

NOTICE OF FILING

Details of Filing

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File Title:	BRUCE LEHRMANN v NETWORK TEN PTY LIMITED ACN 052 515 250 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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IN THE FEDERAL COURT OF AUSTRALIA
2023 DISTRICT REGISTRY: NEW SOUTH WALES
DIVISION: GENERAL

No. NSD 103 of

BRUCE LEHRMANN
Applicant

NETWORK TEN PTY LTD and another
Respondents

APPLICANT'S SUBMISSIONS ON THE VOIR DIRE ISSUE

Credit

1. The Applicant primarily relies on the submissions made orally before the Court on Friday as to the relevance of this line of questioning to the credibility of the witness and adds the following:
2. In light of the concessions by the witness as to various of assertions of fact she made at the criminal trial that she no longer adheres to (for example, the providence of the bruise and whether she was wearing the dress when allegedly sexually assaulted), the conduct of the witness that is the subject of this voir dire takes on a significant perspective.
3. The line of questioning in brief is predicated on the fundamental proposition that her allegation of sexual assault is fabricated.
4. From the first meeting with The Project on 27 January 2021, Ms Higgins was cognizant that she had a better chance of establishing she had been sexually assaulted on the civil standard rather than on the criminal standard.
5. Following the criminal mistrial, Ms Higgins made statements that were, it will be asserted:
 - false to her knowledge and belief;
 - knowingly or recklessly were made to influence the outcome of the then extant criminal proceedings;
 - designed to either lead to those proceedings to be withdrawn or permanently stayed or otherwise seriously prejudice the applicant if a retrial proceeded.
6. The criminal proceedings were in fact withdrawn by the DPP on 2 December 2022 citing an unacceptable risk to Ms Higgins' health to hold a retrial.
7. This led to the Applicant being denied an opportunity to clear his name in relation to the criminal charges brought against him. Conversely, the Applicant avoided the

significant financial and reputational consequences that would flow if the accused were acquitted in a retrial.

8. Within days of this announcement, Ms Higgins was asserting her willingness to give evidence in any civil proceedings brought by the Applicant. She also posted online the same statements (including false statements) made on the steps of the Court on 27 October 2022.
9. Ms Higgins' willingness to give evidence in civil proceedings was repeated by a further social media post on the day these proceedings were commenced (7 February 2023) with the Applicant specifically noting she had "*been gifted another one* [an opportunity to give evidence] *in a more favourable court.*" Favourable here clearly being a reference to the lower standard of proof referred to by her back in January 2021.
10. Ms Higgins, it will be suggested, has (and as of October 2022 had) significant financial, reputational and 'brand' interests directly linked to the allegation she was sexually assaulted by the Applicant.
11. This conduct goes directly to a motivation to avoid scrutiny of her allegations other than in the most favourable setting, because we suggest, Ms Higgins knows those allegations are false.
12. The line of cross examination it is submitted has significant probative value as to the credibility of the witness, both in terms of her general honesty, credibility and reliability and preparedness to engage in conduct that amounted to possible offences against the administration of justice (cf s705 and 714 *Criminal Code Act 2001* (ACT)) and directly as to the veracity of her allegations that she was sexually assaulted by the Applicant.

Steven Whybrow SC
David Helvadjan
4 December 2023