

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged:	Originating Application Under the Australian Human Rights Commission Act 1986 - Form 116 - Rule 34.163(1)
Court of Filing:	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	20/05/2026 11:02:24 AM AEST
Date Accepted for Filing:	20/05/2026 11:28:33 AM AEST
File Number:	NSD951/2025
File Title:	JOSEPH TOLTZ & ORS v JOHN KEANE & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



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.



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

No. NSD/951 of 2025

Federal Court of Australia

District Registry: NSW

Division: Human Rights

**Joseph Toltz and others named in the schedule and Suzanne Rutland suing on behalf of
themselves 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 necessary to redress the harm to the Applicants ~~including to pay and/or redress any distress, loss or damage (including harm to repute) and psychological injury suffered by any of the complainants or the persons 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: 13 February 2026 ~~13 June 2025~~

A handwritten signature in blue ink, appearing to read "Hamish Rotstein", is written over a horizontal dotted line.

Signed by Hamish Rotstein
Lawyer for the Applicants



Schedule

No. NSD/951 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: 13 February 2026 ~~13 June 2025~~



Schedule A – Represented Persons Under Rule 9.21

No. NSD/951 of 2025

Federal Court of Australia

District Registry: NSW

Division: 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>Lynne Swarts</u>	<u>Yes</u>

Date: 13 February 2026