 23, 24);
 - iv. Public Comment Policy of Sydney University (eg. Guidelines and Pt 2);
 - v. *University of Sydney Act 1989* (NSW) (eg. s 2);
 - vi. *Charter of Freedom of Speech and Academic Freedom 2019*.

57. The Staff Members Post and its non-removal are acts that would have been unlawful had they been done by Sydney University for the reasons set out at paragraphs [40]-[54] above.
58. Sydney University failed to take all reasonable steps to prevent Professor Keane from publishing the Staff Members Post considering:
- a. the correspondence referred to or described in [40]-[44] above;
 - b. the disciplinary process and the complaints described in [45] and the failure of Sydney University to act on those complaints appropriately, with due diligence or due expedition.
59. In the premises above, Professor Keane Staff Members Post and its non-removal were acts of Professor Keane 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 Professor Keane pursuant to s 18E of the RDA.

Complaint to the Australian Human Rights Commission

60. On about 31 October 2024, the Applicants lodged with the Australian Human Rights Commission under sections 46P and 46PB of the AHRC Act ~~*Australian Human Rights Commission Act 1986 (Cth)*~~ a complaint against the Respondents alleging unlawful discrimination (**AHRC Complaint**).
61. The unlawful discrimination alleged above is the same or the same in substance as the unlawful discrimination alleged in the AHRC Complaint.
62. 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 AHRC Act ~~*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. 2024-15489 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

63. In the premises, the Applicants and each of the persons in Schedule A are entitled to the relief claimed in the Amended Originating Application.

Date: ~~13 June~~ 30 July 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 Amended Statement of Claim filed on behalf of the Applicants, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: ~~13 June~~ 30 July 2025

.....
Signed by Hamish Rotstein
Lawyer for the Applicants

Certificate of First and Second Applicants

I, Joseph Toltz, and Suzanne Rutland, certify to the Court that each person on whose behalf the application is made has consented in writing to the making of the application on the person's behalf.

Date: 30 July 2025

.....
Signed by Joseph Toltz
First Applicant

Date: 30 July 2025

.....
Signed by Suzanne Rutland
Second Applicant

**Amended Originating application under the Australian Human Rights
Commission Act 1986**

No. _____ of 2025

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

Joseph Toltz ~~and others named in the schedule~~ suing on behalf of himself and on behalf of the
persons named in Schedule A

Applicants

John Keane and another named in the schedule

Respondents

To the Respondents

The Applicants apply for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing:

Place: 184 Phillip Street, Sydney NSW 2000

Date:

.....
Signed by an officer acting with the authority
of the District Registrar

.....
Filed on behalf of (name & role of party) The Applicants
Prepared by (name of person/lawyer) Hamish Rotstein
Law firm (if applicable) Rotstein Commercial Lawyers
Tel 61 3 9098 8785 Fax _____
Email hamish@rotsteins.com.au
Address for service Level 4, 488 Bourke Street, Melbourne VIC 3000
(include state and postcode) _____

Details of claim under the Australian Human Rights Commission Act 1986

The Applicants claims that, on the grounds set out in the accompanying Amended Statement of Claim:

1. Pursuant to s18C of the *Racial Discrimination Act 1975* (Cth) (**RDA**), the first respondent engaged in unlawful discrimination based on racial hatred by posting and not removing two X posts, each of which was reasonably likely to offend, insult, humiliate or intimidate:
 - a. the Applicants,
 - b. the persons they First and Second Applicants represent, and
 - c. ~~Jewish or Israeli persons in Australia any other Jewish or Israeli persons in Australia when the posts, reposts or publications the subject of the complaint were made or published and/or maintained as posts or reposts and who were, or were reasonably likely to be, offended, insulted, humiliated or intimidated, by the unlawful discrimination alleged in this claim,~~

and were acts done because of the Jewish race, descent or ethnic origin or the Israeli ethnic or national origin of the persons set out above.
2. Pursuant to s18E of the RDA, the second respondent, by virtue of Keane's Staff Members Post and its non-removal until about 21 May 2024 being acts done in connection with Keane's duties as an employee or agent of Sydney University, is vicariously liable for his conduct such that the RDA applies to the second respondent as if it had engaged in the first respondent's conduct and the second respondent is taken to have contravened s18C of the RDA.

The First and Second Applicants also bring this application on behalf of themselves and on behalf of the persons named in Schedule A.

1. Legislation

The Applicants claims that the discrimination complained of is unlawful under sections 18C and 18E of the *Racial Discrimination Act 1975*.

Remedy sought

The Applicants asks the Court for:

1. A declaration that Professor John Keane's posting of the Hamas Flag Post and his Staff Members Post, as well as their non-removal, contravened s 18C of the RDA and therefore constituted unlawful discrimination.

2. A declaration that Sydney University, by reason of its vicarious liability for Professor Keane's unlawful discrimination of the RDA, has contravened s 18C and engaged in unlawful discrimination in respect of Keane's Staff Members Post and its non-removal.
3. Injunctions requiring Professor Keane to remove or to cause the removal of:
 - a. the Hamas Flag Post from the Keane X Page or any other internet platform page or website;
 - b. Keane's Staff Members Post from any other internet platform page or website.
4. Injunctions requiring Professor Keane not to repeat or continue the unlawful discrimination the subject of the relief set out above and, in particular, not to publish or republish the Hamas Flag Post or the Keane Staff Members Post or the imputations described in the Statement of Claim filed in this proceeding.
5. Injunctions requiring Professor Keane and Sydney University to perform any reasonable act or course of conduct, including to pay and/or redress any distress, loss or damage (including harm to repute) and psychological injury suffered by any of the Applicants complainants or the persons the First and Second Applicants they represent, in a form to be determined, and to pay aggravated and punitive damages by reason of Professor Keane's and Sydney University's unlawful discrimination.
6. An order:
 - a. for payment of damages by way of compensation for loss and damage (including harm to repute and aggravated and punitive damages) and for distress and psychological injury suffered by any of the First and Second Applicants or persons they represent, being suffered by the seventeen staff members named in Keane's Staff Members Post, because of the unlawful discrimination arising from or by reason of the Post;
 - b. alternatively, at their option, an order for the payment of an amount equal to the compensation to which they would be entitled paid to a charity or charities nominated by them.
7. Interest
8. An order for public apologies by Professor Keane and the Vice Chancellor and/or other appropriate officer of Sydney University, in a form to be determined.
9. Costs.
10. Such further or other order as the Court considers fit.

Accompanying documents

This application must be accompanied by:

1. A copy of the original complaint to the Australian Human Rights Commission; and
2. The notice of termination of complaint given by the President of the Australian Human Rights Commission.

Applicants' details

The Applicants' and represented persons' relationship to the Respondent is fellow staff members at or students of Sydney University.

The Applicants are over 18 years.

Applicants' address

The Applicants' address for service is:

Place: Rotstein Commercial Lawyers, Level 4, 488 Bourke Street, Melbourne VIC 3000

Email: hamish@rotsteins.com.au

The Applicants' address is Level 4, 488 Bourke Street, Melbourne VIC 3000

Service on the Respondent

It is intended to serve this application on the Respondent.

Date: 30 July ~~13 June~~ 2025

Signed by Hamish Rotstein
Lawyer for the Applicants

Schedule

No. of 2025

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

Applicants

Second Applicant: Suzanne Rutland OAM
Third Applicant: Ariel Eisner
Fourth Applicant: Yaniv Levy

Respondents

Second Respondent: The University of Sydney

Date: 30 July ~~13 June~~ 2025

Schedule A – Represented Persons Under Rule 9.21

No. _____ of 2025

Federal Court of AustraliaDistrict Registry: NSWDivision: Human Rights

<u>No.</u>	<u>Name</u>	<u>Consent filed</u>
<u>1</u>	<u>Lionel Babicz</u>	
<u>2</u>	<u>Yulia Berlin-Firer</u>	
<u>3</u>	<u>David Celermajer AO</u>	
<u>4</u>	<u>Ilan Dar-Nimrod</u>	
<u>5</u>	<u>Jennifer Dowling</u>	
<u>6</u>	<u>Yona Gilead</u>	
<u>7</u>	<u>Judy Kay</u>	
<u>8</u>	<u>Gustav Lehrer FAA AM</u>	
<u>9</u>	<u>Guy Mayraz</u>	
<u>10</u>	<u>Peter Morgan</u>	
<u>11</u>	<u>Loren Mowszowski</u>	
<u>12</u>	<u>Andy Smidt</u>	
<u>13</u>	<u>Lynne Swarts</u>	

Date: 30 July 2025

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

Joseph Toltz and others
Applicants

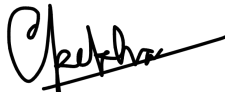
John Keane and another
Respondents

Affidavit of: **Joseph Toltz**
Address: 41 Renwick Street Alexandria NSW 2015
Occupation: Manager, Research Support at the University of Sydney
Date: 01/08/2025

Certificate identifying Exhibit

This is the Certificate identifying Exhibit "JT3" annexed to the Affidavit of Joseph Toltz dated 1 August 2025

Before me:



.....
UPEKHA WEDAGE
of Suite 409, 488 Bourke Street, Melbourne VIC 3000
Australian Legal Practitioner within the meaning of the
Legal Profession Uniform Law (Victoria)
A person authorised under section 19(1) of the Oaths
and Affirmations Act 2018 to take an affidavit.

Date: 1 August 2025

.....
Filed on behalf of (name & role of party) The Applicants
Prepared by (name of person/lawyer) Hamish Rotstein
Law firm (if applicable) Rotstein Commercial Lawyers
Tel (03) 9404 7888 Fax _____
Email hamish@rotsteins.com.au
Address for service Suite 409, 488 Bourke Street, Melbourne VIC 3000
(include state and postcode) _____

From: smidtandy@gmail.com
To: [Elijah Rasic](#); [Joseph Toltz](#); [Suzanne Rutland](#)
Cc: [Daniel McCoach](#); [Hamish Rotstein](#)
Subject: Re: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor
Date: Wednesday, 30 July 2025 6:03:06 PM
Attachments: [image001.png](#)
[image002.png](#)

I consent to Joseph and Suzanne to represent me in the Keane Proceedings - let me know if there is specific wording you need from me or if this email is sufficient

Andy

From: Elijah Rasic <Elijah.Rasic@rotsteins.com.au>
Date: Wednesday, 30 July 2025 at 9:11 am
To: Joseph Toltz <josephholtz@me.com>, Suzanne Rutland <suzannerutlandlegal@gmail.com>
Cc: Daniel McCoach <daniel.mccoach@rotsteins.com.au>, Hamish Rotstein <hamish@rotsteins.com.au>
Subject: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor

Dear all,

As foreshadowed, we are writing to obtain your consent to be represented by Dr Joseph Toltz and Emeritus Professor Suzanne Rutland in Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor (**Keane Proceeding**) which is being brought as a representative proceeding under Rule 9.21 of the *Federal Court Rules 2011*.

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To manifest your consent, would you please reply to this email by stating “I consent to Dr Toltz and Professor Rutland representing me in the Keane Proceeding.”

We kindly ask that you direct all responses to our office only and that you limit your responses to strictly the wording provided above if you do so consent.

Please be in touch with our office at the telephone details below if you have any questions.

Looking forward to your response.

Kind regards,

Elijah Rasic
Law Graduate



Member of Consulegis, an international network of law firms

A Suite 409, 488 Bourke Street, Melbourne VIC 3000 Australia

T (61 3) 9604 7888

E elijah.rasic@rotsteins.com.au

W www.rotsteins.com.au

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From: [David Celermajer \(Sydney LHD\)](#)
To: [Elijah Rasic](#); [Joseph Toltz](#); [Suzanne Rutland](#)
Cc: [Daniel McCoach](#); [Hamish Rotstein](#)
Subject: RE: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor
Date: Wednesday, 30 July 2025 9:29:43 AM
Attachments: [image001.png](#)
[image002.png](#)

I consent to Dr Toltz and Professor Rutland representing me in the Keane Proceeding

David Celermajer

From: Elijah Rasic <Elijah.Rasic@rotsteins.com.au>
Sent: Wednesday, 30 July 2025 9:11 AM
To: Joseph Toltz <josephholtz@me.com>; Suzanne Rutland <suzannerutlandlegal@gmail.com>
Cc: Daniel McCoach <daniel.mccoach@rotsteins.com.au>; Hamish Rotstein <hamish@rotsteins.com.au>
Subject: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor

Dear all,

As foreshadowed, we are writing to obtain your consent to be represented by Dr Joseph Toltz and Emeritus Professor Suzanne Rutland in Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor (**Keane Proceeding**) which is being brought as a representative proceeding under Rule 9.21 of the *Federal Court Rules 2011*.

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Looking forward to your response.

Kind regards,

Elijah Rasic
Law Graduate



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This email is intended for the addressee named and may contain confidential information. If you are not the intended recipient, you must not disclose, copy or distribute this email. If you have received this email in error, please notify the sender immediately, delete it from your system and destroy any copies.

Views expressed in this message are those of the individual sender, and are not necessarily the views of NSW Health or any of its entities.

From: [Gus Lehrer](#)
To: [Joseph Toltz](#); [Suzanne Rutland](#); [Elijah Rasic](#)
Cc: [Daniel McCoach](#); [Hamish Rotstein](#)
Subject: Re: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor
Date: Thursday, 31 July 2025 4:04:42 PM
Attachments: [image001.png](#)
[image002.png](#)

Dear Elijah Rasic,

I consent to Dr Toltz and Professor Rutland representing me in the Keane Proceeding.

Best wishes,
Gus Lehrer.

On Wednesday 30 July 2025 at 09:10:59 am AEST, Elijah Rasic <elijah.rasic@rotsteins.com.au> wrote:

Dear all,

As foreshadowed, we are writing to obtain your consent to be represented by Dr Joseph Toltz and Emeritus Professor Suzanne Rutland in Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor (**Keane Proceeding**) which is being brought as a representative proceeding under Rule 9.21 of the *Federal Court Rules 2011*.

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Looking forward to your response.

Kind regards,

Elijah Rasic

Law Graduate



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From: [Guy Mayraz](#)
To: [Elijah Rasic](#)
Cc: [Joseph Toltz](#); [Suzanne Rutland](#); [Daniel McCoach](#); [Hamish Rotstein](#)
Subject: Re: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor
Date: Wednesday, 30 July 2025 9:48:52 AM

Dear Elijah,

I consent to Dr Toltz and Professor Rutland representing me in the Keane Proceeding.

King regards,

Guy Mayraz

On 30 Jul 2025, at 9:10, Elijah Rasic wrote:

Dear all,

As foreshadowed, we are writing to obtain your consent to be represented by Dr Joseph Toltz and Emeritus Professor Suzanne Rutland in Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor (**Keane Proceeding**) which is being brought as a representative proceeding under Rule 9.21 of the *Federal Court Rules 2011*.

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Looking forward to your response.

Kind regards,

Elijah Rasic

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From: [Ilan Dar-nimrod](#)
To: [Elijah Rasic](#)
Subject: Re: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor
Date: Wednesday, 30 July 2025 10:49:32 AM
Attachments: [image001.png](#)
[image002.png](#)

I consent to Dr Toltz and Professor Rutland representing me in the Keane Proceeding

On Wed, Jul 30, 2025 at 9:11 AM Elijah Rasic <Elijah.Rasic@rotsteins.com.au> wrote:

Dear all,

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Kind regards,

Elijah Rasic

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From: [Jennifer Dowling](#)
To: [Elijah Rasic](#)
Subject: Re: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor
Date: Wednesday, 30 July 2025 11:20:24 AM
Attachments: [image001.png](#)
[image002.png](#)

“I consent to Dr Toltz and Professor Rutland representing me in the Keane Proceeding.”

Jennifer Dowling

On Wed, 30 Jul 2025 at 09:11, Elijah Rasic <Elijah.Rasic@rotsteins.com.au> wrote:

Dear all,

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Kind regards,

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Law Graduate



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--
--

What we've got here is failure to communicate.

— Cool Hand Luke

From: [Judy Kay](#)
To: [Elijah Rasic](#)
Cc: [Joseph Toltz](#); [Suzanne Rutland](#); [Daniel McCoach](#); [Hamish Rotstein](#)
Subject: Re: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor
Date: Wednesday, 30 July 2025 3:04:40 PM
Attachments: [image001.png](#)
[image002.png](#)

Dear Elijah Rasic

I consent to Dr Toltz and Professor Rutland representing me in the Keane Proceeding.

Judy Kay

Human-Centred Technology Research Cluster, University of Sydney.
THE UNIVERSITY OF SYDNEY

Rm 307, Computer Science Building, J12 | The University of Sydney | NSW | 2006
T +61 2 9351 4502 | F +61 2 9351 3838 | W: [judykay.name](#)

On Wed, 30 Jul 2025 at 09:11, Elijah Rasic <Elijah.Rasic@rotsteins.com.au> wrote:

Dear all,

As foreshadowed, we are writing to obtain your consent to be represented by Dr Joseph Toltz and Emeritus Professor Suzanne Rutland in Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor (**Keane Proceeding**) which is being brought as a representative proceeding under Rule 9.21 of the *Federal Court Rules 2011*.

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From: [Lionel Babicz](#)
To: [Elijah Rasic](#)
Subject: Re: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor
Date: Wednesday, 30 July 2025 2:46:10 PM

I consent to Dr Toltz and Professor Rutland representing me in the Keane Proceeding.

Lionel Babicz

On 30 Jul 2025, at 09:10, Elijah Rasic <Elijah.Rasic@rotsteins.com.au> wrote:

Dear all,

As foreshadowed, we are writing to obtain your consent to be represented by Dr Joseph Toltz and Emeritus Professor Suzanne Rutland in Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor (**Keane Proceeding**) which is being brought as a representative proceeding under Rule 9.21 of the *Federal Court Rules 2011*.

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Looking forward to your response.

Kind regards,

Elijah Rasic
Law Graduate

<image001.png>

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E elijah.rasic@rotsteins.com.au

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[<image002.png>](#)

<Keane Statement of Claim 30 July AB.pdf><originating application Keane
30 July AB.pdf>

From: loren@reneuro.com.au
To: [Elijah Rasic](#)
Cc: [Daniel McCoach](#); [Hamish Rotstein](#)
Subject: RE: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor
Date: Wednesday, 30 July 2025 9:27:20 PM
Attachments: [image001.png](#)
[image002.png](#)

Dear Elijah,

I consent to Dr Toltz and Professor Rutland representing me in the Keane Proceeding.

Kind regards,
Loren Mowszowski

From: Elijah Rasic <Elijah.Rasic@rotsteins.com.au>
Sent: Wednesday, 30 July 2025 9:11 AM
To: Joseph Toltz <josephholtz@me.com>; Suzanne Rutland <suzannerutlandlegal@gmail.com>
Cc: Daniel McCoach <daniel.mccoach@rotsteins.com.au>; Hamish Rotstein <hamish@rotsteins.com.au>
Subject: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor

Dear all,

As foreshadowed, we are writing to obtain your consent to be represented by Dr Joseph Toltz and Emeritus Professor Suzanne Rutland in Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor (**Keane Proceeding**) which is being brought as a representative proceeding under Rule 9.21 of the *Federal Court Rules 2011*.

For your information and provided to you on a confidential basis, please see **attached** the applicable statement of claim and originating application on behalf of the Applicants.

This email is sent to obtain your written consent to enable Dr Toltz and Professor Rutland to be able to certify to the Court that you have consented to the application being made by them on your behalf. We would be grateful for your prompt response so that we can progress matters efficiently.

To manifest your consent, would you please reply to this email by stating “I consent to Dr Toltz and Professor Rutland representing me in the Keane Proceeding.”

We kindly ask that you direct all responses to our office only and that you limit your responses to strictly the wording provided above if you do so consent.

Please be in touch with our office at the telephone details below if you have any questions.

Looking forward to your response.

Kind regards,

Elijah Rasic
Law Graduate



Member of Consulegis, an international network of law firms

A Suite 409, 488 Bourke Street, Melbourne VIC 3000 Australia

T (61 3) 9604 7888

E elijah.rasic@rotsteins.com.au

W www.rotsteins.com.au

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From: [Lynne Swarts](#)
To: [Elijah Rasic](#)
Subject: Re: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor
Date: Thursday, 31 July 2025 10:42:37 AM
Attachments: [image001.png](#)
[image002.png](#)

Hi Elijah,

“I consent to Dr Toltz and Professor Rutland representing me in the Keane Proceeding.”

Best,
Lynne

On Wed, 30 Jul 2025 at 09:11, Elijah Rasic <Elijah.Rasic@rotsteins.com.au> wrote:

Dear all,

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Looking forward to your response.

Kind regards,

Elijah Rasic

Law Graduate



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--

Lynne Swarts (PhD)
M: 0407275559

From: [Peter Morgan](#)
To: [Elijah Rasic](#)
Subject: Re: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor
Date: Thursday, 31 July 2025 12:23:13 PM

I consent to Dr Toltz and Professor Rutland representing me in the Keane Proceeding.

All the best
Peter Morgan

Peter Morgan
8/69 Hereford St.,
Forest Lodge 2037
NSW

0419 046 495
peter@hereford.net.au
^

From: [Yona Gilead](#)
To: [Elijah Rasic](#)
Subject: Re: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor
Date: Wednesday, 30 July 2025 2:37:12 PM
Attachments: [image001.png](#)
[image002.png](#)

I accept

Best, yona

On Wed, Jul 30, 2025 at 2:32 PM Elijah Rasic <Elijah.Rasic@rotsteins.com.au> wrote:

Dear Yona,

As foreshadowed, we are writing to obtain your consent to be represented by Dr Joseph Toltz and Emeritus Professor Suzanne Rutland in Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor (**Keane Proceeding**) which is being brought as a representative proceeding under Rule 9.21 of the *Federal Court Rules 2011*.

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Kind regards,

Elijah Rasic

Law Graduate



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From: [Yulia Berlin](#)
To: [Elijah Rasic](#)
Subject: Re: Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor
Date: Wednesday, 30 July 2025 3:50:55 PM
Attachments: [image001.png](#)
[image002.png](#)

Hello,

I consent to Dr Toltz and Professor Rutland representing me in the Keane Proceeding.

Kind regards,
Yulia Berlin Firer

On Wed, 30 Jul 2025 at 09:11, Elijah Rasic <Elijah.Rasic@rotsteins.com.au> wrote:

Dear all,

As foreshadowed, we are writing to obtain your consent to be represented by Dr Joseph Toltz and Emeritus Professor Suzanne Rutland in Proceeding NSD951/2025 Joseph Toltz on behalf of himself and represented persons & Ors v John Keane & Anor (**Keane Proceeding**) which is being brought as a representative proceeding under Rule 9.21 of the *Federal Court Rules 2011*.

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Please be in touch with our office at the telephone details below if you have any questions.

Looking forward to your response.

Kind regards,

Elijah Rasic

Law Graduate



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

Joseph Toltz and others
Applicants

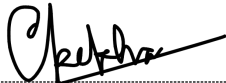
John Keane and another
Respondents

Affidavit of: **Joseph Toltz**
Address: 41 Renwick Street Alexandria NSW 2015
Occupation: Manager, Research Support at the University of Sydney
Date: 01/08/2025

Certificate identifying Exhibit

This is the Certificate identifying Exhibit "JT4" annexed to the Affidavit of Joseph Toltz dated 1 August 2025

Before me:



.....
UPEKHA WEDAGE
of Suite 409, 488 Bourke Street, Melbourne VIC 3000
Australian Legal Practitioner within the meaning of the
Legal Profession Uniform Law (Victoria)
A person authorised under section 19(1) of the Oaths
and Affirmations Act 2018 to take an affidavit.

Date: 1 August 2025

.....
Filed on behalf of (name & role of party) The Applicants
Prepared by (name of person/lawyer) Hamish Rotstein
Law firm (if applicable) Rotstein Commercial Lawyers
Tel (03) 9404 7888 Fax _____
Email hamish@rotsteins.com.au
Address for service Suite 409, 488 Bourke Street, Melbourne VIC 3000
(include state and postcode) _____

Amended Statement of claim

No. NSD951 of 2025

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

Joseph Toltz ~~and others~~ on behalf of himself and the represented persons listed in Schedule A
Applicants

John Keane and another
Respondents

Jurisdiction

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

Parties

2. The Applicants and the persons named in Schedule A are all natural persons capable of suing and ordinarily resident in Australia.
3. The First Applicant (**Dr Joseph Toltz**) is and at all relevant times was:
 - a. a researcher at The University of Sydney (**Sydney University**), specialising in Jewish music and its migrations, and Manager of Research Support in the Faculty of Arts and Social Sciences; and
 - b. a Jewish person.
4. The Second Applicant (**Professor Emeritus Suzanne Rutland** **OAM**) is and at all relevant times was:
 - a. a Professor Emeritus of The Sydney University of Sydney, Department of Hebrew, Biblical & Jewish Studies; and
 - b. a Jewish person and an Israeli citizen.

Filed on behalf of (name & role of party) The Applicants
Prepared by (name of person/lawyer) Hamish Rotstein
Law firm (if applicable) Rotstein Commercial Lawyers
Tel 61 3 9098 8785 Fax _____
Email hamish@rotsteins.com.au
Address for service Level 4, 488 Bourke Street, Melbourne VIC 3000
(include state and postcode) _____

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.
- 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; and
- b. was until he graduated in November 2024 a student enrolled at Sydney University studying a Bachelor of Architecture; and
- c. is and at all relevant times was a Jewish person.

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; and
- c. is and at all relevant times was a Jewish person and an Israeli citizen.

7. Each Applicant:

- a. is a **Jewish person** or a person who is, or is eligible to be, an Israeli citizen (**Israeli person**) and identifies as Zionist.

Particulars

- i. 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.

8. The First and Second Applicants also bring this proceeding under Rule 9.21 of the Federal Court Rules 2011 on behalf of persons listed in Schedule A, as to whom:

- a. Dr Lionel Babicz is a Jewish person and an Israeli citizen who is and at all relevant times was an academic at Sydney University teaching Japanese Studies

- and Asian Studies in the School of Languages and Culture. He also identifies as Zionist.
- b. Ms Yulia Berlin-Firer is a Jewish person and an Israeli citizen who is and at all relevant times was a casual academic staff member at Sydney University teaching in the Department of Hebrew, Biblical and Jewish Studies and involved in administration for that Department. She also identifies as Zionist.
 - c. Professor David Celermajer AO is a Jewish person who is and at all relevant times was the Scandrett Professor of Cardiology at Sydney University, Faculty of Medicine and Health. He also identifies as Zionist.
 - d. Associate Professor Dr Ilan Dar-Nimrod is a Jewish person and an Israeli citizen who is and at all relevant times was an Associate Professor at Sydney University in the School of Psychology, Faculty of Science. He believes in Israel being a nation state and the national home of and for the Jewish people.
 - e. Dr Yona Gilead is a Jewish person and an Israeli citizen who is and at all relevant times was the Malka Einhorn Modern Hebrew Senior Lecturer and Program Coordinator at the Faculty of Arts and Social Sciences at Sydney University (retiring at the end of July this year). She believes in Israel being a nation state and the national home of and for the Jewish people.
 - f. Professor Judy Kay is a Jewish person who is and at all relevant times was a Professor of Computer Science in the Faculty of Engineering at Sydney University. She also identifies as Zionist.
 - g. Emeritus Professor Gustav Lehrer FAA AM is a Jewish person who is and at all relevant times was a Professor Emeritus of Sydney University, School of Mathematics and Statistics, recognised internationally for his mathematical research. He also identifies as Zionist.
 - h. Dr Guy Mayraz is a Jewish person and an Israeli citizen who was at all relevant times until early July 2024, a behavioural economist teaching at Sydney University, School of Economics, thereafter has had an adjunct status with Sydney University. He also identifies as Zionist.
 - i. Associate Professor Andy Smidt is a Jewish person who was until about February 2024, a Senior Lecturer and Faculty Disability Liaison Officer at Sydney University, Sydney School of Health Sciences, Faculty of Medicine and Health. She also identifies as Zionist.
 - j. Dr Jennifer Dowling is a Jewish person who is and at all relevant times was the Manager, Education Innovation and Design in the Faculty of Arts and Social

Sciences at Sydney University. She believes in Israel being a nation state and the national home of and for Jewish people.

- k. Dr Lynne Swarts is a Jewish person who, at Sydney University: (a) is and at all relevant times was a Sessional Academic and Guest Lecturer in the Hebrew, Biblical and Jewish studies Department; (b) was until 2023 a Research Affiliate in the History Department; and (c) in first semester 2024 became a Senior Academic Tutor at St Andrews College (which is part of Sydney University). She also identifies as Zionist.
 - l. Dr Loren Mowszowski is a Jewish person and a dual Australian-Israeli citizen who was, until about mid-July 2024, a Senior Research Fellow, Clinical Neuropsychologist and Leader of the Cognitive Intervention Research Stream for the Healthy Brain Ageing Program at the Brain and Mind Centre and Faculty of Science, at Sydney University. She also identifies as Zionist.
 - m. Professor Peter Morgan, who is addressed more fully in [9] below, is and at all relevant times was Director of the European Studies Program at the School of Languages and Cultures at Sydney University.
9. Whereas Professor Morgan does not identify as Jewish or Israeli, he is nevertheless an affected or aggrieved person protected by the operation of the *Racial Discrimination Act 1975* (Cth) (**RDA**) and the AHRC Act for Professor Keane's unlawful discrimination set out below, by reason of the following facts, matters and circumstances:
- a. He has more than an intellectual or emotional concern in the subject matter of Professor Keane's Staff Member's Post;
 - b. He has a grievance beyond a general member of the public by being expressly named and vilified in Keane's Staff Member's Post, or directly impugned in the unlawful vilification of his (senior) academic associates of Sydney University;
 - c. The target or imputations of the Staff Members Post as set out below were to offend, insult, humiliate or intimidate named Jewish and Israeli staff members, because of their race, ethnicity or nationality, to paint them as racist, or as devoid of morals, scruples or conscience when it comes to Palestinians, or as akin to Nazis in considering Palestinians as less than human;
 - d. He was either painted as, and could be seen to be by viewers of the Post as, a Jew or Israeli with those negative features, or as a person associated with and supporting Jews or Israelis with those negative features. Either outcome is a substantial grievance and the sort of mischief that the RDA seeks to redress.

- e. Further or alternatively, he is aggrieved as an associate of, or a person with a close connection with, the named Jewish/Israeli staff members, as a person who was supporting them in the email written by Associate Professor Avril Alba (see [42.a] below), and then vilified in Professor Keane's escalation on his X Page.
 - f. Further or alternatively, Professor Morgan, in a representative role with the Applicant and represented person staff members, was aggrieved by virtue of his special responsibility to safeguard the interests of Jewish or Israeli staff/academics at least at Sydney University, in joining and supporting Jewish/Israeli representative staff/academics attempting to do the same, and was vilified for so doing.
 - g. The reliance in the Amended Statement of Claim concerning Professor Keane in respect of the Hamas Flag Post and the Staff Members Post is cumulative, with the consequence that both can be relied upon together for the purposes of establishing the causation and racial elements in s18C of the RDA.
10. Each of the persons named in [8] above:
- a. Have the same interest in the proceeding in that they were exposed to the same unlawful conduct, namely to Professor Keane's Staff Members' Post and his Hamas Flag Post the details of which are set out below.
 - b. By reason of that exposure are entitled to the same relief and remedies as the First and Second Applicants by virtue of the operation of s18C of the RDA and s46PO(4) of the AHRC Act; and
 - c. Each has consented in writing to be represented in this proceeding.
11. For the purposes of the RDA *Racial Discrimination Act 1975* (Cth):
- a. Jewish ~~people~~ persons constitute a group of people with a shared race, descent and/or ethnic origin.
 - b. Israeli citizens and Israeli ~~people~~ persons constitute a group of persons with a shared ethnic origin and/or nationality.
12. Israel is a nation state and the national home of and for the Jewish people. Its citizens are mostly Jewish persons.
13. The First Respondent (**Professor John Keane**):
- a. is a natural person capable of being sued; and
 - b. is and at all relevant times was a Professor of Politics at Sydney University.

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

Professor John Keane X (Twitter) Page

15. Professor John Keane operates and at all material times operated, as a professor of the Sydney University, from Sydney, New South Wales or elsewhere in Australia an X page (**Keane X Page**) at the web address: https://x.com/jkeaneSDN?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor

Particulars

- a. Professor Keane's title is stated to be '@jkeaneSDN'
 - b. Professor Keane cites his title as 'professor.'
 - c. Professor Keane commenced that site on March 2013.
16. In or around October 2024 the Keane X Page had approximately 7,934 Followers, and at the time of this Amended Statement of Claim had about ~~7,835~~ 7,873 Followers.
17. The Keane X Page is and was at all relevant times accessible by members of the public whether or not they "follow" Professor Keane.
18. The Keane X Page is regularly updated by Professor Keane posting various publications including text, photos and audio-visual recordings of remarks and speeches.
19. A number of the publications which appear on the Keane X Page include links to various written or oral material published by Professor Keane or to material that he endorses or on which he comments.

Hamas

20. 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.
21. The Statement of Reasons for listing Hamas as a terrorist organisation include that it is guided by Islamic principles of "*destroying Israel*".
22. The Hamas Covenants express intention is to dismantle Israel as '*the Zionist entity*' and to create an Islamic State in its place.
23. The Hamas Covenants identify Hamas' raison d'être as "*obliterating*" Israel and "*killing the Jews*".

24. Under s 80.2E '*Prohibited symbols*', which is part of '*Subdivision CA—Publicly displaying, and trading in, prohibited symbols and giving Nazi salute*', a prohibited terrorist organisation symbol is defined as:
- a. a symbol that a terrorist organisation (within the meaning of Division 102) uses, or members of a terrorist organisation use, to identify the organisation;
 - b. something that so nearly resembles a symbol to which paragraph a. applies that it is likely to be confused with, or mistaken for, that symbol.

7 October 2023

25. On 7 October 2023, Hamas members illegally invaded the State of Israel and killed, raped, maimed, sexually abused and tortured more than 1,200 Jewish persons or Israeli persons.
26. During the 7 October 2023 invasion, Hamas members also kidnapped, abducted and took as hostages more than 250 persons who were overwhelmingly Jewish or Israeli persons including women, children and the elderly.
27. Hamas's terrorist 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 overwhelmingly 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.

Impugned publication made on 8 October 2023 – the Hamas Flag Post

28. On or about 8 October 2023, the first day after the 7 October 2023 Hamas terrorist attacks described in [\[25\]-\[27\]](#) above, Professor Keane published the following picture on his Keane X Page, which shows 5 green Hamas flags with Arabic writing visible on them (**the Hamas Flag Post**):



29. The Hamas Flag Post:
 - a. continued to be and remained posted and visible on the Keane X Page as from 8 October 2023;
 - b. as at 23 October 2024, had 6,125 views; and
 - c. as at the time of the Amended Statement of Claim, had about ~~6,204~~ 6,232 views.
30. Each flag was, and was known and intended by Professor Keane to be, a Hamas flag used by the Hamas military wing.
31. Each flag was, or is, known by the Applicants, and the persons on whose behalf the Amended Statement of Claim is filed, to be the Hamas flag.
32. The Applicants and the persons on whose behalf the Amended Statement of Claim is filed also knew, or now know, that the Hamas flag is the flag used by the Hamas military wing.
33. At all material times the Hamas Flag was thus recognisable as the Hamas flag.
34. Professor Keane's Hamas Flag Post was and continued to be a post of a "*prohibited terrorist organisation symbol.*"

Imputations

35. The Hamas Flag Post conveyed the following imputations:
 - a. The activities described in [25]-[27] above of Hamas on October 7, which involved the killing, rape, maiming, sexual abuse, kidnapping and torture of Jewish and Israeli ~~people~~ persons, because they were believed to be Jewish or Israeli, was an event that was to be celebrated, endorsed, supported and approved of.

- b. Professor Keane celebrated, endorsed, supported and approved those activities.
- c. Hamas and its objectives (including those outlined in [21], [22], [23] and [27] above) were to be celebrated, endorsed, supported and approved.
- d. Professor Keane celebrated, endorsed, supported and approved of Hamas and its objectives (including those outlined in [21], [22], [23] and [27] above).

Contravention of s 18C of the *Racial Discrimination Act 1975 (Cth)* (RDA)

36. Professor Keane's posting of the Hamas Flag Post was an act which caused 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.
37. Professor Keane's posting of the Hamas Flag Post and its non-removal, by conveying any, all or some of the imputations alleged in [35] was reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate the Applicants, the persons in Schedule A, as well as other Jewish ~~people~~ persons and Israeli ~~people~~ persons in Australia.
38. The posting and its non-removal was made or done because of the race, national or ethnic origin of the people reasonably likely to be offended, insulted, humiliated or intimidate by the posting including because:
- a. The subject matter of the post, considering its timing, was directly related 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;
 - b. The posting was plainly calculated to convey a message about or concerned with the race, ethnic origin or national origin (Jewish and/or Israeli) of the victims of the events of October 7;
 - c. The posting was actuated or motivated by considerations of race, ethnic origin or national origin or, in the alternative, race, or ethnic or national origin was otherwise a factor in Professor Keane's act.
39. In the premises set out in [15]-[38] above, Professor Keane contravened s 18C of the RDA and engaged in unlawful discrimination within the meaning of ss 3(1) and 46P of the AHRC Act. ~~*Australian Human Rights Commission Act 1986 (Cth)*~~.

Impugned publication made on 8 November 2023 – Keane’s Staff Members Post

40. On about 8 November 2023, Professor Keane posted to the Keane X Page, a post which contains the under-mentioned text displayed above a letter, which was stated to have been sent by the complainants and the represented persons to him on 7 November 2023 (**Keane’s Staff Members Post**). Professor Keane stated in the post that the letter was:

“an ad hominem response to my Open Letter by a small group of pro-Israel staff members: defamatory insults (‘repulsive’ etc) mixed with self-righteous indignation of people convinced they are victims of non-humans (Palestinians) who imperil their Promised Land...”

41. A screenshot of the post as it was seen on the Keane X Page is set out below.

John Keane
@jkeaneSDN

an *ad hominem* response to my Open Letter by a small group of pro-Israel staff members: defamatory insults (‘repulsive’ etc) mixed with self-righteous indignation of people convinced they are victims of non-humans (Palestinians) who imperil their Promised Land...

07/11/2023 11:12 AM [view more](#)

Dear John,

The University’s Charter of Freedom of Speech and Academic Freedom allows you to express your views. However, those reading your letter should be aware of its inaccuracies. You accuse Israel of promoting indiscriminate warfare and genocide and the murder of innocents without compunction, and your letter culminates in a repulsive reversal of victims and perpetrators in which you liken the actions of Israel to those of the Nazis. There is also not one mention of the atrocities of October 7, which is not only deeply disappointing, but also a shockingly inhumane omission. We believe that in the context of war, any loss of civilian life is tragic: Palestinian, Israeli, and any other nationality. To draw an equivalence, however, between the acts of terror witnessed and documented via bodycams from Hamas themselves, and the awful civilian deaths of Gazans (many of whom are deliberately placed in the line of fire as human shields) by Israeli army fire, is unconscionable.

Dr Michael Abrahams-Sprod
A/Prof Avril Alba
Dr Lionel Babicz
Yulia Berlin-Firer
Professor David Celermajer
A/Prof Ilan Dar-Nimrod
Dr Jennifer Dowling
Dr Yona Gilead
Professor Judy Kay
Professor Gustav Lehrer
Dr Guy Mayraz
Prof Datar M...

when students are fee-paying customers, nor ivory towers sheltered from the harsh realities of the world. Universities, you say using other words, are public spaces supportive of competing perceptions of ‘knowledge’ and ‘reality’, laboratories of life in which the university community breathes the air of curiosity, learns to accept that human lives can legitimately be lived in different ways, in opposition to arrogance and ignorance, lies and nonsense.

Less welcome are your strictures on tolerance. You say our University supports ‘the rights of students and staff to engage in political discourse’ but that anybody who utters ‘pro-terrorist statements or commentary, including support for Hamas’s recent terrorist attacks’ will be the target of tough disciplinary proceedings, including termination of employment. Many staff and students have noted an every bias within your definition of the tolerable. It is founded on silence about such ugly matters as non-stop aerial bombardment, the illegal use of white phosphorus bombs on civilians, settler violence, bulldozers wrecking the homes of fearful innocents, death by suffocation under rubble, devilish propaganda dropped from the skies, the wilful destruction of mosques, churches, schools and universities, and crazed plans for the forcible removal of millions of people from their ancient homelands.

If toleration depends upon silence about these grim matters then it’s an objectionable principle that has no place in the life of our University. Toleration purports to be a pleasing and heart-warming ethic. The word itself is from the Latin *tolerāre*, to endure, or countenance, or to bear or put up with some person or situation otherwise deemed

Gideon Levy and 9 others

3:38 PM · Nov 8, 2023 · **9,981** Views

25 Reposts **5** Quotes **63** Likes **10** Bookmarks

42. The post had the following accessible attachments:
- An email authored by Associate Professor Avril Alba of Sydney University (with certain modifications compared to the actual email) on 7 November 2023 to

Professor Keane and Vice Chancellor Mark Scott, copying a large number of Sydney University groups, and being an email in a chain of emails among Sydney University academics. The attachment Keane put up contained a photograph of Professor Alba.

- b. A picture with the names of 17 academics from Sydney University in larger font (all of whom were Jewish and/or Israeli academics except for Peter Morgan), namely:

1. Dr Michael Abrahams-Sprod
2. A/Prof Avril Alba
3. Dr Lionel Babicz
4. Yulia Berlin-Firer
5. Professor David Celermajer
6. A/Prof Ilan Dar-Nimrod
7. Dr Jennifer Dowling
8. Dr Yona Gilead
9. Professor Judy Kay
10. Professor Gustav Lehrer
11. Dr Guy Mayraz
12. Professor Peter Morgan
13. Dr Loren Mowszowski
14. Professor Suzanne Rutland (Second Applicant)
15. Dr Andy Smidt
16. Dr Lynne Swarts
17. Dr Joseph Toltz (First Applicant)

- c. A letter which purports to be Professor Keane's response of 6 November 2023 to a communication of Vice Chancellor Mark Scott to all Sydney University staff and students of 26 October 2023 (in the post it appeared on a letterhead instead of being in email form).

43. The Vice Chancellor's original communication dated 26 October 2023, to which Professor Keane's 6 November email responded, was not attached to the post. In that email the Vice Chancellor and President had said that Sydney University would not tolerate support for Hamas' recent terrorist attacks.
44. No permission or authorisation was sought by Professor Keane, or was obtained by him, from any of the 17 named academics to publish their names or the content of their email.

45. Professor Keane's Staff Members Post remained on his Keane X Page from 8 November 2023 until it was removed as a result of a Sydney University disciplinary process on or about 21 May 2024.

Particulars of the disciplinary process

(a) Complaints were made by Jewish/Israeli staff of Sydney University from 8 November 2023 onwards. This included but was not limited to complaints made directly by or on behalf of persons including: Professor Emerita Suzanne Rutland (Second Applicant), Dr Sarah Aamidor, Dr Michael Abrahams-Sprod, Associate Professor Avril Alba, Dr Lionel Babicz, Dr Larisa Barnes, Professor David Celermajer AO, Associate Professor Ronald Clarke, Dr Jennifer Dowling, Dr Yona Gilead, Talia Gonda, Emmilly Graf, Dr Eve Guerry, Associate Professor Sabina Kleitman, Professor Emerita Ines Krass, Professor Emeritus Gustav Lehrer AO, Mr Yaniv Levy (Fourth Applicant), Associate Professor Tania Markovic, Sarah Marks, Dr Guy Mayraz, Professor Peter Morgan, Dr Loren Mowszowski, Adam Muscio, Isabella Nahon, Emeritus Professor Leo Radom, Tracie Sillers, Dr Andy Smidt, Rachel Sullivan, Dr Lynne Swarts, Dr Joseph Toltz (First Applicant), Vanina Vaisman-Levy, Yulia Berlin-Firer.

(b) Examples include:

- i. On 8 November 2023, Avril Alba, Yulia Berlin-Firer, Suzanne Rutland and Michael Abrahams-Sprod complained to Mark Scott (Vice Chancellor) and Annamarie Jagose (Provost and Deputy Vice Chancellor) about Professor Keane (and Jake Lynch).
- ii. On 9 November Dr Loren Mowszowski wrote to Mark Scott and Annamarie Jagose endorsing her colleague's complaints. Lionel Babicz wrote to Professor Jagose reinforcing Ms Berlin-Firer's complaint.
- iii. On 30 November 2023 Dr Mowszowski followed up Professors Jagose and Scott, concerned that she had had no response or acknowledgment to her email sent 3 weeks earlier.
- iv. On 1 December 2023, Peter Wertheim of the Executive Council of Australian Jewry and Mark Scott discussed concerns of Jewish staff and students including their unanswered complaints regarding Professor Keane's email.
- v. On 22 December 2023, Dr Mowszowski wrote to Naomi Connolly, Senior Manager in Workplace Relations, concerned at the slowness

of the process which was compounding her distress and causing her to largely avoid attending main campus.

- vi. On 17 January 2024, Professor Rutland wrote to the Vice Chancellor, provost, Chancellor, and the Senate, supported by some 30 predominantly Jewish/Israeli staff, who comprised a newly formed Sydney University branch of the Australian Academic Alliance Against Antisemitism (**5A Group**). The letter appended 'Key Issues' concerning 'ongoing the pro-Palestinian campaign' at Sydney University since Hamas' 7 October invasion. The Issues included "*Intimidation and defamation of academic staff over University email and on social media*", noting Professor Keane's inflammatory letter and subsequent events and the slow response of the Workplace Department.
- vii. On 22 January 2024 Dr Mowszowski sought a further update.
- viii. On 13 February 2024, Mark Scott responded to Professor Rutland's 17 January complaint on behalf of the 5A Group. Nothing expressly or adequately addressed the Keane concern.
- ix. On 19 March 2024 the 5A Group were informed that Workplace Relations completed a preliminary assessment and advised next steps to Lisa Adkins, Dean of Faculty of Art and Sciences.
- x. On 3 April 2024, Lisa Adkins sent an outcome letter regarding the Keane complaint. Professor Keane's conduct was found to contravene University policies and codes and to be Misconduct under Sydney University's Enterprise Agreement. The University would discipline Professor Keane and direct him to delete the Staff Members Post.
- xi. On 8 April 2024, Dr Mowszowski wrote to Professor Adkins and Ms Connolly, communicating 'extreme concern' that Professor Keane's Post was still on X, causing '*further insult and offense*' and questioning what consequences Keane received and how complainants could be assured disciplinary actions will be effective.
- xii. On 10 April 2024, Dr Mowszowski was advised that the University would not provide additional details regarding Professor Keane's disciplinary action. The same day she sought that Professor Keane be contacted directly to ensure the Post's removal was not significantly delayed.
- xiii. On 26 April 2024, Dr Mowszowski wrote to Professor Adkins and Ms Connolly noting the Staff Post was still online, which was perpetuating

“distress, intimidation and offence,” undermining the complaint process and asking why he was not being held to account.

- xiv. During 28 April to 10 May 2024, Dr Babicz wrote several emails to/from Lisa Adkins and Naomi Connolly, expressing major concern about the University’s lack of effective action regarding Keane’s Staff Post, stating: *“considering the ongoing events on campus, including the involvement of jihadist elements external to the University, the potential threat to the safety of the people doxed by that post is increasing day by day.”* (10 May)
 - xv. On 3 and 7 May 2024, Ms Connolly wrote to Dr Mowszowski, failing to address her concerns.
 - xvi. On 21 May 2024, Jodi Dickson, Director of Workplace Relations, wrote to the 5A Group complainants informing them that Professor Keane had removed their names from the posts he made on X.
46. Until the date of the removal of the post from Professor Keane’s X page on 21 May 2024, Professor Keane’s Staff Member’s Post had about 30,000-31,000 views.
47. Professor Keane’s Staff Members Post conveyed the following imputations:
- a. The named Jewish and Israeli staff members regarded, treated, considered and were convinced that Palestinians are “non-humans” (meaning something less than or other than human beings).
 - b. The named Jewish and Israeli staff members were racists who regarded, treated, considered and were convinced that Palestinians challenging Israel as a Jewish homeland, or as their “Promised land”, are “non-humans”.
 - c. The named Jewish and Israeli persons, in seeking to defend the existence of Israel should be condemned and publically exposed as self-righteous racists without any morals, scruples or conscience.
 - d. Jewish persons and Israeli persons believe that Palestinians or Palestinians challenging Israel as a Jewish homeland or as their “Promised land” are “non humans”.
 - e. Jews and Israelis, or the named Jews and Israelis, were acting like the Nazis in considering Palestinians as “non-humans” or as something less than, or other than, human beings.
48. Contrary to the imputations set out immediately above:
- a. None of the staff members identified in the post were racists nor were they persons who regarded, treated, considered or were convinced that Palestinians

or Palestinians challenging Israel as a Jewish homeland or as “*their Promised land*” were “*non-humans*”.

- b. Jewish persons and Israeli persons as a group or otherwise did not regard, treat, consider and were not convinced that Palestinians or Palestinians challenging Israel as a Jewish homeland or as their “*Promised Land*” were “*non-humans*”.

49. The reference to “non-humans” has particular resonance for Jewish and Israeli ~~people~~ persons given its historical use to describe Jewish persons ~~people~~ in that way.

50. The First and Second Applicants and each of the persons in Schedule A, who were all named in Keane’s Staff Members Post, suffered distress, loss and damage, including harm to their reputation, and/or psychological injury by reason of the publication and non-removal of the Keane’s Staff Members Post.

Contravention of s 18C of the RDA

51. Professor Keane’s posting of, and failure to remove prior to 21 May 2024, Keane’s Staff Members Post were acts which caused words and 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.

52. Professor Keane’s posting of, and his failure to remove prior to 21 May 2024, Keane’s Staff Members Post, by conveying any or all of the imputations alleged above and by attributing the false characteristics alleged to those named Jewish and Israeli Staff Members and to Jewish persons and Israeli persons on the basis of their group membership or otherwise, was reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate the Jewish and Israeli Staff Members named in Keane’s Staff Members Post and other Jewish persons and Israeli persons.

53. The posting and its non-removal prior to 21 May 2024 was made or done because of the race, national or ethnic origin of the people reasonably likely to be offended, insulted, humiliated or intimidate by the posting including because:

- a. The post referred to and criticised only Jewish and Israeli people;
- b. It did so by reference to their position as being “pro-Israel”;
- c. The subject matter of the post 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;

- d. The posting was plainly calculated to convey a message about or concerned with the race, ethnic origin or national origin (Jewish and/or Israeli) of the people named;
- e. Professor Keane had earlier posted the Hamas Flag Post which provides context for the real reason why the Staff Members Post was actuated by race and/or ethnic origin and/or national origin or, in the alternative, race, or ethnic or national origin was otherwise a factor in Professor Keane's conduct; and
- f. Professor Keane 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.

54. In the premises set out in [40]-[53] above, Professor Keane contravened s 18C of the RDA and engaged in unlawful discrimination within the meaning of ss 3(1) and 46P of the AHRC Act. ~~*Australian Human Rights Commission Act 1986 (Cth)*~~.

Professor Keane's Staff Members Post – Vicarious liability of Sydney University

- 55. Professor Keane is an employee of Sydney University.
- 56. The posting, and the non-removal until on or about 21 May 2024, of Professor Keane's Staff Members Post was made in connection with his duties as an employee of Sydney University:
 - a. the communications that precipitated the Staff Members Post were internal staff University email exchanges about University matters;
 - b. the Staff Members Post had the potential to (and actually did) adversely affect the working relationship of the named employees of Sydney University, and for other Jewish/Israeli employees;
 - c. The following documents make it clear that communications of this kind are directly connected to employment by Sydney University:
 - i. Sydney University Complaint Procedures;
 - ii. the *University of Sydney Enterprise Agreement 2023-2026* (eg. cll 354, 360, 361, 362, 366 and 368);
 - iii. Sydney University Staff and Affiliates Code of Conduct 2021 (eg. cll 3, 5, 7, 8, 11, 15, 19, 20, 21, 23, 24);
 - iv. Public Comment Policy of Sydney University (eg. Guidelines and Pt 2);
 - v. *University of Sydney Act 1989* (NSW) (eg. s 2);
 - vi. *Charter of Freedom of Speech and Academic Freedom 2019*.

57. The Staff Members Post and its non-removal are acts that would have been unlawful had they been done by Sydney University for the reasons set out at paragraphs [40]-[54] above.
58. Sydney University failed to take all reasonable steps to prevent Professor Keane from publishing the Staff Members Post considering:
- a. the correspondence referred to or described in [40]-[44] above;
 - b. the disciplinary process and the complaints described in [45] and the failure of Sydney University to act on those complaints appropriately, with due diligence or due expedition.
59. In the premises above, Professor Keane Staff Members Post and its non-removal were acts of Professor Keane 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 Professor Keane pursuant to s 18E of the RDA.

Complaint to the Australian Human Rights Commission

60. On about 31 October 2024, the Applicants lodged with the Australian Human Rights Commission under sections 46P and 46PB of the AHRC Act ~~*Australian Human Rights Commission Act 1986 (Cth)*~~ a complaint against the Respondents alleging unlawful discrimination (**AHRC Complaint**).
61. The unlawful discrimination alleged above is the same or the same in substance as the unlawful discrimination alleged in the AHRC Complaint.
62. 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 AHRC Act ~~*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. 2024-15489 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

63. In the premises, the Applicants and each of the persons in Schedule A are entitled to the relief claimed in the Amended Originating Application.

Date: ~~13 June~~ 31 July 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 Amended Statement of Claim filed on behalf of the Applicants, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: ~~13 June~~ 31 July 2025

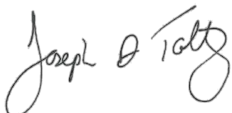


.....
Signed by Hamish Rotstein
Lawyer for the Applicants

Certificate of First and Second Applicants

I, Joseph Toltz, and Suzanne Rutland, certify to the Court that each person on whose behalf the application is made has consented in writing to the making of the application on the person's behalf.

Date: 31 July 2025



.....
Signed by Joseph Toltz
First Applicant

Date: 31 July 2025

Suzanne Rutland

Signed by Suzanne Rutland
Second Applicant

**Amended Originating application under the Australian Human Rights
Commission Act 1986**

No. NSD951 of 2025

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

Joseph Toltz ~~and others named in the schedule~~ suing on behalf of himself and on behalf of the
persons named in Schedule A

Applicants

John Keane and another named in the schedule

Respondents

To the Respondents

The Applicants apply for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the
time and place stated below. If you or your lawyer do not attend, then the Court may make
orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or
taking any other steps in the proceeding.

Time and date for hearing:

Place: 184 Phillip Street, Sydney NSW 2000

Date: 31 July 2025

.....
Signed by an officer acting with the authority
of the District Registrar

.....
Filed on behalf of (name & role of party) The Applicants
Prepared by (name of person/lawyer) Hamish Rotstein
Law firm (if applicable) Rotstein Commercial Lawyers
Tel 61 3 9098 8785 Fax _____
Email hamish@rotsteins.com.au
Address for service Level 4, 488 Bourke Street, Melbourne VIC 3000
(include state and postcode) _____

Details of claim under the Australian Human Rights Commission Act 1986

The Applicants claims that, on the grounds set out in the accompanying Amended Statement of Claim:

1. Pursuant to s18C of the *Racial Discrimination Act 1975* (Cth) (**RDA**), the first respondent engaged in unlawful discrimination based on racial hatred by posting and not removing two X posts, each of which was reasonably likely to offend, insult, humiliate or intimidate:
 - a. the Applicants,
 - b. the persons they First and Second Applicants represent, and
 - c. ~~Jewish or Israeli persons in Australia any other Jewish or Israeli persons in Australia when the posts, reposts or publications the subject of the complaint were made or published and/or maintained as posts or reposts and who were, or were reasonably likely to be, offended, insulted, humiliated or intimidated, by the unlawful discrimination alleged in this claim,~~

and were acts done because of the Jewish race, descent or ethnic origin or the Israeli ethnic or national origin of the persons set out above.
2. Pursuant to s18E of the RDA, the second respondent, by virtue of Keane's Staff Members Post and its non-removal until about 21 May 2024 being acts done in connection with Keane's duties as an employee or agent of Sydney University, is vicariously liable for his conduct such that the RDA applies to the second respondent as if it had engaged in the first respondent's conduct and the second respondent is taken to have contravened s18C of the RDA.

The First and Second Applicants also bring this application on behalf of themselves and on behalf of the persons named in Schedule A.

1. Legislation

The Applicants claims that the discrimination complained of is unlawful under sections 18C and 18E of the *Racial Discrimination Act 1975*.

Remedy sought

The Applicants asks the Court for:

1. A declaration that Professor John Keane's posting of the Hamas Flag Post and his Staff Members Post, as well as their non-removal, contravened s 18C of the RDA and therefore constituted unlawful discrimination.

2. A declaration that Sydney University, by reason of its vicarious liability for Professor Keane's unlawful discrimination of the RDA, has contravened s 18C and engaged in unlawful discrimination in respect of Keane's Staff Members Post and its non-removal.
3. Injunctions requiring Professor Keane to remove or to cause the removal of:
 - a. the Hamas Flag Post from the Keane X Page or any other internet platform page or website;
 - b. Keane's Staff Members Post from any other internet platform page or website.
4. Injunctions requiring Professor Keane not to repeat or continue the unlawful discrimination the subject of the relief set out above and, in particular, not to publish or republish the Hamas Flag Post or the Keane Staff Members Post or the imputations described in the Statement of Claim filed in this proceeding.
5. Injunctions requiring Professor Keane and Sydney University to perform any reasonable act or course of conduct, including to pay and/or redress any distress, loss or damage (including harm to repute) and psychological injury suffered by any of the Applicants complainants or the persons the First and Second Applicants they represent, in a form to be determined, and to pay aggravated and punitive damages by reason of Professor Keane's and Sydney University's unlawful discrimination.
6. An order:
 - a. for payment of damages by way of compensation for loss and damage (including harm to repute and aggravated and punitive damages) and for distress and psychological injury suffered by any of the First and Second Applicants or persons they represent, being suffered by the seventeen staff members named in Keane's Staff Members Post, because of the unlawful discrimination arising from or by reason of the Post;
 - b. alternatively, at their option, an order for the payment of an amount equal to the compensation to which they would be entitled paid to a charity or charities nominated by them.
7. Interest
8. An order for public apologies by Professor Keane and the Vice Chancellor and/or other appropriate officer of Sydney University, in a form to be determined.
9. Costs.
10. Such further or other order as the Court considers fit.

Accompanying documents

This application must be accompanied by:

1. A copy of the original complaint to the Australian Human Rights Commission; and
2. The notice of termination of complaint given by the President of the Australian Human Rights Commission.

Applicants' details

The Applicants' and represented persons' relationship to the Respondent is fellow staff members at or students of Sydney University.

The Applicants are over 18 years.

Applicants' address

The Applicants' address for service is:

Place: Rotstein Commercial Lawyers, Level 4, 488 Bourke Street, Melbourne VIC 3000

Email: hamish@rotsteins.com.au

The Applicants' address is Level 4, 488 Bourke Street, Melbourne VIC 3000

Service on the Respondent

It is intended to serve this application on the Respondent.

Date: 31 July ~~13 June~~ 2025



Signed by Hamish Rotstein
Lawyer for the Applicants

Schedule

No. NSD951 of 2025

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

Applicants

Second Applicant: Suzanne Rutland OAM
Third Applicant: Ariel Eisner
Fourth Applicant: Yaniv Levy

Respondents

Second Respondent: The University of Sydney

Date: 31 July ~~13 June~~ 2025

Schedule A – Represented Persons Under Rule 9.21No. NSD951 of 2025Federal Court of AustraliaDistrict Registry: NSWDivision: Human Rights

<u>No.</u>	<u>Name</u>	<u>Consent filed</u>
<u>1</u>	<u>Lionel Babicz</u>	<u>Yes</u>
<u>2</u>	<u>Yulia Berlin-Firer</u>	<u>Yes</u>
<u>3</u>	<u>David Celermajer AO</u>	<u>Yes</u>
<u>4</u>	<u>Ilan Dar-Nimrod</u>	<u>Yes</u>
<u>5</u>	<u>Jennifer Dowling</u>	<u>Yes</u>
<u>6</u>	<u>Yona Gilead</u>	<u>Yes</u>
<u>7</u>	<u>Judy Kay</u>	<u>Yes</u>
<u>8</u>	<u>Gustav Lehrer FAA AM</u>	<u>Yes</u>
<u>9</u>	<u>Guy Mayraz</u>	<u>Yes</u>
<u>10</u>	<u>Peter Morgan</u>	<u>Yes</u>
<u>11</u>	<u>Loren Mowszowski</u>	<u>Yes</u>
<u>12</u>	<u>Andy Smidt</u>	<u>Yes</u>
<u>13</u>	<u>Lynne Swarts</u>	<u>Yes</u>

Date: 31 July 2025