

## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged: Notice of Appeal (Fee for Leave Already Paid) - Form 122 - Rule 36.01(1)(b)(c)  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 13/09/2024 11:08:49 AM AEST  
Date Accepted for Filing: 13/09/2024 12:11:16 PM AEST  
File Number: NSD701/2024  
File Title: BRUCE LEHRMANN v NETWORK TEN PTY LIMITED ACN 052 515 250 & ANOR  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA  
Reason for Listing: Interlocutory Hearing  
Time and date for hearing: 14/10/2024, 10:15 AM  
Place: Court Room Not Assigned, Level 17, Law Courts Building 184 Phillip Street  
Queens Square, Sydney

AMENDED NOTICE OF APPEAL



*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 122  
Rules 36.01(1)(b); 36.01(1)(c)

## **Amended Notice of appeal**

No. NSD701 of 2024

Federal Court of Australia  
District Registry: NSW  
Division: General

On appeal from the Federal Court of Australia

**Bruce Emery Lehrmann**

Appellant

**Network 10 Pty Limited ACN 052 515 250 and another named in the Schedule**

Respondents

To the Respondents

The Appellant appeals from the judgment as set out in this notice of appeal.

1. The papers in the appeal will be settled and prepared in accordance with the Federal Court Rules Division 36.5.
2. The Court will make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence. You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

**Time and date for hearing:**

**Place:** Federal court of Australia, Law Courts Building, 184 Phillip Street Queens Square, Sydney NSW 2000

Date:

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

---

Filed on behalf of Bruce Lehrmann  
Prepared by Zali Burrows  
Law firm Zali Burrows at Law  
Tel 02 8815 8182  
Email Law@zaliburrows.com  
**Address for service** Level 1, 299 Elizabeth Street Sydney NSW 2000



The Appellant appeals from the whole part of the judgement of Lee J of the Federal Court of Australia given on 15 April 2024 at Sydney NSW.

~~Relevant sections: Lehrmann v Network Ten Pty Ltd (Trial Judgement) [2024] FCA 369—substantial truth/justification, evidence, quantum and damages; and orders 1092, 1093, 1094, 1095.~~

### Grounds of appeal

1. The primary judge erred in upholding the defence of justification because the justification case found had not been pleaded, was different to the justification case which had been pleaded, had not been the subject of submissions, had not been argued by the Respondents and had not been put to the relevant witnesses contrary to the principles of procedural fairness and natural justice.
  2. The primary Judge erred in determining the meanings conveyed to an ordinary reasonable person by the publication complained of.
  3. The primary Judge erred in determining that the Respondents had established the defence of justification.
  4. The primary Judge erred in determining that the Applicant (if he had succeeded in his case) was entitled to a mere \$20,000.00 in damages.
- ~~1. Case found outside the pleadings — denial of procedural fairness by Trial Judge.~~
- ~~1.1 Case on justification as found was not pleaded by the First or Second Respondent.~~
  - ~~1.2 Case on justification as found was not in the evidence of primary witness for the First Respondent.~~
  - ~~1.3 Case of justification as found was not put to the Applicant in cross-examination.~~
  - ~~1.4 Trial Judge did not to raise the case he found in argument.~~
  - ~~1.5 Trial Judge breached procedural fairness in allowing a case be found that was not pleaded or advanced by the First and Second Respondents or in the evidence of the primary witnesses for the First Respondent nor put to the applicant in cross-examination.~~
  - ~~1.6 The justification defence as pleaded has been rejected by the Trial Judge, it should follow that judgement is in favour of the Applicant.~~
- ~~2. Justification finding contrary to evidence and application of standard of proof required by Trial Judge.~~
- ~~2.1 A full review of the evidence and the findings by the Trial Judge together with the significant credibility problems of the First Respondents primary witness would satisfy the Court of Appeal that the principles flowing from Briginshaw v Briginshaw (1938) 60 CLR 336 and the relevant provisions of the Evidence Act have been misdirected and not applied.~~



~~2.2 The cornerstone 'evidence' advanced by the Respondents and by the primary witness was a photo and data relating to a bruise. The Trial Judge dismissed this as untrue as his Honour did with other secondary forms of so-called evidence the Respondents submitted. It was not open to the Judge to find the case he did, rather reject the case pleaded by the Respondents and rule in favour of the Applicant in those circumstances.~~

~~3. Construction/misconstruction of the imputations by Trial Judge.~~

~~3.1 The imputations must be judged in the context of the particular publication, *Stoker v Stoker* [2020] AC 593 and not as the Trial Judge said as "ordinary, contemporary conceptions of rape" (594 of the judgement).~~

~~3.2 The broadcast suggests a violent rape, where the complainant was in tears and repeatedly refused consent, of which repeated refusal the perpetrator must have been aware. This is contrary to the non-violent rape involving inadvertent recklessness as to consent which was ultimately found in the judgement made by the Trial Judge.~~

~~4. Inadequate award of damages where aggravation made out by applicant~~

~~4.1 Trial Judge found the submissions of the Applicant relating to aggravation were made out, principally the Logies speech and the impact it had on the administration of justice and prejudicial impact of an upcoming jury trial.~~

~~4.2 It follows that the amount that the Trial Judge would have awarded in an alternative fall of the evidence is wholly inadequate.~~



**Orders sought**

1. Appeal allowed with costs.
2. Set aside the Orders made by Lee J on 15 April 2024 and in lieu thereof make the following orders:
  - a. Direct the entry of judgment for the Applicant in the sum of \$.....
  - b. Order that the Respondents pay the costs of the proceedings.
- ~~2. The judgment for the Respondents be set aside.~~
- ~~3. In lieu thereof, judgement in favour of the Appellant in amount to be assessed in this court or alternatively on remitter to a Judge of the Federal Court other than Justice Lee.~~
- ~~4. The Respondents pay the Appellants costs in this court.~~
- ~~5. The Respondents pay the Appellants costs in the primary proceeding.~~
- ~~6. The Appellant be heard on the form and nature of the costs order in Prayers 4 and 5 of the above.~~
- ~~7. Any other orders that the Court deems necessary.~~

**Appellant's address**

The Appellant's address for service is:

Zali Burrows at Law, Level 1, 299 Elizabeth St Sydney NSW 2000

Email: law@zaliburrows.com

**Service on the Respondent**

It is intended to serve this application on all Respondents.

Date: 13 September 2024

A handwritten signature in blue ink, consisting of several loops and flourishes, positioned above a horizontal line.

Signed by Zali Burrows  
Lawyer for the Appellant



**Schedule**

No. NSD701 of 2024

Federal Court of Australia

District Registry: NSW

Division: General

**Respondents**

Second Respondent: Lisa Wilkinson

Date: 13 September 2024