



Form 59  
Rule 29.02(1)

### Affidavit

No. NSD103 of 2023

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**BRUCE LEHRMANN**

Applicant

**NETWORK TEN PTY LIMITED ACN 052 515 250** and another  
Respondents

Affidavit of: **TASHA TANYA SMITHIES**  
Address: 1 Saunders Street, Pyrmont NSW 2009  
Occupation: Solicitor  
Date: 26 April 2024

I Tasha Tanya Smithies, of 1 Saunders Street, Pyrmont NSW 2009, solicitor, swear:

1. I am a solicitor employed as Senior Litigation Counsel by Network Ten Pty Ltd (**Network Ten**).
2. This affidavit is made in response to an invitation from the Court to file evidence in response to matters raised in an email from the Court at 5.02pm on 23 April 2024 (**Email**).
3. I have previously sworn an affidavit in these proceedings.
4. I refer to paragraphs [5]-[15] of my affidavit sworn 25 January 2024 regarding my background and professional history.
5. In conjunction with Stuart Thomas, I have had carriage and oversight of this litigation for Network Ten.

Filed on behalf of (name & role of party)	First Respondent, being Network Ten Pty Limited
Prepared by (name of person/lawyer)	Marlia Saunders
Law firm (if applicable)	Thomson Geer
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[Version 3 form approved 02/05/2019]

**Lehrmann v Network Ten Pty Limited (Trial Judgment) [2024] FCA 369**

6. I attended Court on 15 April 2024 for the delivery of the Trial Judgment.
7. I sat in Court as his Honour delivered his summary of his reasons.
8. The 11 days since 15 April 2024 have been the most difficult of my career. The day after delivery of the Trial Judgment, I took a week off work to go away with family.
9. I have read the Trial Judgment very carefully, especially those parts which relate to me and the advice I gave Ms Wilkinson in relation to the speech she delivered at the TV Week Logies Awards on 19 June 2022 (**Logies Speech**).
10. The Trial Judgment has had a profound and sobering impact on me. In particular, paragraph 1054 of the Trial Judgment hit home.
11. After reading the Trial Judgment, I have reflected deeply on:
  - (a) the advice I gave in respect of the Logies Speech, including the approach I took to giving the advice and the bases I relied on in giving the advice;
  - (b) the prejudice caused by Ms Wilkinson making representations going to the credibility of Ms Higgins in the Logies Speech;
  - (c) the impact that advice had on Mr Lehrmann's criminal trial;
  - (d) the evidence I gave to this Court on Ms Wilkinson's cross-claim on 13 and 14 February 2024; and
  - (e) my need to consider all of these matters openly, constructively and without defensiveness or misplaced assertiveness.
12. Since delivery of the Trial Judgment, I have also taken counsel from senior members of the legal profession including Dr Matt Collins AM KC about the advice I gave in relation to the Logies Speech, the evidence I gave, and the observations and conclusions about me in the Trial Judgment.
13. As a result of all of those matters, I believe I have developed greater insight into my conduct.

**The law of contempt**

14. When I saw in the Email the suggestion that it might be open to argument that at the time the Logies Speech was made, it was intended to interfere with the administration of justice, I was genuinely upset as that was never my intention.



15. I unreservedly accept the law of contempt must be complied with. I have never given legal advice clearing matter for publication that I believe to amount to contempt. I would never give such advice.
16. I always strive to give pre-publication advice that complies with the law.

**My advice in relation to the Logies Speech**

17. In giving the advice I did about the Logies Speech, I honestly believed at the time that Ms Wilkinson's delivery of it would not amount to a contempt of Court. In my earlier affidavit, and in my evidence to the Court, I provided a frank and honest explanation about why I gave the advice I did.
18. I have reviewed the transcript of the evidence I gave on 13 and 14 February 2024, particularly when being cross-examined and questioned by his Honour.
19. When reading that transcript in light of the findings in the Trial Judgment and the benefit of the reflection and counsel I have taken since delivery of the Trial Judgment, should the same or similar issues arise again, I would approach the matter entirely differently.
20. I have come to see that my focus in the evidence I gave on 13 and 14 February 2024 was misplaced. I was endeavouring to explain the reasons for the advice I gave, however in doing so I acknowledge I was defensive of those reasons when I should have been more focused on the purpose underlying the law of contempt, the rights of accused persons to a fair trial, and the potential impact of that advice.
21. I accept that in giving evidence I conveyed that:
  - (a) I stood by the advice I gave to Ms Wilkinson, even with the benefit of time to reflect upon it and with the benefit of hindsight; and
  - (b) if confronted with the same, or a similar situation in the future, I would give the same advice; and
22. With the benefit of having taken the steps I have referred to above in this affidavit, I accept his Honour's criticisms of me in respect of each of those matters. None reflects my current state of mind.
23. In particular:
  - (a) the focus of my advice should have been, but was not on the potential impact on the criminal trial, Mr Lehmann's right to a fair trial and the protective purpose of the law of contempt;
  - (b) the Logies Speech endorsed Ms Higgin's credibility;



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(c) if confronted with the same or a similar situation in the future, my approach would be more careful and considered, informed by the purpose of the law of contempt and I would be proactive about talking to other senior practitioners and seeking a second opinion.

### **Complaint to New South Wales Legal Services Commissioner (LSC)**

24. I became aware by email dated 19 February 2024 from Stephen Rice, a journalist at *The Australian* that Mr Lehrmann had lodged a complaint against me with the NSW Legal Services Commissioner (**complaint**).
25. After having obtained a copy of the complaint, I telephoned the office of the LSC on 18 March 2023 to confirm whether the complaint had been made. I was advised that I would need to email the LSC as information could not be provided over the telephone. I subsequently sent an email to the LSC.
26. I understand the complaint was referred to the Law Society of New South Wales (**Law Society**) on 20 February 2024.
27. On 20 March 2024 I received a call from the office of the Law Society who confirmed that they had received a complaint against me and that it was in a preliminary assessment stage. I also received an email from the Law Society confirming this position.
28. On 22 March 2024 in response to the request from the Law Society for any other relevant information, I provided a copy of Network Ten's submissions directing the Law Society to the part relevant to these issues. I received a response from the Law Society acknowledging receipt of this email.
29. On 22 April 2024, I sent the Law Society an email and attached a copy of his Honour's judgment.
30. I intend to provide this affidavit to the Law Society to assist them in their investigation.

### **Other matters**

31. Since delivery of the Trial Judgment, I have made no public comments or sought any to be made on my behalf in response to the Trial Judgment. I understood and accepted that the Trial Judgment was the final determination of these issues, and I only discussed these matters with family, trusted friends and senior members of the legal profession.
32. I am aware that there has been a considerable body of media commentary reporting on the parts of the Trial Judgment concerning me. This has been deeply distressing

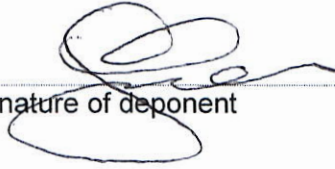


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and embarrassing to me. I have, however, with the benefit of the guidance of others, sought and will continue to seek to focus on how I can learn, grow and improve as a practitioner from this experience.

Sworn by the deponent  
at Sydney  
in New South Wales  
on 26 April 2024  
Before me:

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Signature of deponent



Signature of witness

Natasya Paris Currie  
Solicitor

Level 14, 60 Martin Place, Sydney NSW 2000

An Australian Legal Practitioner within the meaning of  
the Legal Profession Uniform Law

## NOTICE OF FILING

### Details of Filing

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*Sia Lagos*

Registrar

### Important Information

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

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