

NOTICE OF FILING

Details of Filing

Document Lodged:	Reply - Form 34 - Rule 16.33
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	8/09/2026 8:08:37 PM AEST
Date Accepted for Filing:	9/09/2026 11:13:00 AM AEST
File Number:	NSD507/2026
File Title:	JACQUELINE ELLEN HENDERSON & ANOR v COMMONWEALTH BROADCASTING CORPORATION PTY LTD (ACN 000 019 796) & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

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

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



Reply to the Amended Defence

No. NSD507 of 2026

Federal Court of Australia
District Registry: New South Wales
Division: Fair Work

Jacqueline Ellen Henderson and another
Applicants

Commonwealth Broadcasting Corporation Pty Ltd (ACN 000 019 796) and another
Respondents

Except in so far as it contains admissions, the Applicants join issue with the Amended Defence to the Amended Statement of Claim filed by the Respondents on 1 September 2026 ~~10 July 2026~~ (**Defence**). The Applicants further reply as follows.

1. As to paragraph 5(b)(v) of the Defence, the Applicants:
 - a. rely on clause 5 of the Henderson BSA;
 - b. say that:
 - i. the Henderson BSA is titled "Broadcast Services Agreement" (emphasis added); and
 - ii. on the proper construction of the Henderson BSA, the commercial purpose or object that the parties (objectively construed) mutually intended to be secured by (amongst other terms) clause 5.1 of the Henderson BSA was to obtain Ms Henderson's presentation of a radio program, and
 - c. further say that, in the premises of (b) above, the Henderson BSA is a contract for services, for the purposes of s 342(1) of the FW Act.

Filed on behalf of (name & role of party)	Jacqueline Ellen Henderson and Henderson Media Pty Ltd, the Applicants
Prepared by (name of person/lawyer)	Peta Cherie Tumpey
Law firm (if applicable)	HWLE Lawyers
Tel	+61 2 9334 8894
Fax	
Email	ptumpey@hwle.com.au slambros@hwle.com.au rlduffy@hwle.com.au
Address for service (include state and postcode)	Level 9, 5 Martin Place, Sydney NSW 2000

1A As to paragraph 5(b)(vi) of the Defence, the Applicants:

- d. rely on clause 44 of the Henderson BSA; and
- e. say that clause 44 of the Henderson BSA identified a condition precedent of entry into the Henderson BSA, and had no effect as to the continuation (or the termination) of the Henderson BSA.

2. As to paragraph 7(d) of the Defence, the Applicants rely on cl 3 of the Henderson BSA which states that:

NATURE OF RELATIONSHIP

- (a) *The Contractor is engaged by the Company as an independent contractor to provide the Program Services and the Contractor warrants that its relationship with the Company is that of an independent contractor and principal.*
- (b) *The Contractor agrees that nothing in this Agreement constitutes the Contractor or any other person engaged by the Contractor (including the Presenter) in any capacity, to be an employee, agent or partner of the Company or any Related Body Corporate.*
- (c) *Subject to the terms of this Agreement, the parties acknowledge that the Contractor is solely responsible for controlling the manner in which it provides the Program Services under this Agreement.*

2A. As to paragraph 10(d)(xiD), (xiE) and (xii) of the Defence, the Applicants deny the matters pleaded and rely on clauses 40 and 42 of the Henderson BSA.

2B. As to paragraph 11(c) of the Defence, the Applicants repeat the matters pleaded above at paragraph 2A.

3. As to paragraph 22(b)(iii) of the Defence, the Applicants:

- a. deny the subparagraph; and
- b. say that, to the extent that the Respondents took any steps to investigate or address the complaint made by Ms Henderson on 11 September 2025 (as pleaded at paragraph 21 of the Statement of Claim) between 11 September 2025 and 8 December 2025, no such steps were notified to Ms Henderson, nor was she involved in any such investigation.

4. As to paragraph 28(b)(ii) of the Defence, the Applicants:
 - a. deny the subparagraph; and
 - b. rely on the steps ultimately taken by CBC in terminating the Quasar BSA.
5. As to paragraph 28(b)(iii) and (iv) of the Defence, the Applicants:
 - a. say that the duties owed by CBC pursuant to the *Work Health and Safety Act 2011* (NSW) (**WHS Act**) are independent of any duties owed by Henderson Media, and any other party; and

Particulars

- (A) Section 16 of the WHS Act.
- b. further say that the duties owed by CBC pursuant to the WHS Act are non-delegable.

Particulars

- (A) Section 14 of the WHS Act.
 - (B) Section 272 of the WHS Act.
6. As to paragraph 28(b)(v) of the Defence, the Applicants deny that Brooklyn Ross, ARN employee, or any other staff member present, attempted to or did successfully intervene in Mr Sandilands' bullying and other unwanted conduct towards Ms Henderson on 20 February 2026.
 7. As to paragraph 28(b)(xiii) of the Defence, the Applicants:
 - a. rely on the email of 20 February 2026, from Ms Reeves, for its full force, meaning and effect; and
 - b. say that the "steps" that ARN was allegedly taking were not communicated to the Henderson Parties, and are not otherwise pleaded in the Defence.
 - 7A. As to paragraph 42 of the Defence, the Applicants:
 - a. deny the paragraph; and

- b. say that the Henderson Parties' reservation of their rights to make a report to SafeWork NSW must have regard to the first four paragraphs under the heading "*The Group's obligations to Ms Henderson under work health and safety legislation*" in the Complaint Letter; and
- c. say that the second paragraph under the heading "*The Group's obligations to Ms Henderson under work health and safety legislation*" stated (emphasis added):

Should a report be made to SafeWork NSW, it is now highly likely that the Group will be found to have breached its duty of care to Ms Henderson by exposing her to Mr Sandilands' bullying conduct over a prolonged period. The Group cannot demonstrate that it has taken steps to remove or minimise any risk to her health and safety. Notwithstanding whether Ms Henderson has previously expressed a personal view to not be involved in an investigation, there remained a duty of care obligation on the Group to control any known and ongoing risk to Ms Henderson's health and safety.

7B. As to paragraph 43 of the Defence, the Applicants:

- a. deny the paragraph; and
- b. say that the Henderson Parties' reservation of their rights to lodge a stop-bullying claim in the Fair Work Commission, must have regard to the fifth paragraph under the heading "*The Group's obligations to Ms Henderson under work health and safety legislation*" in the Complaint Letter; and
- c. say that the fifth paragraph under the heading "*The Group's obligations to Ms Henderson under work health and safety legislation*" stated (emphasis added):

Alarminglly, the Group has also breached its strict obligations under the Fair Work Act 2009 (Cth) (FW Act) with respect to addressing bullying in the workplace. It is still open to Ms Henderson to make a claim for relief in the Fair Work Commission (FWC) for orders to be made against the Group, senior members of the Group, Mr Sandilands and employees of the Group who have been present during the periods that Ms Henderson has been exposed to this illegal conduct. If this is progressed by Ms Henderson, it is highly likely that the FWC will make orders to include an essential requirement that the Group alter Ms Henderson's workplace arrangements so that she does not have to

converse with Mr Sandilands. In the circumstances where evidence would be provided of a prolonged failure by the Group to take the appropriate measures at the relevant times, this will now be a likely order and will be difficult for the Group to oppose at law.

8. As to paragraphs 47(b) and 48(c)(i) of the Defence, the Applicants refer to and repeat paragraphs 1 and 2 above.
9. As to sub-paragraph 58(b)(ii) and (iii), and 59(c)(iiA) of the Defence, the Applicants:
 - a. deny the subparagraphs;
 - b. say that at all relevant times Ms Henderson was the sole director and shareholder of Henderson Media;
 - c. say that Ms Henderson was available at all relevant times to Henderson Media;
 - d. say that the fact alleged in the subparagraphs is not referred to anywhere in the Repudiation Letter;
 - e. say that the Repudiation Letter does not refer to termination on the ground of clause 17.1(g);
 - f. say that the Repudiation Letter relied on the following basis to terminate the Henderson BSA:

Termination

In the circumstances described above, Ms Henderson and Henderson Media have repudiated the Agreement.

The Company hereby elects to terminate the Agreement with immediate effect on the basis of that repudiation.

- g. say that subparagraphs are not reasonable, arguable, fail to disclose a reasonable defence, and are liable to be struck out.
10. As to paragraph 62(b)(iv) of the Defence, the Applicants:
 - a. deny that they failed to take reasonable steps to mitigate their loss or damage;
and

- b. say that the rejection of ARN's proposal referred to in paragraph 275 of Ms O'Neill's affidavit affirmed 10 June 2026 was not unreasonable.

Date: 8 September ~~17 July~~ 2026

A handwritten signature in black ink, appearing to be 'PCT', written over a horizontal dotted line.

Signed by Peta Cherie Tumpey
Lawyer for the Applicants

This pleading was prepared by Vanja Bulut and Daniel Delimihalis of counsel and Peta Cherie Tumpey, lawyer for the Applicants.

Certificate of lawyer

I, Peta Cherie Tumpey certify to the Court that, in relation to the reply filed on behalf of the Applicants, the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non admission in the pleading.

Date: 8 September 2026~~17 July 2026~~

A handwritten signature in black ink, appearing to be 'Peta Cherie Tumpey', written in a cursive style.

Signed by Peta Cherie Tumpey
Lawyer for the Applicants