

**MARK
O'BRIEN
LEGAL**

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Our Ref: MOBL:657

27 February 2023

Anthony Jefferies
Gillis Delaney Lawyers
Level 40
ANZ Tower
161 Castlereagh Street
SYDNEY NSW 2000By email: ajj@gdlaw.com.au

Dear Sirs

Lehrmann v Wilkinson & Anor

We refer to your letter to us of 14 February 2023 and, adopting your paragraph numbering, respond as follows:

1. First matter complained of

Paragraphs (i) – (v): These are not proper requests for particulars. Our client has already provided particulars of identification in his statement of claim, together with particulars as to the classes of persons who identified him. To the extent there remains any formal requirement for our client to prove he was identified by a specific viewer of the matter complained of (which in our view cannot exist in these circumstances) we are instructed to advise that Mr Lyndon Biernoff of Toowoomba viewed the first matter complained of and identified our client. Otherwise, the issue as to identification that you raise is a matter for evidence, and will be subject of our client's outlines of evidence/affidavits to be served in the proceedings;

Paragraph (vi): The content of the first matter complaint of implicitly invited readers to speculate about the identity of the person accused by Ms Higgins of sexually assaulting her. Otherwise, your request is not a proper request for particulars.

2. Second matter complained of

See our response to 1. above. Further, we are instructed to advise that Paul Farrell of Vauclose, Sydney viewed the second matter complained of and identified our client;

3. Third matter complained of

See our response to 1. above. Further, we are instructed to advise that David McDonald of Toowoomba viewed the third matter complained of and identified our client;

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4. Damage

Paragraph (i): The material fact is as particularised – that the Respondents were recklessly indifferent to the truth or falsity of the imputations in publishing the assertions and allegations giving rise to the imputations without giving our client a reasonable opportunity to respond;

Paragraph (ii)(a): This is not a proper request for particulars;

Paragraph (ii)(b): It is not alleged that the Second Respondent believed that Ms Higgins' claims were false;

Paragraph (ii)(c): This is not a proper request for particulars;

Paragraph (iii): In circumstances where the publication on Instagram took place without giving our client a reasonable opportunity to respond;

Paragraph (iv): Confirmed;

Paragraph (v): Confirmed. The notice was sent to your client's employer, and/or a related corporation of her employer, and to The Executive Producer of The Project;

Paragraph (vi): This particular is not pressed;

Paragraph (vii): The publication in the matters complained of statements by Ms Higgins and your client as specified at paragraph 9(d) of the Statement of Claim, which asserted guilt on the part of the Applicant, rather than allegations;

5. Limitation expiration

This is a matter subject of the orders of Lee J as made on 17 February 2023;

6. Injunctions

Our client relies upon your client's statements regarding Ms Higgins during her Logies acceptance speech on or about 19 June 2022. Our client also relies upon the continued publication of a version of the matters complained of online at <https://web.archive.org/web/20210604043844/https://www.youtube.com/watch?v=nyjkjeoO2o4>.

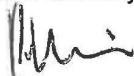
7. Interest on costs

The claim is not pressed.

8. Correspondence

This is not a proper request for particulars.

Yours faithfully



Paul Svilans

Principal

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30 October 2023

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Dear Colleagues

**Bruce Lehrmann v Network Ten Pty Limited & Anor
Federal Court of Australia Proceedings No. NSD103/2023**

We refer to our client's Statement of Claim and provide the following further and better particulars of our client's claim for aggravated damages in the proceedings:

- a. The denial by the Respondents in their Defences that the publications sued upon were not of and concerning the Applicant, in circumstances where Angus Llewellyn, who was the Producer of The Project segment sued upon, conceded during an interview taking place between the Second Respondent, Mr Llewellyn and Ms Brittany Higgins on 27 January 2021 (**the Ten interview**) that:

"...if we didn't name him, we may as well have named him, because so many people would be able to identify him";

[see paragraph 43(a) of the Affidavit of the Applicant affirmed on 28 July 2023 as served in these proceedings (**the Applicant's Affidavit**)]

30035

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- b. The sending by Mr Llewellyn of a list of questions to which a response was sought in an email addressed to the Applicant's personal email account at 2:46pm on Friday 12 February 2021, being less than one clear business day prior to publication of The Project segment sued upon. Mr Llewellyn had previously stated in the Ten interview *"at the right time, so as to prevent there being injunctions and things like that.....we would go to himif we're making accusations, we have to give everyone a reasonable chance to reply. And reasonable can be pretty iffy, as long as it's not five minutes before broadcast. And if its ten minutes, we should be okay."* That is, Mr Llewellyn cynically refrained from giving the Applicant a reasonable time to respond.

[see paragraph 43(b) of the Applicant's Affidavit, and paragraphs 54-55 of the Applicant's Outline of Evidence dated 11 September 2023 as served in these proceedings (**the Applicant's outline**)]

- c. The false statement by the Second Respondent at the end of The Project segment sued upon that:

"We of course approached all the people named in our story, and all of our requests for interview were declined"

in circumstances where the Applicant was never approached by the Respondents, and he therefore never declined any request for an interview;

[see paragraph 45 of the Applicant's Affidavit]

- d. The failure by the Respondents to make reasonable efforts to contact him for comment on the allegations made against him in the publications sued upon;

[see paragraph 45 of the Applicant's Affidavit and paragraphs 50-53 of the Applicant's outline]

- e. The making on national television by the Second Respondent on 19 June 2022 of an acceptance speech when awarded a Silver Logie for her interview of Ms Higgins which amounted to an endorsement of the credibility of Ms Higgins, and which in the context of the ACT criminal proceedings brought against the Applicant being listed to be heard before a jury on 27 June 2022, was ill advised, reckless and prejudicial to the Applicant's right to a fair trial because it destroyed the distinction between an untested allegation and the fact of guilt;

[see paragraph 46 of the Applicant's Affidavit]

Yours faithfully



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