

NOTICE OF FILING

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ANOR
Registry: WESTERN AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

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

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 59
Rule 29.02(1)

Affidavit

No. WAD 121 of 2025

Federal Court of Australia

District Registry: Western Australia

Division: General

LINDA KAREN REYNOLDS

Applicant

COMMONWEALTH OF AUSTRALIA and another named in the schedule

First Respondent

Affidavit of: Andrew James Filing

Address: c/- Bennett, Level 14, Westralia Square, 141 St Georges Terrace, Perth

Occupation: Legal Practitioner

Date: 5 November 2025

Document number	Details	Paragraph	Page
1	Affidavit of Andrew James Filing in support of the Applicant's application for leave to file and serve a Re-Amended Statement of Claim dated 5 November 2025.	1-4	1-2
2	Annexure "AJF-1", being a true copy of the Proposed Re-Amended Statement of Claim	4	3-62

Filed on behalf of: Linda Karen Reynolds, Applicant
Prepared by: Bennett
Contact: Martin Bennett
Our Reference: RMK:MLB:118069
Address for service: Level 14, Westralia Square Tel: +61 8 6316 2200
141 St Georges Terrace Fax: +61 8 6316 2211
PERTH WA 6000 Email: elodgment@bennettlaw.com.au


I, ANDREW JAMES FILING of care of Bennett, Level 14, Westralia Square, 141 St Georges Terrace, Perth in the State of Western Australia, Legal Practitioner, affirm:

- 1 I am an Australian Legal Practitioner employed by Bennett, solicitors for the Applicant.
- 2 Subject to the supervision of a Principal of the firm, Mr Martin Bennett, I assist with the day to day conduct of this matter on behalf of the Applicant.
- 3 I am authorised to make this affidavit on behalf of the Applicant in support of the application for leave to file and serve a Re-Amended Statement of Claim dated 5 November 2025.

Re-Amended Statement of Claim

- 4 Now shown to me, attached hereto and marked "AJF-1" is a true copy of the Proposed Re-Amended Statement of Claim.

Affirmed by the deponent)
 at Perth)
 in Western Australia)
 on 5 November 2025)
 Before me:)



 Signature of deponent



Signature of witness
 Pragma Srivastava

A legal practitioner who has held a practice certificate for at least 2 years and who holds a current practice certificate

Form 59
Rule 29.02(1)

Annexure 'AJF-1'

No. WAD 121 of 2025

Federal Court of Australia

District Registry: Western Australia

Division: General

LINDA KAREN REYNOLDS

Applicant

COMMONWEALTH OF AUSTRALIA and another named in the schedule

First Respondent

This and the following 59 pages are Annexure '**AJF-01**' to the Affidavit of Andrew James Filing affirmed before me on 5 November 2025.



Pragma Srivastava

A legal practitioner who has held a practice certificate for at least 2 years and who holds a current practice certificate

Form 17
Rule 8.05(1)(a)

Proposed Re-Amended Statement of claim

No. **WAD 121 of 2025**

Federal Court of Australia
District Registry: Western Australia
Division: General

LINDA KAREN REYNOLDS

Applicant

and

COMMONWEALTH OF AUSTRALIA and another named in the schedule

Respondents

Parties

- 1 The Applicant was at all material times:
 - 1.1 a Senator for the State of Western Australia, having been elected in 2013 (the result of which was subsequently declared void by the Court of Disputed Returns), then at the Senate special election held on 5 April 2014, and then re-elected in the 2016 and 2019 federal elections;
 - 1.2 a Cabinet Minister for the period 2 March 2019 to 23 May 2022;
 - 1.3 during the period 2 March 2019 to 29 May 2019 held the portfolio of Minister for Defence Industry and Minister for Emergency Management and North Queensland Recovery;
 - 1.4 during the period 29 May 2019 to 30 May 2021 held the portfolio of Minister for Defence;

Filed on behalf of:	Linda Karen Reynolds, Applicant		
Prepared by:	Bennett		
Contact:	Rachel Ross Martin Bennett		
Our Reference:	RMK:MLB:118069		
Address for service:	Level 14, Westralia Square	Tel:	+61 8 6316 2200
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- 1.5 during the period 30 March 2021 to 23 May 2022 held the portfolio of Minister for Government Services and Minister for the National Disability Insurance Scheme;
 - 1.6 the named Respondent in a draft Federal Court claim made by Ms Brittany Higgins (**Ms Higgins**) against her and others (**the Claim**) as set out in paragraph 11 hereto²;
- 2 The First Respondent (the **Commonwealth**) was at all material times:
- 2.1 the Crown in right of the Commonwealth of Australia;
 - 2.2 a legal entity capable of suing and being sued;
 - 2.3 a named Respondent to the Claim;
 - 2.4 as and from 6 December 2022, responsible for the conduct of the Applicant's defence of the Claim³; and
 - ~~2.5 vicariously liable for the conduct of the Attorney General, the Honourable Mark Dreyfus⁴.~~
- 3 The Second Respondent (**HWLE**) was at all material times:
- 3.1 a firm of solicitors operating nationally as a partnership;
 - 3.2 the solicitors on the record for the Commonwealth in respect of the Claim;
 - 3.3 as and from 6 December 2022, the solicitors representing the Applicant in defence of the Claim.

Background

- 4 In the early hours of 23 March 2019, being during the period the Applicant was Minister for Defence, an incident occurred in the Applicant's Ministerial Suite in Parliament House between two of the Applicant's staffers, Mr Bruce Lehrmann (**Mr Lehrmann**) and Ms Higgins (**Incident**).
- 5 On 17 August 2021, Mr Lehrmann was charged with one count of engaging in sexual intercourse with Ms Higgins without her consent, contrary to s 54(1) of the Crimes Act 1900 (ACT).

- 6 In October 2022 Mr Lehrmann was tried in the Supreme Court of the Australian Capital Territory before a jury in R v Lehrmann SCC 264/2021 (**Criminal Proceedings**). Ultimately the jury was discharged by reason of juror misconduct and the ACT Director of Public Prosecutions announced on 2 December 2022 that he did not intend to proceed with the prosecution by reason of the ill-health of the complainant, Ms Higgins.
- 7 On 21 December 2021 the Applicant was notified that Ms Higgins intended to bring various claims against her and others arising from the Incident and was invited to engage in discussions to resolve those claims without the need to litigate.

Particulars

- (a) The applicant was notified by letter from Noor Blumer dated 21 December 2021 that Ms Higgins' claims included but were not limited to:
- (i) contraventions of the Sex Discrimination Act 1984 (Cth) with respect to sex discrimination, sexual harassment and victimisation. The Commonwealth is also vicariously liable for the unlawful conduct of its employees and agents who engaged in the contraventions or by permitting the conduct to occur;
 - (ii) contraventions of the Fair Work Act 2009 (Cth);
 - (iii) contraventions of the Privacy Act 1988 (Cth);
 - (iv) contraventions of the Work Health and Safety Act 2011 (Cth);
 - (v) a claim under the Safety, Rehabilitation and Compensation Act 1988 (Cth); and
 - (vi) common law claims in negligence.
- 8 On or around 2 March 2022 the Applicant instructed Clayton Utz to act on her behalf in respect of the foreshadowed claims.

8A By letter dated 22 March 2022 the then Minister for Finance, Senator the Hon Simon Birmingham (a Minister in the Coalition Government) approved an application by the Applicant, under regulations 85(1)(a)-(c) of the *Parliamentary Resources Regulations 2017* (Cth) (**PBR Regulations**), for the Commonwealth to pay the costs of the Applicant's legal representation in relation to possible legal proceedings against the

Applicant as the former employing Minister of Ms Brittany Higgins and other costs related to the proceedings, damages or costs that may be awarded and any reasonable amount that may be payable in any settlement of the proceedings (Approval).

8B As and from 22 March 2022 the Applicant continued to instruct Clayton Utz to act on her behalf in respect of the foreshadowed claims and Clayton Utz's fees were paid by the Commonwealth pursuant to the Approval.

9 On 23 March 2022 the limitation period for Ms Higgins to commence proceedings in respect of the foreshadowed claims expired.

10 On or around 24 March 2022 the Applicant through her lawyers Clayton Utz agreed to extend the limitation period for Ms Higgins to bring proceedings on the basis such proceedings were filed in the Court by 30 June 2022.

Particulars

(a) Email from Ashley Tsacalos to Noor Blumer dated 24 March 2022.

11 On 29 March 2022 the Applicant received a copy of the draft proceedings naming her as a Respondent. The Claim comprised:

11.1 A draft statement particularising the Claim with annexures;

11.2 Particulars of Liability

11.3 Report of Dr Clavijo, treating psychiatrist dated 5 January 2022 but received 9 January 2022;

11.4 Canberra Rape Crisis Centre clinical notes;

11.5 Ochre Health Medical Centre clinical notes;

11.6 Her Time clinical notes; and

11.7 Forensic Accountant's Report dated 15 March 2022.

12 The Particulars of Liability contained allegations against Senator Reynolds that were untrue as pleaded at paragraph 28-30 below and set out in Annexure A hereto.

13A Following the Federal Election on 21 May 2022, a Labor Government was elected.

- 13 On 8 June 2022, the Applicant was notified that a mediation had been scheduled for 16 August 2022.

Particulars

- (a) Email from Noor Blumer to Ashley Tsacalos and Christie Miller (solicitor for Senator Cash) dated 8 June 2022.
- 14 On 28 June 2022 HWLE on behalf of the Commonwealth wrote to Dr Tsacalos (**28 June 2022 Letter**) confirming *inter alia*:
- 14.1 “We refer to the above matter in which you act for Senator Reynolds”;
- 14.2 “The Commonwealth intends to mediate with Ms Higgins to resolve her claims against the Commonwealth” ;
- 14.3 “The Commonwealth intends to cooperate with Senator Reynolds in relation to the claims, as they relate to her”;
- 14.4 “There may be circumstances in which it is necessary to share information about the claims with Senator Reynolds in order to assist the Commonwealth prepare for the mediation and vice versa”;
- 14.5 “...there are limits to the Commonwealth’s capacity to provide assistance to Senator Reynolds”;
- 14.6 “Relevantly, the Commonwealth may only act on its own behalf and not, for example, on behalf of Senator Reynolds”;
- 14.7 “This is the basis on which the Commonwealth will conduct itself in relation to the claims and at the mediation”;
- 14.8 “The Commonwealth cannot provide legal advice to Senator Reynolds”;
- 14.9 “in relation to any proposed settlement the Commonwealth may **not** consider it appropriate to:
- 14.9.1 ...
- 14.9.2 insist on terms that appropriately meet the interest of Senator Reynolds, but not also in the interest of the Commonwealth;

14.9.3 consult with Senator Reynolds in relation to any proposed terms of settlement in advance of these being agreed with Ms Higgins;

14.9.4 disclose the full terms of any settlement reached with Ms Higgins. For example, disclosure may not be appropriate where the terms of the settlement do not relate to all Respondents. However the Commonwealth will endeavour to inform you of the scope of the settlement as it relates to Senator Reynolds so that you may understand and ~~advise~~ advise your client in relation to how the settlement may impact her legal position”.

15 By the terms of the 28 June 2022 Letter, the Commonwealth acknowledged and accepted:

15.1 that the Commonwealth acted for itself only and not the Applicant;

15.2 that Clayton Utz acted for the Applicant;

15.3 that the Commonwealth intended to mediate to resolve the claims against it;

15.4 that it would share information with the Applicant in so far as the claim concerned her;

15.5 but that in any settlement it may not insist on terms that meet the interests of the Applicant if those interests are not also interests of the Commonwealth.

16 On 25 July 2022, Clayton Utz put HWLE on notice of the Applicant’s intentions to *‘personally attend and participate in any mediation’*.

Particulars

(a) Letter from Clayton Utz to HWLE dated 25 July 2022.

17 On 15 August 2022, the Applicant was notified that the mediation listed for 16 August 2022 was cancelled and rescheduled for 13 December 2022 and asked to agree to extend the limitation period for commencing a claim to 28 February 2023.

Particulars

(a) Email from Noor Blumer to Ashley Tsacalos dated 15 August 2022.

- 18 On 27 September 2022, the Applicant agreed to further extend the limitation period to 6 December 2022.

Particulars

- (a) Email from Ashley Tsacalos to Noor Blumer dated 27 September 2022.

- 19 On various occasions between 28 September 2022 and 2 December 2022, the Applicant was asked to further extend the limitation period which she declined to do.

Particulars

- (a) Email from Noor Blumer to Ashley Tsacalos dated 28 September 2022

- (b) Email from Noor Blumer to Ashley Tsacalos dated 29 November 2022

- (c) Email from Noor Blumer to Ashley Tsacalos dated 2 December 2022

- (d) Email from Ashley Tsacalos to Noor Blumer dated 2 December 2022

~~20 On 6 December 2022, the Applicant received a letter from HWLE on behalf of the Commonwealth notifying her that her application for legal assistance under section 85 of the *Parliamentary Business Resources Regulations 2017 (Cth)* to defend the claim made against her by Ms Higgins was approved but that the approval was subject to *inter alia*:~~

~~20.1 the Commonwealth exercising its “discretion” to take over the conduct of her defence of the claim;~~

~~20.2 a requirement that she not attend the mediation.~~

Particulars

- ~~(a) Letter from HWLE to Ashley Tsacalos dated 6 December 2022
(6 December Letter).~~

19A At 1.30pm on 6 December 2022, Blumers wrote to HWLE, but not copied to the Applicant or Clayton Utz, confirming *inter alia*:

19A.1 the date and time of the mediation;

19A.2 the mediator’s details;

19A.3 that copies of a report prepared by A/Prof Quadrio dated 12 August 2022 and a ACT Victims of Crime payment schedule were enclosed; and

19A.4 that further updated documents including *inter alia* submissions as to liability, psychiatric evidence and particulars of claim would be provided to HWLE in the coming days

(6 December Letter).

19B The 6 December Letter requested that HWLE provide a copy of a suggested deed of settlement.

20 At 10.06pm on 6 December 2022, the day the limitation period was due to expire in relation to the claims against the Applicant, the Applicant by her solicitors Clayton Utz received a letter from HWLE referring to her existing Approval granted on 22 March 2022 and referred to in paragraph 8A above and informing the Applicant that the Attorney-General (the Hon Mark Dreyfus, Labor member for Isaacs) had decided to add the following conditions to the Approval:

20.1 that the Commonwealth ~~was exercising~~ would exercise its discretion to take over the conduct of the Applicant's defences of the claims (pursuant to r 89 of the PBR Regulations);

20.2 to impose conditions on the Applicant pursuant to s 91(2) of the PBR Regulations, namely that the Applicant was required:

20.2.1 not attend the mediation and not seek to do so;

20.2.2 not make any public comment about the mediation or the civil claims by Ms Higgins;

20.2.3 maintain confidentiality in relation to all information related to the mediation and the civil claims by Ms Higgins.

20A Alternatively to paragraph 20.2 above, by the 6 December Letter and in accordance with the Attorney-General's direction, the Commonwealth imposed requirements on the Applicant pursuant to s 90 of the PBR Regulations to assist the Commonwealth by directing the Applicant:

20A.1 to not attend the mediation and not seek to do so;

- 20A.2 to not make any public comment about the mediation or the civil claims by Ms Higgins;
- 20A.3 to maintain confidentiality in relation to all information related to the mediation and the civil claims by Ms Higgins.
- 20B The 6 December Letter also stated that “the purpose of these measures is to ensure that the Commonwealth puts *itself* in the best position to achieve a resolution at the mediation”. (Emphasis added)
- 20C The 6 December Letter omitted any information in respect of the time and location of the mediation and thereby prevented the Applicant from attending (either in person or represented by Clayton Utz).
- 20D As a result of the Approval and the conditions, alternatively requirements imposed on the Applicant, as and from 6 December 2022, the Commonwealth assumed a position of power and control in relation to the Claim and thereby owed the Applicant a duty to take reasonable care in relation to the claims.
- 21 Notwithstanding the ~~a~~Approval ~~of the Applicant's legal fees~~, the practical effect of the 6 December Letter was that the Commonwealth ~~(and therefore HWLE)~~ exercised its power conferred by s 89 PBR Regulations and assumed control of the conduct of the Applicant's defence and denied the Applicant the right to retain her own legal representation to attend the mediation and defend Ms Higgins' claims against her, in circumstances where it had previously stated in the 28 June 2022 Letter that it:
- 21.1 could not provide her with legal advice; and
- 21.2 may not consider it appropriate to:
- 21.2.1 share the legal advice it has obtained in relation to the Commonwealth's liability in relation to the matter;
- 21.2.2 insist on terms that appropriately meet the interests of Senator Reynolds, but not also the interests of the Commonwealth;
- 21.2.3 consult with Senator Reynolds in relation to any proposed terms of settlement in advance of these being agreed with Ms Higgins; nor
- 21.2.4 disclose the full terms of any settlement reached with Ms Higgins.

21A If the Applicant failed to comply with the conditions pleaded at paragraph 20.2 above, alternatively provide the assistance required by the Commonwealth pleaded at paragraph 20A above, she would be in breach of s 89 of the PBR Regulations and in either case:

21A.1 pursuant to s 85(2) of the PBR Regulations, the approved assistance would not be payable; alternatively

21A.2 pursuant to s 85(4) of the PBR Regulations, the approving Minister could reduce the amount of assistance payable; and further or alternatively

21A.3 pursuant to s 87(2) of the PBR Regulations, the approving Minister had the power to revoke the approval and require the Applicant to repay all or part of any money paid under the approval after the condition was breached.

~~22 — In assuming conduct of the Applicant's defence of Ms Higgins' claim the Commonwealth owed the Applicant fiduciary duties to act thereafter in her best interest and to not act in conflict.~~

21B At 2.19 pm on 7 December 2022, and approximately 6 business hours after informing the Applicant's solicitors that the Commonwealth would be taking over the control of the conduct of her defence, HWLE wrote to Blumers stating *inter alia* that:

21B.1 'the Commonwealth is responsible for making decisions regarding the defence for all respondents named in the particulars of Liability';

21B.2 'it is the intention of the Commonwealth to attend the mediation (without Senator Reynolds or Senator Cash) with a view of the resolving the entirety of Ms Higgins' civil claims related to her employment with the Commonwealth (including claims made against the Senators)';

21B.3 'if Senators Reynolds and/or Senator Cash do not permit the Commonwealth to control the conduct of their defence of Ms Higgins' civil claims, this would leave open the possibility that the Senators make alternative arrangements to defend Ms Higgins' civil claims as individual respondents. We will notify you should this occur'; and

21B.4 'While the Commonwealth maintains control of the Senators' defences of Ms Higgins' claims, it undertakes to not rely on any limitation period that may apply to Ms Higgins' civil claims against the Senators, provided that the

proceedings in relation to the claims (if any) are commenced before Monday 28 February 2023'

(7 December Letter).

21C The effect of the 7 December Letter was that:

21C.1 the Commonwealth exercised its discretion to take control of the conduct of the Applicant's defence of Ms Higgins' claims on the day the limitation period was to expire;

21C.2 within hours of doing so, the Commonwealth and HWLE acted without instruction from or the consent of the Applicant (and in fact against her instructions which they were aware of by reason of being copied into the correspondence referred to at paragraph 19 above) and extended the limitation period to 28 February 2023;

21C.3 the conduct of the Commonwealth and HWLE in extending the limitation period which the Applicant had previously refused to extend (as referred to in 21C.2 above), was conduct adverse to the Applicant's interests and undertaken in circumstances where the Commonwealth and HWLE were aware that:

21C.3.1 the Applicant may not agree to the conditions imposed on her and elect to make arrangements to defend Ms Higgins' claim; and

21C.3.2 they had only notified the Applicant (via her solicitors) of their decision some 6 business hours earlier and had not provided her with a sufficient opportunity to take advice and refuse the conditions imposed on her ability to defend the claims.

22 On 8 December 2022:;

22.1 Dr Tsacalos of Clayton Utz telephoned Ms Susan Whitaker of the Attorney-General's Department to raise the Applicant's serious concerns with the imposition of the conditions on the existing Approval;

22.2 Ms Whitaker requested that Clayton Utz outline the Applicant's concerns in writing; and

22.3 Ms Whitaker did not disclose to Dr Tsacalos that the Commonwealth had, 2 days earlier, extended the limitation period over the claims concerning the Applicant to 28 February 2023.

23 On 9 December 2022, in response to HWLE's letter of 6 December 2022 and Ms Whitaker's request on 8 December 2022, Clayton Utz wrote to HWLE stating *inter alia*:

23.1 Sections 89, 90 and 91 of the *Parliamentary Business Resources Regulations 2017 (Cth)* (PBR Regulations) and the approval of the Applicant's her legal assistance did not operate to prohibit the Applicant from acting in her own best interest in relation to the Claim;

23.2 The Applicant had engaged separate legal representation and that the terms of the approval did not require the Applicant to accept a legal practitioner nominated by the approving Minister pursuant to s 91(1) of the PBR Regulations;

23.3 The Applicant's concerns in relation to the inconsistency between the Commonwealth's position that it was unable to act for her Senator Reynolds and its election to take over the conduct of her defence by reference to the Commonwealth's comments in its 28 June Letter to the effect;

"...we advise that there are limits to the Commonwealth's capacity to provide assistance to Senator Reynolds. Those limits are set out below.

...

Relevantly, the Commonwealth may only act on its own behalf and not, for example, on behalf of Senator Reynolds. This is the basis on which the Commonwealth will conduct itself in relation to the claims, including at the mediation."

23.4—The plain conflict of interest (as contemplated by s 83 of the Regulations) by reason of the public support offered to Ms Higgins and her version of events by the Attorney General and other approving Ministers meant the Attorney General was involved in the matter for the purposes of Regulation 83 and therefore could not act as approving Minister. In this regard specific attention was drawn as an example to the then shadow Attorney General's public

statements on 15 March 2021 in the House of Representatives (see Annexure B to the statement of claim);

- 23.5 The lack of particularisation of the causes of action by Ms Higgins;
- 23.6 The lack of evidence to support Ms Higgins' Claim;
- 23.7 The Applicant's concerns in respect of the Commonwealth's ability to act as a model litigant in the circumstances;

Particulars

- (a) Letter from Clayton Utz to HWLE dated 9 December 2022 (**9 December Letter**)
- 24 In the 9 December Letter, Clayton Utz noted that:
- 24.1 the Applicant had not agreed to extend the limitation period beyond the previously agreed 6 December extension;
 - 24.2 the Applicant had not been served with a claim and searches of the Federal Court and ACT Supreme Court did not reveal that proceedings had been commenced;
 - 24.3 the Applicant wished to work cooperatively with the Commonwealth through their respective solicitors to manage the Claim brought by Ms Higgins.
- 24A Notwithstanding the concerns raised in in the 9 December Letter, neither the Commonwealth nor HWLE:
- 24A.1 responded to (or otherwise engaged with) the 9 December Letter prior to the mediation;
 - 24A.2 postponed the mediation to consider the issues raised in the 9 December Letter;
 - 24A.3 informed the Applicant or Clayton Utz of the location or time of the mediation;
 - 24A.4 permitted the Applicant to instruct and pay for her own legal representation at the mediation, alternatively allow her to have a representative attend the mediation on her behalf; nor

- 24A.5 permitted the Applicant a sufficient opportunity to refuse the conditions imposed on her by the Commonwealth or to withdraw her request for legal assistance under the PBR and make alternative arrangements to defend Ms Higgins' civil claims as an individual respondent.
- 24B On 9 December 2022, by email from Blumers, HWLE received a bundle of documents for the purposes of use in the mediation which included *inter alia* a Psychiatrist Report of Dr Julio Clavijo dated 5 January 2022 (Clavijo Report).
- 24C By letter dated 10 December 2022, HWLE confirmed receipt from Blumers of New Material which was provided in tranches over the course of 6, 7 and 8 December 2022 (10 December Letter).
- 24D The 10 December Letter:
- 24D.1 confirmed that the New Material contained additional causes of action, new evidence and an increased quantum proposed for settlement; and
- 24D.2 identified that the New Material contained new claims against the Applicant that the Commonwealth 'cannot resolve at the mediation'.
- 24E Neither the Commonwealth nor HWLE nor anyone else communicated the New Material or the new claims against the Applicant to the Applicant or Clayton Utz.
- 25 On 13 December 2022 a mediation occurred between the Commonwealth and Ms Higgins at which ~~they settled~~ the Claim against the named ~~parties~~ beneficiaries which included the Applicant was settled notwithstanding the Commonwealth and HWLE were on notice (for the reasons listed in Annexure A hereto) that the allegations the subject of the Claim were false substantial evidence was available or could be obtained to rebut and ultimately disprove the Claim against the Commonwealth and the Applicant and that the Applicant intended to defend the Claim.

Particulars

- (a) Deed of Settlement and Release between the Commonwealth of Australia (as represented by the Department of Finance) and Brittany Higgins executed on 13 December 2022 (Deed).

(b) The Applicant will refer to the Deed at trial for its full terms and effect.

26 On 14 December 2022, the Applicant read articles published in mainstream media indicating that Ms Higgins' Claim had been resolved.

27 On 14 December 2022, Clayton Utz enquired with HWLE as to whether the media reports were correct.

28 On 16 December 2022, HWLE wrote to Clayton Utz stating *inter alia*:

28.1 At the mediation held on 13 December 2022, the Commonwealth and Ms Higgins settled her claims;

28.2 At the request of Ms Higgins, the parties agreed that the terms of the settlement are and were confidential;

28.3 The parties agreed a release which operated to release Senator Reynolds from all claims made by Ms Higgins against Senator Reynolds and for which she had the approval of assistance under s 85 of the PBR Regulations;

28.4 The release does not cover:

28.4.1 any claim for which it is not possible, as a matter of law, to provide a release;

28.4.2 any actions that do not relate to the performance or non-performance of Senator Reynolds' ministerial duties, as legal assistance under the PBR Regulations is not available to Senator Reynolds for such actions;

28.4.3 fines or penalties, as Senator Reynolds' approval under the PBR regulations dated 22 March 2022 does not cover such matters.

(16 December Letter)

29A On 21 December 2022, Dr Tsacalos responded to the 16 December Letter by email stating *inter alia* that the 16 December Letter had not engaged with the concerns raised in the 9 December Letter.

29B By letter dated 7 February 2023, HWLE replied to Dr Tsacalos' email declining *inter alia*:

29B.1 to provide the Applicant with a copy of the Deed of Settlement, details of the terms of the settlement or otherwise responding to queries relating the confidentiality of the terms of settlement; and

29B.2 to respond or engage with the concerns raised in the 9 December Letter.

29 On 7 February 2023 Mr Bruce Lehrmann, one of the staff members involved in the Incident, commenced defamation proceedings against Network Ten Pty Limited and Ms Lisa Wilkinson (NSD 103/2023) in respect of a televised interview with Ms Higgins regarding the Incident and its management by the Applicant (**Defamation Proceedings**). The trial of the Defamation Proceedings commenced on 23 November 2023, with final submissions being lodged on 9 April 2024.

30A In the course of those proceedings, his Honour called for, and Ms Higgins produced, a copy of the Deed of Settlement between Ms Higgins and the Commonwealth. The Deed of Settlement was made publicly available through the Federal Court's website as an exhibit.

Particulars

Exhibit Number 59 being the Deed of Settlement between Ms Higgins and the Commonwealth dated 13 December 2022.

30 On 15 April 2024 the presiding Judge, his Honour Justice Lee, made the following findings in respect of Ms Higgins' claim at [240] of his reasons for decision in *Lehrmann v Network Ten Pty Limited (Trial Judgment)* [2024] FCA 369 (emphasis added):

[240] It is evident several things being alleged [in the deed of settlement between Ms Higgins and the Commonwealth] were untrue. As my findings below will establish, and without seeking to be exhaustive, it is convenient to identify sufficient examples by reference to the Particulars of Liability (PL) and Attachment 2, "Event Complained About" (A2) as follows:

- (1) *that on 26 May 2019: (a) Ms Higgins told Ms Brown that Mr Lehrmann had "sexually assaulted" her (PL cl 3.4; A2 cl 4.4); and (b) Ms Brown confirmed to Ms Higgins that CCTV footage demonstrated that Ms*

Higgins was “visibly drunk when coming through the entrance to the Ministerial wing of Parliament House and that Mr Lehmann had said that he had not been drinking that evening” (PL cl 3.5);

- (2) that during the week following the sexual assault, Mr Yaron Finklestein, Principal Secretary to the Prime Minister, was a “regular presence” in Senator Reynolds’ office advising Ms Brown on “how to deal with [Ms Higgins] in light of the sexual assault by Mr Lehmann” (PL cl 3.9);*
- (3) that Ms Brown “rebuffed [Ms Higgins]’ request” to view the CCTV footage from 22/23 March 2019 (PL cl 3.12; A2 4.12);*
- (4) that on 27 March 2019, members of the AFP Parliament House unit informed Ms Higgins that “they had been told to investigate a sexual assault” (PL cl 3.13);*
- (5) at or around 11 April 2019, Ms Higgins raised with Ms Brown the issue of sick leave for her mental health and also needing time off work to assist the AFP in its investigation but “Ms Brown demonstrated an unwillingness to discuss the issue and made it clear to [Ms Higgins] that it was her problem to deal with” (PL cl 3.22; A2 cl 4.22);*
- (6) that “Ms Brown informed Ms Higgins that she had two options. She could return home to the Gold Coast on paid leave for the duration of the election campaign, but this would negatively impact her prospects of having a job to reapply for after the election. Alternatively, [Ms Higgins] could “stay onboard” Senator Reynolds’ team and work on the election campaign in Western Australia” (PL cl 3.23);*
- (7) that “Ms Brown made it clear by her words and demeanour that the events of 22/23 March 2019 must be put to one side; that [Ms Higgins] ought remain silent about the sexual assault, in order to keep her job/career” (PL cl 3.24; A2 cl 4.24);*
- (8) that it was in the context of electing to go to Western Australia to assist with Senator Reynolds’ election campaign that Ms Higgins “felt*

she had no choice but to abandon pursuit of the complaint of sexual assault with the AFP” (PL cl 3.25);

- (9) *that “Minister Reynolds did not engage with [Ms Higgins] at all during the election campaign. She avoided [Ms Higgins] and made clear that she did not want the claimant attending events with her” (PL cl 3.28).*

First Respondent’s Fiduciary Duties

~~31—By reason of the matters pleaded at 20 to 22 above, as and from 6 December 2022, the Commonwealth owed equitable fiduciary duties to the Applicant to:~~

~~31.1—act in the Applicant’s best interests in defending Ms Higgins claim;~~

~~31.2—avoid any conflicts of interest.~~

Misfeasance of Public Office

First Respondent’s duty to take reasonable care

31A By 6 December 2022, the Commonwealth knew or ought to have known that Ms Higgins’ Claim against the Applicant:

31A.1 contained serious allegations against a former Minister of the Crown in respect of matters arising whilst she was a Minister of the Crown;

31A.2 if made or established directly and significantly affected the Applicant’s reputation;

31A.3 related to a controversial and politically sensitive topic, namely the Applicant and the then-Australian Government’s alleged attempted cover-up of a rape for political purposes;

31A.4 arose in respect of an issue that had given rise to acrimony between the Attorney-General and other Labor Ministers on one hand and the Applicant on the other hand, in relation to the Applicant and the then-Australian Government’s alleged attempted cover-up of a rape for political purposes;

31A.5 involved allegations the subject of intense media attacks and the acrimony referred to in paragraph 31A.4 above that had caused the Applicant

significant health issues for which she had to take a leave of absence from her Parliamentary and Ministerial duties;

31A.6 the allegations were denied by the Applicant and were capable of being successfully defended on the basis of:

31A.6.1 evidence from Ms Higgins, the Applicant, Ms Brown and others given during the Criminal Proceeding; and

31A.6.2 the limitation period for the Claim, as extended by agreement, expiring if proceedings were not commenced that day.

31B Further, by 6 December 2022, the Commonwealth knew or ought to have known that Ms Higgins had made, continued to make and unless prevented from doing so was likely to continue to make public statements of and concerning the subject matter of the Claim, and in particular the allegations referred to in paragraph 31A.3 above, against the Applicant that were defamatory and disparaging of the Applicant.

Particulars

(a) Ms Higgins had previously made various public statements of and concerning the subject matter of the Claim against the Applicant that were republished in mainstream and social media, including:

(i) Ms Higgins' statements to journalist, Ms Samantha Maiden on or about 21 January 2021 that were widely published including in an online article entitled, 'Young staffer Brittany Higgins says she was raped at Parliament House' on 15 February 2021, which in turn was the subject of questions asked by Senator Katy Gallagher and Senator Penny Wong in Federal Parliament during Question Time on 15 February 2021;

(ii) Ms Higgins' statements to journalist, Ms Lisa Wilkinson during interviews on 27 January 2021 and 2 February 2021, that were broadcast on Channel 10's The Project on 15 February 2021, which in turn were the subject of various articles published by mainstream media including:

(A) the cover story of The West Australian newspaper on 6 March 2021 entitled, 'Rape Victim's Perth Hell'; and

- (B) an article published on pages 4 and 5 of The West Australian newspaper on 6 March 2021 entitled, 'Parliament Rape Victim's Perth Hotel Nightmare' with the subheading, 'Brittany Higgins left feeling cut off and let down by Linda Reynolds as she suffered a breakdown alone weeks after alleged attack';
- (iii) Ms Higgins' statement issued to various media outlets on 16 February 2021;
- (iv) Ms Higgins' appearance at the March4Justice rally on 15 March 2021 during which she made the following comments, or comments to the following effect:
- (A) her former bosses had downplayed her lived experience and she felt like a 'political problem' when she went public with allegations about being raped in Parliament House;
- (B) she came forward in the hopes of protecting other women, and it was time for politicians from all parties to stop 'sidestepping accountability' and address gendered violence;
- (C) "I was raped inside Parliament House by a colleague, and for so long it felt like the people around me only cared because of where it happened and what it might mean for them";
- (D) "it was so confusing because these people were my idols ... and suddenly they treated me differently";
- (E) "I wasn't a person who'd just gone through a life-changing, traumatic event. I was a political problem"; and
- (F) "if they aren't committed to addressing these issues in their own offices, what confidence can the women of Australia have that they will be proactive in addressing this issue in the broader community"; and
- (v) Ms Higgins' appearance at the National Press Club on 9 February 2022.

(b) Ms Higgins' then-partner (now husband), Mr David Sharaz, had previously made various public statements on his social media of and concerning the subject matter of the Claim against the Applicant some of which were republished in mainstream and social media:

(i) a Tweet posted on 27 January 2022 (27 January 2022 Tweet) which stated:

"There is a very real chance @lindareynoldswa will be called to court this year to answer questions on her involvement in Brittany Higgins feeling pressured by her office not to continue with a complaint to police"

(ii) a Tweet and Instagram Story posted on 1 April 2022 which stated:

"I'm aghast that despite everything you put a staffer through you're still a minister, but we can all be surprised"

(iii) a Facebook comment posted on the Applicant's Facebook account on 3 December 2022 in reply to a comment stating "How you still in politics?? You destroyed Brittany Huggins [sic]. You're a monster who deserves to be in jail!!!" which stated in part:

"Thanks for reminding her. I hope she hears this every day until the day she dies."

(iv) a Tweet posted on 4 December 2022 which stated:

"First Linda sent her husband in to watch a victim's cross-examination and was texting the defence team tips.

Now she's leaking privileged information to the paper while Britt's fragile in a clinic.

When will the bullying end @lindareynoldswa?"

(c) Ms Higgins posted two Tweets on 13 April 2021 by which she publicised, as was the fact, that she had secured a publishing deal for a memoir 'to share [her] experience inside Parliament House' which would 'shine a light on the culture inside the corridors of power', the subject of which memoir would include the subject matter of the Claim.

(d) The fact of Ms Higgins' publishing deal was widely publicised in mainstream and social media.

(e) It had been widely publicised in mainstream and social media, as was the fact, that Ms Higgins had been selected as one of Marie Claire's 'Women of the Year' in November 2021 in part on the basis of her conduct in relation to the subject matter of the Claims against the Applicant.

31C In determining to act on behalf of the Applicant under the PBR Regulations, the Commonwealth assumed a position of power and control in relation to the Claim.

31D In the circumstances, the Commonwealth owed the Applicant a duty of care to take reasonable steps in acting on behalf of the Applicant to protect the Applicant from further harm in respect of Ms Higgins' Claim (including, from 10 December 2022, claims made in respect of the New Material).

First Respondent's Breach

31E The Commonwealth breached its duty of care to the Applicant by:

31E.1 settling the Claim on the terms of the Deed of Settlement when there was no meaningful prospect of liability being established against the Applicant;

31E.2 failing to include in the Deed of Settlement terms that would protect the Applicant's reputation from further harm by Ms Higgins, such as a non-disparagement clause for the benefit of the Applicant or an undertaking not to publicly repeat the substance of the Claim against the Applicant (**Protection Clause**) in the circumstances pleaded at 31B above; and

31E.3 failing to provide the Applicant with a copy of the Deed of Settlement, despite request by the Applicant.

Second Respondent's Fiduciary Duties

32 By reason of the matters pleaded at 20 to 22 above, as and from 6 December 2022, HWLE owed duties at common law alternatively equitable fiduciary duties to the Applicant to:

32.1 act in the Applicant's best interests in defending Ms Higgins' Claim on behalf of the Applicant;

- 32.2 avoid any conflict of interests;
- 32.3 take and follow the Applicant's lawful, proper and competent instructions in circumstances where its other client, the Commonwealth, had assumed control of the Applicant's defence of Ms Higgins' eClaim; alternatively
- 32.4 properly advise the Commonwealth that in assuming control of the Applicant's defence of Ms Higgins' claim, the Commonwealth placed itself in a position of conflict.

First Respondent's Breach

33 ~~By: reason of the Commonwealth's conduct in:~~

- ~~33.1—representing that the Applicant's financial approval was conditional upon the exercise of its discretion to take control of her defence thereby denying her the financial assistance to continue to retain her own independent solicitors;~~
- ~~33.2—taking over control of the Applicant's defence in circumstances where the Applicant's interests were plainly not aligned with the Commonwealth;~~
- ~~33.3—failing to allow the Applicant the opportunity to decline the financial assistance offered under the PBR Regulations and choose to retain, at her own cost, her own independent solicitors to act for her in defence of the Claim;~~
- ~~33.4—excluding the Applicant from attending at the mediation conference notwithstanding her expressed intention to attend and participate;~~
- ~~33.5—proceeding to the mediation without notifying the Applicant of the date, time or location;~~
- ~~33.6—failing to take instructions from the Applicant as to the truth of the events the subject matter of the Claim;~~
- ~~33.7—failing to conduct any independent investigations in order to establish whether there was 'at least a meaningful prospect of liability' by the Applicant, in breach of the Legal Service Directions 2017;~~
- ~~33.8—failing to have regard to publicly available competing evidence given over the 12 days of trial in the Supreme Court of the Australian Capital Territory as~~

~~detailed in Annexure A hereto which directly contradicted Ms Higgins' allegations;~~

~~33.9—acting in conflict in circumstances where it plainly preferred Ms Higgins' unsworn account of her claims without hearing or obtaining the Applicant's account of these matters;~~

~~33.10—failing to engage with the matters raised in the Applicant's 9 December Letter;~~

~~33.11—failing to inform or speak with the Applicant in relation to new claims made against her on 7 December 2022;~~

~~33.12—either:~~

~~33.12.1—extending the limitation period on the Applicant's behalf without her instructions or authority; alternatively~~

~~33.12.2—compromising claim/s that were statute barred;~~

~~33.13—proceeding to a mediation and settling Ms Higgins' Claim without:~~

~~33.13.1—the Applicant's consent; or~~

~~33.13.2—the Applicant's instructions;~~

~~33.14—settling Ms Higgins' Claim as against the Applicant which had the effect of publicly affirming Ms Higgins' allegations against the Applicant;~~

~~33.15—failing to provide the Applicant with a copy of the settlement deed with Ms Higgins;~~

~~33.16—misrepresenting to the Applicant the true extent of the releases and indemnities agreed upon in the settlement;~~

~~the Commonwealth breached its fiduciary duties owed to the Applicant~~

Second Respondent's Breach

34 By reason of the HWLE's conduct in:

34.1 acting in conflict in circumstances where the Applicant's interests were plainly not aligned with the Commonwealth;

- 34.2 representing that the Applicant's financial approval was conditional upon the exercise of Commonwealth's discretion to take control of her defence thereby denying the Applicant the financial assistance to continue to retain her own independent solicitors;
- 34.3 excluding the Applicant from attending at the mediation conference notwithstanding her expressed intention to attend and participate;
- 34.4 proceeding to the mediation without notifying the Applicant of the ~~date~~, time or location;
- 34.5 failing to take instructions from the Applicant as to the truth of the events the subject matter of the Claim;
- 34.6 failing to conduct any independent investigations in order to establish whether there was 'at least a meaningful prospect of liability' by the Applicant, ~~in breach of the Legal Service Directions 2017~~;
- 34.7 failing to have regard to publicly available competing evidence given over the 12 days of trial in the Supreme Court of the Australian Capital Territory as detailed in Annexure A hereto which directly contradicted Ms Higgins' allegations;
- 34.8 failing to engage with the matters raised in the Applicant's 9 December Letter;
- 34.9 failing to inform or take instructions from the Applicant of new claims made against her on 7 December 2022;
- 34.10 either:
- 34.10.1 extending the limitation period on the Applicant's behalf without her instructions or authority; alternatively
 - 34.10.2 compromising claim/s that were statute barred;
- 34.11 proceeding to a mediation and settling Ms Higgins' Claim without:
- 34.11.1 the Applicant's consent; or
 - 34.11.2 the Applicant's instructions;

34.12 settling Ms Higgins' Claim as against the Applicant which had the effect of publicly affirming Ms Higgins' allegations;

34.13 failing to provide the Applicant with a copy of the settlement deed with Ms Higgins; and

34.14 misrepresenting to the Applicant the true extent of the releases and indemnities agreed upon in the settlement,

HWLE breached its fiduciary duties owed to the Applicant set out in paragraph 32 above.

Second Respondent's Negligence

35 In its capacity as solicitors on the record for the Applicant, HWLE owed the Applicant the duties set out in paragraph 32 above.

36 HWLE failed to exercise reasonable care and skill to be expected of reasonably competent lawyers and breached their duty of care to the Applicant as set out in paragraph 34 above.

37 As a result of HWLE's breaches as set out above, the Applicant has suffered and continues to suffer loss and damage.

Loss and Damage

~~38 — By reason of the First and Second Respondent's breaches and the Second Respondent's negligence by engaging in the conduct set out in paragraphs 33 to 36 above, the Applicant has suffered, and is continuing to suffer, loss and damage~~

38 The conduct of the First and Second Respondents referred to at paragraphs 31, 31E, 34 and 36 above caused the Applicant harm.

Particulars of harm

(a) The Applicant's interests were not sufficiently protected at the mediation as the Deed of Settlement did not contain a Protective Clause, thereby enabling Ms Higgins to subsequently publish matter in relation the Applicant that the Supreme Court of Western Australia has now held was defamatory of her.

- (b) Ms Higgins subsequently published matter in relation to the Applicant that was defamatory of her, namely:
- (i) an Instagram Story published on 4 July 2023; and
 - (ii) two Tweets published on 20 July 2023, republished by Ms Higgins as an Instagram story and on her Threads account on 20 July 2023.
- (c) The fact, nature and manner of the settlement, and the Applicant's exclusion from participation in the mediation, gave public credibility to statements previously and subsequently published by Ms Higgins about the Applicant.
- (d) The Applicant was not provided a copy of the Deed of Settlement and accordingly was unable to publicly speak to its terms in so far as they applied to her nor correct any defamatory comments made by the Applicant or others without risking breaching its terms.
- (e) As a result of the matters above, the Applicant:
- (i) suffered reputational and mental harm; and
 - (ii) had no choice but to prosecute defamation proceedings against Ms Higgins in the Supreme Court of Western Australia in order to vindicate her reputation and ameliorate some of the reputational damage suffered.

~~39 The Applicant suffered loss and damage by reason of the Attorney General's misfeasance of public office in that;~~

~~39.1 the Applicant was denied the opportunity to rebut Ms Higgins' allegation in the appropriate forum of the Claim relying on the Approval;~~

~~39.2 the Attorney General failed to ensure that the Claim was defended in accordance with Appendix C section 2 of the *Legal Services Directions 2017* which requires the Minister to:~~

~~39.2.1 be satisfied of '...the existence of at least a meaningful prospect of liability being established' prior to settlement; and~~

~~39.2.2 ensure 'settlement is not to be effected merely because of the cost of defending what is clearly a spurious claim'.~~

~~39.3 — the Attorney General enabled and encouraged the falsity of Ms Higgins' Claim to be maintained by Ms Higgins (in respect of which the Applicant repeats the particulars of harm set out at paragraphs 31E.1— 31E.4 above);~~

~~39 By reason of the First and Second Respondent's breaches and the Second Respondent's negligence by engaging in the conduct set out in paragraphs 31, 31E, 34 and 36 above, the Applicant has suffered, and is continuing to suffer, loss and damage.~~

Particulars of loss and damage

- (a) Legal costs associated with ~~being obliged to~~ commencing proceedings and issue concerns notices ~~so as~~ to mitigate the damage caused by the defendants and to vindicate and restore her reputation which costs would not ~~have been~~ incurred but for the ~~First and Second Respondents' breaches and the Second Respondent's negligence in compromising the Claim in the circumstances set out at 31, 34 and 36 above. Attorney-General's First and Second Respondent's misfeasance of public office breaches and the Second Respondent's negligence in compromising the Claim in the circumstances set out at 33 and 3 above for which the First Respondent is liable.~~
- (b) Further particulars of the legal costs incurred to date in vindicating the Applicant's reputation will be provided prior to trial.
- (c) ~~Damages for mental distress arising from the First and Second Respondents' conduct set out in paragraph 31A-31C31, 34 and 36 above.~~
- (d) ~~Further particulars will be provided prior to trial.~~

~~40 By reason of the Second Respondent's breaches and negligence by engaging in the conduct set out in paragraphs 34 to 36 above, the Applicant has suffered, and is continuing to suffer, loss and damage~~

Particulars of loss and damage

- (a) ~~Legal costs associated with commencing proceedings to vindicate and restore her reputation which costs would not have been incurred but for the Second Respondent's breaches and negligence in compromising the Claim in the circumstances set out at 34 and 36 above.~~

~~(b) — Further particulars of the legal costs incurred to date in vindicating the Applicant's reputation will be provided prior to trial.~~

~~(c) — Damages for mental distress arising from the Second Respondent's conduct set out in paragraph 34-36.~~

AND THE APPLICANT CLAIMS AGAINST THE FIRST RESPONDENT:

A Damages;

D Interest pursuant to section 51A of the *Federal Court of Australia Act 1976* (Cth);

E Costs;

F Such further or other relief as the Court deems just.

AND THE APPLICANT CLAIMS AGAINST THE SECOND RESPONDENT:

A Equitable ~~damages~~ compensation;

B Further, or alternatively, damages for breach of fiduciary duties;

C Further, or alternatively, damages for negligence;

D Interest pursuant to section 51A of the *Federal Court of Australia Act 1976* (Cth);

E Costs;

F Such further or other relief as the Court deems just.

Date: ~~24 April 2025~~ ~~11 June 2025~~ 5 November 2025

Signed by Martin Bennett

Bennett

Lawyer for the Applicant

This pleading was prepared by Martin Bennett, lawyer.

Annexure A

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
3. HANDLING OF SEXUAL ASSAULT BY MINISTER REYNOLDS' OFFICE	
<p>3.1 On Monday 25 March 2019, the claimant attended work at Parliament House, as did Mr Lehrmann. They did not communicate. No one spoke to the claimant about the events of the previous Saturday.</p>	<p>Justice Lee found in <i>Lehrmann v Network 10 (Trial Judgment)</i> [2024] FCA 369 (<i>Lehrmann Defamation Trial Judgment</i>) that on Monday 25 March 2019:</p> <ul style="list-style-type: none"> - Ms Higgins exchanged email correspondence with Mr Lehrmann, [527]-[528]; and - Mr Lehrmann purchased Ms Higgins a cup of coffee, [529]. <p>Ms Higgins gave evidence during the criminal trial of Mr Lehrmann on 6 October 2022 as to the above, which evidence was readily available for the Commonwealth to review and consider prior to entering into the Settlement with Ms Higgins: see T/S p143.</p> <p>Evidence was also given in the criminal trial by Ms Fiona Brown that she had no knowledge of the incident until approximately 11.45am the following day: T/S p384.</p> <p>A simple enquiry as to the evidence led during the criminal trial of Mr Lehrmann would have evidenced Ms Higgins' allegation to be false.</p>

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<p>Particulars of Liability</p> <p><i>Extracted from Particulars of Liability dated 21 December 2021</i></p>	<p>Contrary Evidence – Criminal Trial</p>
<p>3.4 [After speaking to Mr Lehrmann on Tuesday 26 March 2019] Ms Brown then spoke to the claimant. The claimant understood from Ms Brown that she wanted to discuss the events of 22/23 March 2019. The claimant recounted to Ms Brown her recollection of the events, including that Mr Lehrmann had sexually assaulted her.</p>	<p>In the Lehrmann Defamation Trial Judgment, his Honour Justice Lee expressly found this particular to be untrue: see [240] (1).</p> <p>Ms Brown’s contemporaneous notes (which were accepted to be accurate by Justice Lee, <i>Lehrmann Defamation Trial Judgment</i> at [275]), confirm that during the meeting with Ms Higgins on Tuesday 26 March 2019, Ms Higgins did not make any allegation of sexual assault or suggest that any sexual contact had occurred with Mr Lehrmann.</p> <p>These facts were the subject of Ms Brown’s evidence in the criminal trial at T/S p399 onwards and were always readily available for the Commonwealth to review and consider prior to entering into the Settlement with Ms Higgins.</p>
<p>3.5 Ms Brown confirmed that the CCTV footage demonstrated the claimant to have been visibly drunk when coming through the entrance to the Ministerial wing of Parliament House and that Mr Lehrmann had said that he not (sic) been drinking that evening.</p>	<p>In the Lehrmann Defamation Trial Judgment, his Honour Justice Lee expressly found this particular to be demonstrably untrue – see [240] (1).</p> <p>Further, at [733] – [734], Justice Lee found that Ms Brown did not see the CCTV footage.</p> <p>This was the subject of Ms Brown’s evidence in the criminal trial at T/S 444 which evidence was readily available for the Commonwealth to review and consider prior to entering into the Settlement with Ms Higgins.</p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
	A simple enquiry of Ms Brown would have evidenced Ms Higgins' allegation to be false.
3.6 The claimant broke down. Ms Brown informed her that Mr Lehrmann had been dismissed and would not be returning. Ms Brown instructed the claimant to take the rest of the day off and gave her a brochure for the Employee Assistance Program.	This account is not consistent with Ms Brown's evidence at the criminal trial. A simple enquiry of Ms Brown would have confirmed the allegation to be false.
3.7 Ms Brown did not ask the claimant if she needed (nor did she offer to provide) any further medical or trauma counselling.	As there was no allegation of sexual assault or any sexual contact (see response to para [3.4] above) there was no reason to offer any further medical or trauma counselling to Ms Higgins.
3.8 Ms Brown did not ask the claimant if she wanted to report the sexual assault to the Police. She did not advise the claimant that she would be initiating an investigation and Ms Brown did not ask the claimant if she needed (nor did she offer to provide) legal advice about the events.	As there was no allegation of sexual assault or any sexual contact (see response to para [3.4] above) there was no reason to initiate any sort of investigation or ask Ms Higgins if she needed legal advice about the events.
3.9 During the week following the sexual assault, Mr Yaron Finklestein, Principal Secretary to the Prime Minister, was a regular presence in Minister Reynolds'	In the Lehrmann Defamation Trial Judgment, at [240](2), Justice Lee expressly found that this particular of was demonstrably untrue.

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
<p>office advising Ms Brown on how to deal with the claimant in light of the sexual assault by Mr Lehrmann. However, Mr Finklestein did not seek the claimant's views about what remedies or outcomes she wanted.</p>	<p>A simple enquiry of Mr Finkelstein, Ms Brown, or Senator Reynolds would have evidenced Ms Higgins' allegation to be false.</p>
<p>3.10 Later that week Ms Brown asked the claimant if she had contacted the Employee Assistance Program. The claimant advised that she had called the number and been informed that there was a two-month wait period to speak to a psychologist.</p>	<p>Ms Brown's contemporaneous notes state that during a meeting with Ms Brown on 28 March 2024, that "[Ms Higgins] said she was taking up the counselling to which I replied, good I was pleased to see she was accessing it"</p> <p>Further evidence was led at the criminal trial that Ms Higgins in fact had an appointment booked on 18 April which she failed to take up – T/S 316.</p> <p>Ms Brown was always in possession of her contemporaneous notes and a simple enquiry of her would have evidenced Ms Higgins' allegation to be false.</p>
<p>3.11 Ms Brown did not arrange for any alternative counselling service to be provided to the claimant.</p>	<p>As Ms Higgins stated to Ms Brown that she was taking up counselling (see response to para [3.11]), there was no need for Ms Higgins to arrange for any alternative counselling service or make further enquiries of her in this regard.</p>
<p>3.12 The claimant asked Ms Brown several times if she could view the CCTV footage from 22/23 March</p>	<p>In the Lehrmann Defamation Trial Judgment, his Honour Justice Lee expressly found this</p>

<p>Particulars of Liability</p> <p><i>Extracted from Particulars of Liability dated 21 December 2021</i></p>	<p>Contrary Evidence – Criminal Trial</p>
<p>2019 but Ms Brown rebuffed her requests. The claimant has still never been granted access to view the CCTV footage.</p>	<p>particular to be demonstrably untrue – see [240] (3).</p> <p>Ms Brown gave evidence during the criminal trial of Mr Lehrmann that “<i>CCTV had never come up in conversation with me with Ms Higgins</i>” –T/S p 414 which evidence was readily available for the Commonwealth to review and consider prior to entering into the Settlement with Ms Higgins.</p> <p>A simple enquiry as to the evidence led during the criminal trial of Mr Lehrmann would have evidenced Ms Higgins’ allegation to be false.</p>
<p>3.13 On 27 March 2019 the claimant met with members of the Australian Federal Police (AFP) Parliament House Unit. They informed her that they had been told to investigate a sexual assault. The claimant told the AFP about the events of the 22/23 March 2019 including that Mr Lehrmann had sexually assaulted her.</p>	<p>In the Lehrmann Defamation Trial Judgment, his Honour Justice Lee expressly found this particular to be demonstrably untrue – see [240] (4).</p> <p>Ms Higgins gave evidence during the criminal trial of Mr Lehrmann that her first meeting with the AFP was on 1 April 2019, after her meeting with Senator Reynolds and Ms Brown on the same day – T/S 158.</p> <p>His Honour Justice Lee found at [656]:</p> <p><i>Despite the representation made by Ms Higgins in the Commonwealth Deed that four days after the incident, on 27 March, members of the AFP Parliament House unit informed Ms Higgins that “they [the identity of the “they” is left undisclosed] had been told to investigate a</i></p>

<p>Particulars of Liability</p> <p><i>Extracted from Particulars of Liability dated 21 December 2021</i></p>	<p>Contrary Evidence – Criminal Trial</p>
	<p><i>sexual assault” (PL cl 3.13), this is not the case, and the involvement of the AFP came about differently.</i></p> <p>A simple enquiry as to the evidence led during the criminal trial of Mr Lehrmann would have evidenced Ms Higgins’ allegation to be false.</p>
<p>3.15 [At a meeting on 1 April 2019] Minister Reynolds apologised to the claimant for what had happened to her and said that she was <i>“shocked and appalled by what had taken place”</i> and it made her feel <i>“physically ill”</i>.</p>	<p>Senator Reynolds gave evidence during the criminal trial of Mr Lehrmann as to the conversation that occurred between herself, Ms Higgins and Ms Brown which did not include the matters alleged in this particular – T/S p 724.</p> <p>Ms Brown gave evidence during the criminal trial of Mr Lehrmann as to the conversation that occurred between herself, Senator Reynolds and Ms Higgins which did not include the matters alleged in this particular – T/S p 409.</p> <p>In the criminal trial Ms Higgins herself failed to give any evidence of Senator Reynolds making the comments as alleged in this particular – see T/S p 156.</p>
<p>3.16 Minister Reynolds told the claimant that she was free to pursue the matter with the AFP. However, Minister Reynolds did not ask the claimant if she needed (nor did she offer to source or pay for) legal assistance or advice about dealing</p>	<p>Senator Reynolds gave evidence during the criminal trial of Mr Lehrmann that during the 1 April 2019 meeting with Ms Higgins that she not only suggested and encouraged but repeatedly offered to facilitate the meeting with</p>

<p>Particulars of Liability</p> <p><i>Extracted from Particulars of Liability dated 21 December 2021</i></p>	<p>Contrary Evidence – Criminal Trial</p>
<p>with the AFP in their investigation or about seeking redress.</p>	<p>AFP and did in fact (via Ms Brown) facilitate the meeting. T/S p 724</p> <p>In circumstances where Ms Higgins had a meet and greet with police almost immediately after the meeting with Senator Reynolds, there was no reasonable basis for Senator Reynolds to offer legal assistance, or advice, or offer to pay for it.</p> <p>Not only would a simple enquiry as to the evidence led during the criminal trial of Mr Lehrmann have evidenced Ms Higgins' allegation to be false but more importantly the Commonwealth ought to have known the legal basis for this particular is illogical. It is not incumbent on a Minister to personally offer to pay for legal assistance for a staffer. The Department of Finance is there to address staffers' concerns and to assist them access the relevant services such as the employee assistance program should they desire. This particular was so meritless as to be fanciful.</p>
<p>3.17 Minister Reynolds did not arrange for any medical, trauma counselling or other assistance to be provided to the claimant.</p>	<p>As set out in the response to para 3.16 above, Senator Reynolds gave evidence during the criminal trial that she facilitated Ms Higgins' meeting with police. Senator Reynolds also gave evidence during the criminal trial that one of the reasons Senator Reynolds facilitated the meeting with police was because they were appropriately qualified to discuss these issue with Ms Higgins – T/S 724.</p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
	<p>Ms Higgins gave evidence during the criminal trial of Mr Lehrmann that the AFP introduced Ms Higgins to the Canberra Rape Crisis Centre which Ms Higgins used to access counselling- T/S p160.</p> <p>Evidence was also led in respect of Ms Higgins' engagement with the employee assistance program which is set out above.</p> <p>This particular is not only false but devoid of merit and a basic review of the evidence led in the criminal trial would have established so.</p>
<p>3.18 The meeting of 1 April 2019 was the first and last occasion on which Minister Reynolds directly spoke to the claimant about the sexual assault.</p>	<p>In her own defamation trial against Ms Higgins, Senator Reynolds gave evidence addressing the numerous times she engaged with Ms Higgins whilst in Perth on the election campaign, including but not limited to sitting next to each other at a birthday dinner for Senator Reynolds and hosting Ms Higgins' in her own home.</p> <p>She also gave evidence about offering Ms Higgins a job after the election and Ms Higgins' conversation with her during which she advised her she had taken up a position in Senator Cash's office and that they discussed whether Ms Higgins would like Senator Reynolds to speak with Senator Cash about the incident.</p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
	<p>A simple enquiry of Senator Reynolds in relation to this allegation would have evidenced Ms Higgins' allegation to be false.</p>
<p>3.22 At or about [11 April 2019], the claimant raised with Ms Brown the issue of sick leave for her mental health and also needing time off work to assist the AFP in its investigation. Ms Brown demonstrated an unwillingness to discuss the issue and made it clear to the claimant that it was her problem to deal with.</p>	<p>In the Lehrmann Defamation Trial Judgment, his Honour Justice Lee expressly found this particular to be demonstrably untrue – see [240] (5).</p> <p>There is no evidence to support this allegation and in actual fact the evidence that Ms Higgins gave during the criminal trial in relation to her request for sick leave to attend a doctor's appointment was untrue – T/S p 282.</p>
<p>3.23 Ms Brown informed the claimant that she had two options. She could return home to the Gold Coast on paid leave for the duration of the election campaign, but this would negatively impact her prospects of having a job to reapply for after the election. Alternatively, the claimant could "stay onboard" Minister Reynolds' team and work on the election campaign in Western Australia.</p>	<p>There is no evidence to support this allegation and in fact his Honour Justice Lee in the Lehrmann Defamation Trial Judgment expressly found this particular to be demonstrably untrue – see [240] (6)</p> <p>His Honour went on to find as follows at [719 – 722]:</p> <p><i>What the contemporaneous materials and the evidence of Ms Brown reveal is that Ms Brown went to some lengths to arrange approval of a work base for Ms Higgins on the Gold Coast, where her family was located, in case she wanted to work from that location. Given the pendency of going into "caretaker mode" upon the calling of an election, Ms Brown was unsure whether an alternative work base could</i></p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
	<p><i>be approved during caretaker mode, or if it was best to obtain “in principle” approval to a proposed move. A discussion took place around 4 April with Ms Barons about appropriate steps and Ms Brown was informed a “prospective” approval could be given and exercised at any time that Ms Higgins wished (Brown (at [127])). Ms Brown was advised to email Dr Kunkel, copied to Mr Wong, who was in charge of the Government staffing process. Ms Brown then sent an email at 7:33pm to Dr Kunkel, copied to Mr Wong, seeking prospective approval of a non-standard base for Ms Higgins on the Gold Coast, noting that she was currently based in Canberra, however, for personal and family reasons she may wish to seek a non-standard work base with her family on the Gold Coast (Brown (at [128])).</i></p> <p><i>Of course, part of the cover-up narrative was that Ms Higgins had to choose between her job and seeking justice. It is notable that at the time the contemporaneous records reveal (to the extent there is any doubt) that Ms Higgins well understood the reality of being in a deferral period and that her current employment was coming to an end. This can be seen from candid communications with an ex-boyfriend Mr Jacob Kay, on 28 March and 11 April, where she advises: “Honestly, I’m going to be unemployed pretty soon so won’t</i></p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
	<p><i>be able to juggle both rents very shortly” and “Heads up election has been called which means have only 6 weeks left of employment (Ex R89 (at 1)).</i></p> <p><i>By 7 April, Ms Brown was getting ready to relocate to Brisbane for the upcoming federal election and over the previous week, she had been discussing with Mr Dean Carlson (who would become Acting Chief of Staff) about providing options to all staff and giving clarity to them as to what their travel commitments and locations would be for the upcoming campaign (Brown (at [159]–[160])). It had been determined that two Canberra based staff were to be based out of Western Australia – Mr Carlson and a Ministerial advisor, Mr Burland, and no decision had been made as to the balance of the staff (Brown (at [160])). Ms Higgins had told Ms Brown her preference was to work at “Campaign Headquarters” in Brisbane (no doubt because she wanted to work with Mr Dillaway in the media team) (Brown (at [161])). Ms Brown explained to Ms Higgins that the Campaign Headquarters staff allocation had been settled many months prior to the election, and that Ms Brown was not involved in those decisions (Brown (at [161])).</i></p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
	<p><i>Having already arranged approval for Ms Higgins to have a non-standard home base at the Gold Coast to be with her family during the deferral period, Ms Brown then gave Ms Higgins a choice of proceeding along those lines, or being based in Canberra, or working in Western Australia, or working from home (Brown (at [162])). It was up to her to make a choice.</i></p> <p>at [730]:</p> <p><i>But in the end, even though Ms Higgins was not particularly happy to be in Perth, far from presenting her with some sort of ultimatum, the truth is that Ms Higgins was treated no worse than any other staff member that needed to be dispersed during the election period (with the expectation that they would not be coming back following the expected defeat of the Coalition Government). Indeed, in her case, Ms Brown went to some effort to accommodate Ms Higgins, by giving her options. When the Government was unexpectedly returned, she was, of course, the recipient of three job offers from those within the Executive.</i></p> <p>A basic enquiry of Ms Brown or review of her evidence at the criminal trial (for example, she referred to arranging 'a non-standard home</p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
	<p><i>base work option for Brittany to work out of the Gold Coast should she wish' at T/S p413)</i> would have evidenced that this particular was patently false.</p>
<p>3.24 Ms Brown made it clear by her words and demeanour that the events of 22/23 March 2019 must be put to one side; that the claimant ought remain silent about the sexual assault, in order to keep her job/career.</p>	<p>There is no evidence to support this allegation and in fact his Honour Justice Lee in the Lehrmann Defamation Trial Judgment expressly found this particular to be demonstrably untrue – see [240] (7)</p> <p>Had the Commonwealth made inquiries of Senator Reynolds or Fiona Brown, it would have known the allegation could not be substantiated by Ms Higgins.</p>
<p>3.25 The claimant was fearful of losing her career and elected to go to Western Australia to assist with Minister Reynolds' election campaign. In that context the claimant felt she had no choice but to abandon pursuit of the complaint of sexual assault with the AFP.</p>	<p>There is no evidence to support this allegation and in fact his Honour Justice Lee in the Lehrmann Defamation Trial Judgment expressly found this particular to be demonstrably untrue – see [240] (8).</p> <p>He went on to find at [688]</p> <p><i>The way Ms Higgins dealt with Detective Harman is reflective of her desire not to progress the complaint. For example, she did not take steps to provide the AFP with the name of the second venue (that is, 88mph), or where CCTV footage may have then been able to be obtained (despite what she later said was her intense desire to obtain access to CCTV footage from the Parliament). Although Ms Higgins did not have the name of</i></p>

<p>Particulars of Liability</p> <p><i>Extracted from Particulars of Liability dated 21 December 2021</i></p>	<p>Contrary Evidence – Criminal Trial</p>
	<p><i>the venue to hand, if she wanted to pursue the complaint, she could have discovered it. Further, Ms Higgins did not respond to messages and calls from Detective Harman (Ex R72; T1318.39–1319.17) and, although asked for photos from her phone and for the dress, they were not provided (T1317.21–45; T1324.29–41). This was all material central to the investigation and not providing it was consistent with her contemporaneous and candid representations as to her firm intention not to proceed.</i></p>
<p>3.27 The claimant went to Western Australia to work on Minister Reynolds' election campaign. She was required to work mostly on her own in a hotel room, 7 days a week for 6 weeks. Her mental health deteriorated.</p>	<p>This allegation is baseless and devoid of merit. A simple review of the campaign schedule, travel itinerary for Ms Higgins during the relevant period or Ms Higgins' own social media account would have evidenced over a dozen campaign events attended by Ms Higgins and a return trip to Sydney to attend a friends' birthday party during the campaign.</p>
<p>3.28 Minister Reynolds did not engage with the claimant at all during the election campaign. She avoided the claimant and made clear that she did not want the claimant attending events with her. Minister Reynolds did not enquire how the claimant was, or if the claimant was receiving counselling or any other support.</p>	<p>There is no evidence to support this allegation and in fact his Honour Justice Lee in the Lehrmann Defamation Trial Judgment expressly found this particular to be demonstrably untrue – see [240] (9)</p> <p>[731]</p> <p><i>Finally, although it does not matter very much (save that it is relevant to a representation made in the Commonwealth Deed (PL cl</i></p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
	<p>3.28)), the contemporaneous material does not support the notion Ms Higgins was somehow shunned by the Minister in Perth. Apart from this allegation finding no support in her contemporaneous text messages, there is Ex 40, being a photograph of Ms Higgins (wearing the white dress she had said on oath in the criminal trial was still under her bed), happily sitting next to Senator Reynolds at a dinner with staff, which Ms Higgins attempted to explain away as resulting from her “accidentally” sitting next to the Minister because she was among the last to be seated (T816.28–30). I do not accept this evidence. Apart from anything else, it is unlikely that the other members of staff were deliberately eschewing sitting next to the Minister leaving a vacant seat for the belated arrival of Ms Higgins. It is also not supported by the evidence of Mr Wotton who was present (T1094.8–11).</p> <p>Had she been asked, Senator Reynolds could have provided the Commonwealth with many photographs of herself and Ms Higgins campaigning together, and evidence of the many events she invited Ms Higgins to attend with her.</p>
4. HANDLING OF SEXUAL ASSAULT BY MINISTER CASH'S OFFICE	
4.1 After the election, it was tolerably clear that Minister Reynolds was	Senator Reynolds offered Ms Higgins a job after the election – criminal trial T/S p739.

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
<p>not interested in having the claimant as a member of her staff again.</p>	<p>A basic enquiry of Senator Reynolds would have revealed this.</p>
<p>4.6 [Following a media enquiry on 18 October 2019] Minister Reynolds informed Minister Cash's Chief of Staff, Mr Daniel Try, also employed by Minister Cash, on behalf of the Commonwealth, under the MOPS Act, about the sexual assault of the claimant by Mr Lehrmann on 23 March 2019. Mr Daniel Try approached the claimant about talking to Minister Cash about the sexual assault, he asked her if she wanted to talk to Minister Cash about it or should he. The claimant indicated to Mr Daniel Try she preferred for him to talk to Minister Cash about the incident. He did not need any further information from the claimant to do this.</p>	<p>Senator Reynolds' evidence in the criminal trial was that she did not tell Mr Try (or her own staff) about the sexual assault; rather, she raised the issue with him without telling him what it related to but indicated there was a good chance that it would be in the Canberra Times the next day and that she wanted her Chief of Staff to speak with Ms Higgins. (T/S p739)</p> <p>Mr Try's evidence at the criminal trial was that Senator Reynolds did not go into detail about what the 'issue or incident' was, and said 'looking back, it seems she was careful not to go into detail'. (T/S 684)</p> <p>Mr Try also gave evidence that Ms Higgins attended with him to inform Minister Cash about the media inquiry.</p> <p>It ought to have been apparent to the Commonwealth from a review of the evidence given in the criminal trial that this allegation was false.</p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
6. LIABILITY FOR SEX DISCRIMINATION	
6.4 Further, by reason of the matters set out in Parts 1, 3 and 4 above, the Commonwealth, Minister Reynolds and Minister Cash engaged in unlawful direct discrimination within the meaning of s 5(1) of the SDA in that by reason of the claimant being a woman, she was treated less favourably than a man would have been treated in circumstances that are the same or are not materially different.	
6.5 This amounted to a contravention of s 14(2)(a), (b) and/or (d) of the SDA in that:	
6.5.1 failing to conduct a detailed investigation into the sexual assault;	<p>The evidence establishes that Senator Reynolds and Ms Brown were not informed of a possibility of a sexual assault until 4 April 2019.</p> <p>In any event, prior to 4 April, they had concerns and accordingly encouraged Ms Higgins to seek the guidance of the AFP who were the appropriate investigative body.</p> <p>Finally, the email from Lauren Barons of the Department of Finance to Ms Brown confirmed no such investigation should take place in the</p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
	<p>absence of a complaint (which complaint was only made to the AFP not Senator Reynolds).</p> <p>A basic consideration of the Barons email and the logic in suggesting that there was some obligation on Senator Reynolds to go beyond both the Department of Finance and the AFP directives not to interfere with their investigation would have revealed this particular to be so devoid of merit as to be nonsensical.</p>
<p>6.5.2 failing to ask the claimant if she needed (or offering to source) legal assistance or advice about dealing with the AFP in their investigation or about seeking redress;</p>	<p>This has been dealt with at paragraph 3.16 above.</p>
<p>6.5.3 failing to arrange for any medical, trauma counselling or other assistance for the claimant;</p>	<p>This has been dealt with at paragraph 3.17 above.</p>
<p>6.5.4 giving her the ultimatum in paragraph 3.23 and 3.24 above;</p>	<p>See response to paragraphs 3.23 and 3.24 above</p>
<p>6.5.5 being dismissive of and requiring the claimant to work despite her deteriorating mental health;</p>	<p>Had the Commonwealth sought a response from Senator Reynolds to this particular, it would have learned that:</p> <ol style="list-style-type: none"> 1. Senator Reynolds was not dismissive of Ms Higgins; 2. Senator Reynolds encouraged Ms Higgins' to meet with the police so that

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
	<p>she could speak to someone about her options and what support was available;</p> <p>3. Through Ms Brown, Senator Reynolds facilitated that meeting;</p> <p>4. Senator Reynolds gave Ms Higgins the option of working remotely from Queensland so that she would have the support of her family during the election campaign;</p> <p>5. Through Ms Brown, allowed Ms Higgins to take time off whenever she requested it;</p> <p>6. It was not apparent that Ms Higgins' mental health was deteriorating.</p>
<p>6.5.6 isolating the claimant as set out in paragraph 3.27;</p>	<p>See response to paragraph 3.27 above</p>
<p>6.5.7 ostracising the claimant as set out in paragraph 3.28</p>	<p>See response to paragraph 3.28 above</p>
<p>6.5.8 transfer to Minister Cash;</p>	<p>This allegation – that Ms Higgins' 'transfer' to Senator Cash amounts to sex discrimination – is patently false, even on Ms Higgins' own evidence in the criminal trial.</p> <p>Ms Higgins was not 'transferred' at all. Senator Reynolds gave evidence that she offered Ms Higgins a job: T/S p739.</p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
	<p>At T/S p164 Ms Higgins said that her plans following the election were ‘trying to get into a different office... I wanted to keep working in government, I just didn’t want to be in Linda Reynold's office anymore.’</p> <p>She further gave evidence (T/S p164) that she applied for 3 other jobs in Parliament House and was offered all three</p> <p>Ms Higgins herself elected to ‘transfer’ to Senator Cash’s office notwithstanding Senator Reynolds offered her employment..</p>
7. LIABILITY FOR DISABILITY DISCRIMINATION	
<p>7.2 By reason of the matters set out in Parts 1, 3 and 4 above, the Commonwealth, Minister Reynolds and Minister. Cash engaged in unlawful indirect discrimination within the meaning of s 6(2) of the Disability Discrimination Act, 1992 (ODA) in that:</p>	
<p>7.2.1 the conditions or requirements placed on the claimant included continuing to work after the sexual assault as normal;</p>	<p>Had the Commonwealth reviewed the evidence in the criminal trial or taken instructions from Senator Reynolds, it would have known that no such conditions or requirements were placed on Ms Higgins.</p> <p>See response to paragraphs 3.22 and 3.23 above.</p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence – Criminal Trial
<p>7.2.2 because of the claimant's disability would have been able to comply if reasonable adjustments had been made but the respondents did not make those reasonable adjustments, being:</p>	
<p>7.2.2.1 conducting a detailed investigation into the sexual assault;</p>	<p>This has been dealt with at paragraph 6.5.1 above.</p>
<p>7.2.2.2 asking the claimant if she needed (and/or offering to source) legal assistance or advice about dealing with the AFP in their investigation or about seeking redress;</p>	<p>This has been dealt with at paragraph 3.16 above.</p>
<p>7.2.2.3 arranging for any medical, trauma counselling or other assistance for the claimant;</p>	<p>This has been dealt with at paragraph 3.17 above.</p>
<p>7.2.2.4 not giving the claimant the ultimatum in paragraph 3.23 and 3.24 above and instead granting her request to take sick leave to deal with her deteriorating mental health;</p>	<p>See response to paragraphs 3.23 and 3.24 above.</p>
<p>7.2.2.5 being compassionate and flexible in the face of the claimant's deteriorating mental health;</p>	<p>This has been dealt with at paragraph 6.5.5 above; see also the response to paragraphs 3.22 and 3.23.</p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence
7.2.2.7 ensuring that the claimant was not ostracised as set out in paragraph 3.28 and instead was fully part of the election campaign;	See response to paragraph 3.28 above.
8. LIABILITY FOR VICTIMISATION	
8.1 By reason of the matters set out in paragraphs 3.4, 3.13, 4.6 and Parts 5 and 6 above, the claimant made an allegation that a person, Mr Lehrmann, had done an act that is unlawful by reason of a provision of Part II of the SDA.	See response to paragraphs 3.4, 3.13, 4.6 and Parts 5 and 6 above
8.2 On the ground set out in paragraph 7.1 above, Minister Reynolds and members of Minister Reynolds' staff (including Ms Brown) committed acts of unlawful victimisation against the claimant within the meaning of s 47 A of the SDA by subjecting, or threatening to subject, the claimant to detriments set out in Part 3 above, namely:	
8.2.1 failing to initiate any, or any proper, investigation into the sexual assault of the claimant by Mr Lehrmann;	See response to paragraphs 3.8 and 6.5.1 above.

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence
8.2.2 failing to offer and/or arrange any medical, trauma or rape counselling or psychological assistance in respect of the sexual assault;	See response to paragraphs 3.7, 3.10, 3.11, 3.17 and 6.5.3
8.2.3 failing to offer and/or arrange assistance for the claimant in relation to the sexual assault including but not limited to legal assistance for the police investigation and advice as to remedies;	See response to paragraphs 3.8, 3.16 and 6.5.2
8.2.4 failing to support or facilitate the applicant pursuing a complaint of sexual assault with the AFP;	<p>It ought to have been apparent to the Commonwealth at the time of the mediation that this allegation is plainly and demonstrably false.</p> <p>Firstly, to suggest that it is Senator Reynolds' role to assist Ms Higgins 'pursue' a complaint of sexual assault once that complaint has been made and in the hands of the AFP is so nonsensical as to be devoid of any merit.</p> <p>Ms Brown and Senator Reynolds had already ensured that Ms Higgins was properly supported through the process of making her complaint. Any suggestion they should have encourage her to <i>pursue it</i> completely lacks an understanding for the process of the police investigation and the directive given to</p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence
	<p>Senator Reynolds by the AFP not to interfere with the investigation.</p> <p>In any event, Ms Brown's evidence at the criminal trial was that:</p> <ul style="list-style-type: none"> • Senator Reynolds suggested that Ms Higgins speak to the police and encouraged her to do so [T/S pp409-410]; • A meeting between Ms Higgins and the AFP stationed in Parliament House was arranged by Ms Brown [T/S p411]. <p>Senator Reynolds' evidence at the criminal trial was that:</p> <ul style="list-style-type: none"> • She suggested Ms Higgins should talk to the AFP, and that she and Ms Brown would be able to facilitate that [T/S p724]; and • Ms Brown took Ms Higgins to meet with the AFP [T/S p724]; • She was informed by Deputy Commissioner Close of the AFP that Ms Higgins had made a complaint [T/S p743]; and • She never said or did anything to discourage Ms Higgins from maintaining a complaint [T/S p743].

<p>Particulars of Liability</p> <p><i>Extracted from Particulars of Liability dated 21 December 2021</i></p>	<p>Contrary Evidence</p>
	<p>Had the Commonwealth asked Senator Reynolds or Ms Brown for a response to this allegation, or even read Senator Reynolds' statement prepared for the AFP investigation, it would have been clear that the allegation was not only entirely false but more importantly baseless.</p>
<p>8.2.5 refusing to provide the claimant with access to the CCTV footage of Parliament House from 23 March 2019;</p>	<p>See response to paragraphs 3.5 and 3.12 above</p>
<p>8.2.6 requiring the claimant to attend a meeting in the same location in which the claimant had been sexually assaulted;</p>	<p>A simple enquiry of Senator Reynolds or Ms Brown would have confirmed to the Commonwealth that at the time of the 1 April meeting they were not aware that Ms Higgins had been sexually assaulted.</p> <p>His Honour Justice Lee found Ms Brown's 'unprompted failure to recognise the inappropriateness of holding the initial meeting with Senator Reynolds in the Minister's office was maladroit'; <i>Lehrmann Defamation Trial Judgment: [277]</i></p> <p>It was certainly not victimisation.</p>
<p>8.2.7 pressuring the claimant to remain silent about the sexual assault in order to keep her job, on the basis that pursuing the matter would</p>	<p>Both Senator Reynolds and Ms Brown have repeatedly denied putting any such pressure on Ms Higgins, including in their evidence at</p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence
<p>attract unwanted adverse attention to Minister Reynolds, Minister Cash and by association, the Liberal Parliamentarians;</p>	<p>the criminal trial [Ms Brown – T/S p430; Senator Reynolds T/S pp723-724; 743].</p> <p>As noted at 8.2.4 above, Senator Reynolds encouraged and Ms Brown assisted Ms Higgins to go to the police.</p> <p>Notably, Senator Cash denied in her evidence to the criminal trial that the allegation that one staff member sexually assaulted another staff member would be politically embarrassing [T/S p726]</p> <p>Had the Commonwealth taken the simple and essential step of obtaining instructions from the parties to the case, it would have inevitably have reached the same conclusion as his Honour Justice Lee – “[Senator Reynolds] wanted the incident to be reported to the police and was doing what she could to encourage Ms Higgins to see the AFP, having failed in her attempt to direct Ms Brown to report the incident the previous Friday. As I said during the hearing, it is the only alleged cover-up of which I am aware where those said to be responsible for the covering up were almost insisting the complainant to go to the police”: <i>Lehrmann Defamation Trial Judgment</i> at [667].</p>
<p>8.2.8 pressuring the claimant by suggesting that her job opportunities would be impaired if</p>	<p>Both Senator Reynolds and Ms Brown have repeatedly denied putting any such pressure on Ms Higgins, including in their evidence at</p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence
<p>she took paid leave during the election campaign when she advised that she needed to manage the effects of the sexual assault;</p>	<p>the criminal trial [Ms Brown – T/S p430; Senator Reynolds T/S pp723-724; 743].</p>
<p>8.2.9 sending the claimant to Western Australia to work on the election campaign in isolation and without support around her;</p>	<p>Both Senator Reynolds and Ms Brown gave evidence at the criminal trial that they gave Ms Higgins the option of working from Canberra or from home in Queensland, where she would have family support. [Senator Reynolds – T/S pp738, and 743; Ms Brown – T/S p413]</p> <p>See also response to paragraph 3.27 above</p>
<p>8.2.10 ostracising the claimant during the election campaign by avoiding her and making clear that the claimant was not wanted at campaign events; and</p>	<p>See response to paragraph 3.28 above.</p>
<p>8.2.11 disclosing details of the sexual assault to other staff in Parliament House without the claimant's consent.</p>	<p>Had the Commonwealth sought a response to this allegation from Senator Reynolds, it would have learned the lengths Senator Reynolds went to in order to keep Ms Higgins' allegations confidential.</p> <p>Senator Reynolds' statement in the AFP investigation confirms that she did not disclose the sexual assault to Senator Cash or Mr Daniel Try. Senator Cash's evidence at the criminal trial was also that Senator Reynolds</p>

Particulars of Liability <i>Extracted from Particulars of Liability dated 21 December 2021</i>	Contrary Evidence
	<p>did not convey Ms Higgins' allegation of sexual assault to her [T/S p673].</p> <p>Senator Reynolds has recently given extensive evidence in respect of this aspect in the Supreme Court of Western Australia in the trial of <i>Reynolds v Higgins</i> CIV 1840 of 2023, which was corroborated by the evidence of her former Chief of Staff Alex Kelton.</p> <p>See further the response to paragraph 4.6 above.</p>

Certificate of lawyer

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

Date: ~~25 July 2025~~ 5 November 2025

Signed by Martin Bennett
Bennett
Lawyer for the Applicant

Schedule

No. **WAD 121 of 2025**

Federal Court of Australia
District Registry: Western Australia
Division: General

Respondents

Second Respondent: **HWL EBSWORTH LAWYERS (A FIRM) (ABN 37 246 549 189)**

Date: ~~24 April 2025~~ ~~11 June 2025~~ 5 November 2025