

NOTICE OF FILING

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Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
File Number:	NSD426/2021
File Title:	JOANNE ELIZABETH DYER v SUE CHRYSANTHOU & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink, reading "Sia Lagos".

Dated: 20/05/2021 11:32:31 AM AEST

Registrar

Important Information

As required by the Court's Rules, 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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Form 59
Rule 29.02(1)

Affidavit

No. NSD 426 of 2021

Federal Court of Australia
District Registry: Sydney
Division: General

Joanne Elizabeth Dyer

Applicant

Sue Chrysanthou SC

First Respondent

The Honourable Charles Christian Porter

Second Respondent

Affidavit of: **Theognosia (Sue) Chrysanthou**

Address: 3/153 Phillip Street
SYDNEY NSW 2000

Occupation: Barrister

Date: 19 May 2021

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Filed on behalf of (name & role of party) Sue Chrysanthou SC, First Respondent
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[Version 3 form approved 02/05/2019]




I, Theognosia (Sue) Chrysanthou, barrister, of 3/153 Phillip Street SYDNEY NSW 2000, affirm:

Introduction

- 1 The contents of this affidavit are true and correct to the best of my knowledge and recollection.

Background

- 2 I am a barrister.
- 3 I was admitted as a legal practitioner to the New South Wales Supreme Court and to the High Court in 2003. I was called to the Bar in 2004. I was appointed senior counsel in 2020.
- 4 I worked as a tipstaff to Justice Carolyn Simpson and then Justice David Levine who were both defamation specialists. I read at Blackstone Chambers, a floor that was known to have many defamation barristers at that time. My pupil masters were both defamation specialists. I have practised in media and defamation since I came to the Bar.
- 5 Although I have also practised in other areas, over the last few years my practice has become specialised in defamation and media related work which now accounts for about 95% of my practice.
- 6 Last year I appeared in 7 trials (one of them went for nearly 3 months), about half a dozen appeals, about a dozen mediations and countless motions and applications. I was briefed in matters in Sydney, Canberra, Melbourne, Brisbane and Perth. They were nearly all defamation matters.
- 7 It is not unusual for me to be briefed in 2-3 new defamation matters weekly, and on average I draft or settle 2 or 3 Concerns Notices under the Defamation Act every week. They are often urgent and I do not always get to speak to the client before the letter is sent. I rely on my instructing solicitors in those instances to instruct me as to the relevant facts so that I can be satisfied that it is appropriate to send the notice.



- 8 I try to conduct my practice as much as possible from home (even before Covid) because I have four young children (under 10) and also am a registered wildlife carer and have to feed orphaned animals multiple times a day. I work late into the night after my children go to bed, often until 2am.
- 9 I receive on average about 50 emails per day and spend many hours on the phone with solicitors and my juniors.
- 10 I sometimes agree to conduct matters on a speculative basis if the client is unable to pay me. In recent years, because I am so busy, I will only accept a speculative case once or twice per year. If I accept a brief on a speculative basis, I send a fee agreement recording that arrangement. I record my time in those matters and send invoices even though the invoice might never be payable.
- 11 I am often (more than once per week) telephoned by solicitors or other barristers, and asked questions about defamation issues free without committing to a retainer. This is often in the nature of friends and colleagues wanting to use me as a sounding board and get my views on issues in a case or a potential case. Because this occurs so frequently, I try to deal with these queries as expeditiously as possible.

The Australian

- 12 Shortly before 20 November 2020, a fellow member of chambers, Matthew Richardson, asked me to look at an article for him and tell him whether I thought there might be a potential claim. It is not uncommon for that to occur in chambers as many of us specialise in defamation and we are very good friends.
- 13 I am not sure on what day this occurred and have not been able to determine it definitively from my diary because I cannot tell which of my court appearances at that time were conducted by video from home or in chambers. My best recollection is that it was on 19 November because I do not think I was in chambers before that day for some weeks.
- 14 Mr Richardson showed me a copy of [REDACTED]
[REDACTED] I read it as we walked down the hall to my room. I recall that there were



a few people named in [REDACTED]

[REDACTED]

15 Mr Richardson told me that [REDACTED]

[REDACTED]

[REDACTED] He told me that [REDACTED]

[REDACTED]

[REDACTED] He told me that [REDACTED]

[REDACTED]

16 I looked at the Article again and I said [REDACTED]

[REDACTED]

[REDACTED] I then said [REDACTED]

[REDACTED]

[REDACTED] I think he told me

that it [REDACTED]

17 I had not seen the Four Corners episode at that point, but I had read about it independently in other media and heard quite a bit about it. The episode was the subject of discussion amongst media lawyers and journalists who I spoke to because the allegations it made were not considered that serious. I was told as part of those discussions that a much more serious allegation had been made about Mr Porter but that it had been legalised out.

18 Mr Richardson asked me if I thought [REDACTED]

[REDACTED] I told him [REDACTED]

[REDACTED] He then asked me [REDACTED]

[REDACTED] I think I




said [REDACTED]

[REDACTED] I asked him [REDACTED]

[REDACTED] He said [REDACTED]

- 19 Mr Richardson then asked me if I would speak to her. He told me that she was friends with his friend James Hooke who he had known since university. I recall he told me that Hooke was someone quite well known. I had never heard of him. He said to me words to the effect "*I am a bit too close to it so I would appreciate it if you could talk to them as someone independent*". Matthew is an extremely experienced and skilled defamation barrister, and I did not think that Dyer needed my views in addition to his. He and I are very close, and I considered that I should help him given his concern that he might lack objectivity. I intended to be in chambers on 20 November because I had set aside the day to conduct trial preparation for a matter that was starting a week or so later. Because I was already going to be in chambers in any event, I agreed to meet briefly with Ms Dyer and Matthew. I do not recall being told that a solicitor was coming or who it was.
- 20 I marked in my diary for 20 November 2020 at 10am '*MR conference*', meaning conference with Matthew Richardson. I did not speak to Michael Bradley of Marque Lawyers before the conference, and I do not recall knowing who was to attend the conference apart from Mr Richardson and Ms Dyer.

Conference on 20 November 2020

- 21 I am not certain, but I think Mr Richardson had told me that he might be a few minutes late. I also recall that he [REDACTED] with me before he left for his court appearance (or it was possibly a conference) that morning so I could look at it. I briefly looked through the material and read a bit more of [REDACTED] I was a bit
- [REDACTED]

- 22 My junior Barry Dean and I were working together in my chambers at that time to prepare for the upcoming trial. He and my client were tasked with teaching me everything I




needed to know about venture capitalism - a topic about which I knew little. My client was coming in later that morning for that purpose and for me to prepare her for her evidence. We also had many pre-trial tasks to complete that day such as objections to evidence and opening submissions. When I was told by reception at 10am that people had arrived for the conference with Mr Richardson we had to pack up Barry's laptop and folders from my conference table.

- 23 I believe that Ms Dyer arrived with Mr Hooke and Mr Bradley. I recall I met them in reception and introduced myself. I do not recall how Mr Hooke was introduced and why he was in attendance. Mr Bradley introduced himself. I realised that Mr Bradley and I had spoken before on the telephone over the years about various matters. He has called me in the past for short free advice about defamation issues. I think he briefed me in one matter that never went anywhere.
- 24 While we waited for Mr Richardson in my room, one or more of the other attendees brought coffees and muffins. Someone noticed a framed New York Times front page on my wall (I am not sure who) and we discussed that. Because it concerned the Geoffrey Rush case we talked about that case for a while. I am not sure what was said on that issue.
- 25 I vaguely recall that I also talked about the art work on my walls, and made complaints about venture capitalism. I spoke about my children (the artists behind the artwork). My recollection is that I was entertaining them until Mr Richardson arrived without discussing any substantive issues. I believe that my secretary brought me a coffee. I recall that Mr Bradley or I raised the topic of defamation reform and I expressed my criticisms of those reforms. I cannot now remember the detail of that discussion.
- 26 When Mr Richardson arrived, he brought with him [REDACTED] and I observed him to write on it from time to time throughout the meeting. I do not recall observing anyone else taking notes. I had not seen [REDACTED] at that point.
- 27 At some point I made it plain that I was helping Ms Dyer with [REDACTED] for free and as a favour to Mr Richardson and that I did not intend to charge for the conference or [REDACTED] I did not agree to do anything else on the matter. I




cannot recall the words used when this was discussed but I do not agree that I used the term "*pro bono*" or that I gave any indication that I would be assisting beyond the letter. I also did not speak on behalf of Mr Richardson and his arrangement with Dyer - because I had no idea what that was. My understanding was that it was clear that my assistance related only to [REDACTED] That is how I regarded the matter. For the reasons explained below, I did not think [REDACTED]

[REDACTED]

28 I do not remember what I said in direct speech. But I recall that I told Ms Dyer [REDACTED]

[REDACTED]

29 Mr Bradley asked me [REDACTED]

[REDACTED]

30 I told them that the [REDACTED]

[REDACTED]



[REDACTED]

31 We then discussed [REDACTED]

[REDACTED]

32 I [REDACTED]

[REDACTED]

33 We agreed that [REDACTED]

[REDACTED]

34 I have been told by my lawyers that it is alleged that other topics were discussed during this conference. I have, over the last 2 months when it was first raised with me (as set out below), thought about this a lot. I have no recollection of any other topics and have no idea what they could have related to. I was focussed on the [REDACTED]

[REDACTED]

[Handwritten signature]

NZ 2018

35 I recall that the conference was short (no more than an hour). My time was extremely limited that day because of the trial preparation I have described above. My junior was waiting in his room for us to keep going. He came back in as soon as they left at about 11am. I also had a short zoom meeting in another matter at 11:30am which I conducted while Mr Dean continued to work on the Stead matter. At about midday my solicitors and client attended chambers for a few hours.

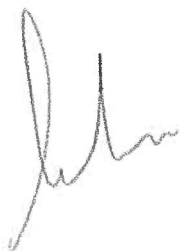
36 Subsequent to the conference, Mr Richardson [REDACTED]

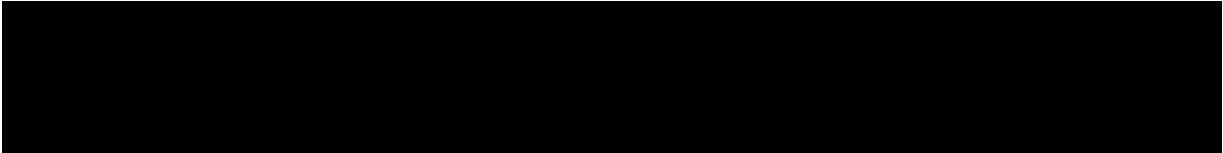
[REDACTED]

37 I am told that I was copied into some emails other than the ones I have described above in relation to [REDACTED] I do not recall receiving or reading those emails. I was running the trial against the Australian Financial Review and Joe Aston from 1 December and was focussed on that for two weeks.

38 I do not have any such emails in my possession. It is my practice daily to delete emails that I do not need to keep for my matters. If the email relates to an ongoing brief then I save the attachments and delete it. I only keep it if the body of the email contains instructions that I need to keep. In those circumstances I file the email into a sub-folder under the firm name. I sometimes do that with emails I send which contain advice that I need to retain. Every week or two I empty my sent folder and trash. I had an email server problem for some time where I kept getting reminders that it was nearly at capacity so I was rigorous in deleting things that I did not need.


39 In respect of the assistance I gave Ms Dyer, I was not briefed with any documents, did not send a fee agreement or any invoice, did not create an electronic file as I do with all of my briefs and I did not keep any emails about it. I do not know whether Mr Richardson had a formal brief or retainer, although I understood he was doing a friendly favour. The

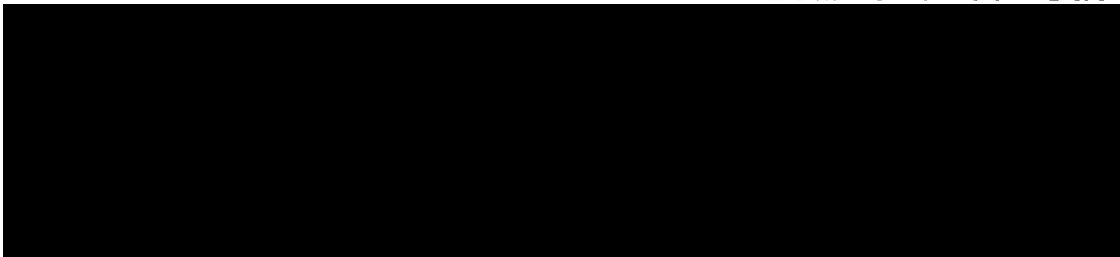






The response from News

40 I was in court in the Stead trial for the first two weeks of December.

41 At some time in January while I was on leave, I received an email or letter that 



42 On 28 January 2021, I recall there was a short telephone conference in which 





43 I spoke to 



ABC article and Public comments

44 On 26 February 2021 an allegation was made in an ABC article that a senior cabinet minister had been accused of rape (**ABC article**). I read the article that night, or possibly the following morning. I identified Mr Porter because of what I had read and had been told about the Four Corners broadcast in November 2020 (by other lawyers and journalists) and also due to what Mr Richardson had told me and shown me before I agreed to meet with Ms Dyer, Mr Hooke and Mr Bradley.

45 Many people over the next few days told me that Mr Porter had been identified on social media as the “*culprit*” and it appeared to be well-known to those around me. I followed



the press about it and I noticed that Mr Bradley made many public statements as the lawyer of the deceased woman, and that Ms Dyer also gave interviews in the media.

46 I watched the Attorney-General's press conference at 3pm on 3 March 2021 on my phone as I was walking home.

47 On 4 March 2021, I received a message that Mr Hooke telephoned me in chambers and left a message with the receptionist for me to call him. I did not return the call or make any attempt to speak to him. I did not know why he was calling me. Mr Richardson later told me [REDACTED]

[REDACTED]

Brief from the Honourable Christian Porter

48 On 10 March 2021, Ms Giles asked me to have a video conference with Mr Porter. We had a short video conference and Mr Porter asked us if we would be his lawyers in relation to advising and then appearing in a defamation claim against the ABC.

49 I told them both that I needed to check if I had any conflict or confidential information from a conference I attended last year where Mr Porter was mentioned.

50 I considered whether any conflict arose as a result of my interactions with Ms Dyer. I also considered whether I had any confidential information. I searched my computer, including for emails to see if I had any documents containing any information relating to [REDACTED] and the only document I found was the Concerns Notice sent to News. It was floating free on my system (in that it was not in any allocated file). I did not have any emails.

51 I telephoned Mr Richardson and spoke to him. One of the things I asked him was whether I had any confidential information from the conference. He said words to the effect of [REDACTED]

[REDACTED]




[REDACTED]

[REDACTED] I

did not consider that a proper basis to refuse the brief.

52 I formed the view that there was no conflict and I had no confidential information, and specifically no information of possible use relating to Mr Porter in a claim against the ABC.

53 I informed Ms Giles later that day that I accepted the brief to advise and appear for Mr Porter against the ABC.

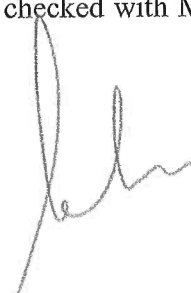
54 We were instructed to get the claim ready by Monday 15 March 2021. We did not want any press report on it until the proceedings were commenced. Given that position I was not able to inform Ms Dyer of my brief until the pleadings were filed.

55 In a subsequent conversation with Mr Richardson, I think on Friday 12 March 2021, I told him that I would be telling Ms Dyer about my brief for Mr Porter as soon as the pleading was filed. He initially agreed to be part of that call.

56 I received an email from Mr Richardson on Sunday 14 March 2021 to which I responded. Annexed hereto and marked "SC-1" is a copy of those emails. The response to Mr Richardson correctly reflects the information and opinions I held at the time. I did not receive a response to that email.

Interactions with Mr Bradley

57 On 15 March 2021, Ms Giles informed me at about 9am that the pleadings had been filed. I then telephoned Mr Bradley to inform him that I had accepted the brief for Mr Porter. I told him that I had spoken to other silks and I had formed the view that there was no conflict and no confidential information from my interaction with Ms Dyer. Also that I had checked with Mr Richardson that I had no confidential information. Ms Dyer had



given many interviews on the issue and her views were in the public domain. He agreed at that point. Mr Bradley raised no issue at that time but said he would speak to Ms Dyer. I have looked at Mr Bradley's version of this conversation (as it appears in paragraph [26] of his redacted affidavit dated 10 May) and do not agree that I spoke those words other than as reflected above.

58 Mr Bradley telephoned me that afternoon at about 4pm and said to me that he, Mr Hooke and Ms Dyer believed that I had been told something else that could help Mr Porter against the ABC. I told him all that I could remember from the meeting and then asked him if any of that was the confidential information.

He said: [REDACTED]

I said: *"Don't tell me what it is. Have you read the Porter pleading? Is it in there?"*

He said: [REDACTED]

I said *"I drafted that, it has everything in my mind that helps Porter against the ABC. If it is not in there, it is not in my mind. Can you tell me broadly the topic it related to?"*

He said: [REDACTED]

I said: [REDACTED] *will be discoverable in the Porter proceedings and the subject of interrogatories to the ABC and Ms Milligan if it concerns Porter, it is not confidential."*

He asked me if I could *"theoretically act for Jo against News even though you are acting for Porter."*

I said: [REDACTED] *in theory yes - the issues against News are extremely narrow."*

I said to him: *"you haven't identified anything that gives rise to a conflict or satisfied me that I actually possess any confidential information. I am happy to answer any other*




questions that Ms Dyer has but at the moment I can't see how I can return the Porter brief."

59 I informed Mr Porter of the objection that had been raised. Ms Giles was also present. Without intending or having authority to waive his privilege over the conversation, he gave informed consent to not disclose to him or use in any way to his advantage in the proceedings any confidential information from the interaction with Ms Dyer if I ever did recall it.

60 The conversation with Mr Bradley was on the Monday and I did not hear from him again that week. By the following week I assumed that they did not intend to pursue the matter. In that period (15 March to 24 March) I worked on the Porter matter every day in order to assist in the preparation of particulars which involved reviewing large amounts of social media material and all ABC publications, including radio and television broadcasts relating to Mr Porter in the period 26 February to 23 March. I spent about 40 hours on the matter.

61 Mr Bradley then telephoned me again on the afternoon of 24 March 2021 and I returned his call at about 5pm:

He said: *"We think that you are in conflict and we want you to withdraw from the Porter case."* [REDACTED]

I said: *"What is the basis?"*

He said: *"During the conference in your chambers,"* [REDACTED]

He also said [REDACTED]

I said: *"How can you know that? No defences have been filed so we don't know what the issues will be until early May."* He did not answer me.




I asked him: *"Is the confidential information the material that I do not remember because in our earlier conversation you agreed that the matters that I recalled were not confidential."*

He said: [REDACTED]

I reminded him: *"Before I accepted the Porter brief,* [REDACTED]
[REDACTED]
[REDACTED]

He said: [REDACTED]

I said: *"The pleadings are not closed - we don't know the issues. What is the conflict?"*

He was unable to articulate the conflict and agreed that I could speak to [REDACTED] about it. I also told him that I needed to get advice and speak to Mr Walker.

I said: *"What will happen if I don't return the brief?"*

He said: *"Likely injunction and also a Bar Association complaint."*

I said: *"Is there a timeline? I am not in chambers before Easter."*

He said: *"I will check and get back to you. I will let you know if there is a problem. Will you undertake not to do any work on the Porter matter in the meantime?"*

I said: *"No - I do not agree to that."*

I said: *"I am going to tell Porter about this conversation."*

He said: *"Ok."*

62 He sent me an email shortly afterwards asking me for the particulars letter and I responded that I would seek instructions about that.




- 63 I rang Ms Giles and reported the conversation to her and later again to Mr Porter. I also spoke with Bret Walker SC who told me that he would speak to [REDACTED] on my behalf. I am not authorised to and do not intend to waive privilege over those conversations.
- 64 I understand that Mr Walker spoke to [REDACTED] the following day, but given that he too could not be told the alleged confidential information, the matter could not progress.
- 65 I received an email from Mr Bradley on 29 March 2021 asking me to organise time to speak to [REDACTED]
- 66 I instructed my solicitor, Patrick George, to correspond on my behalf from that point.
- 67 I understand that correspondence was received by my solicitors which I was not shown because it set out the alleged confidential information.
- 68 I received an email from Matthew Richardson on 31 March 2021 which is annexed hereto and marked "SC-2." We had not spoken about the matter since 15 March. That was the first time that Mr Richardson raised the question of Ms Dyer and Mr Hooke being witnesses in the Porter matter. I did not respond to this email because I was concerned about discussing the issue with him given we were witnesses to the same event. The content of Mr Richardson's email does not affect or alter the recollection I have set out above as to what was said during the meeting.
- 69 From 25 March to 23 April I worked about 20 hours on the Porter matter. I had other trials in this period and school holidays.
- 70 I understand that a letter arrived on Thursday or Friday evening 22 or 23 April 2021 from Mr Bradley to the effect that I was required to return the brief by 4pm on Monday 26 April otherwise action would be commenced. I was in Melbourne at the time having run a trial in the Supreme Court that week. Mr George responded on my behalf on 26 April 2021 to the effect that I had no basis to return the brief. That letter offered some undertakings, including that, if they became witnesses, I would not cross-examine Ms Dyer or Mr Hooke. I received informed consent from Mr Porter to offer the undertakings



in the letter. Given the threat, I expected that proceedings would be commenced early that week. Nothing happened.

- 71 That week I worked on the matter for about 15 hours, including speaking to many potential witnesses.
- 72 At about 5pm on Friday 30 April 2021 Mr George telephoned me and told me he had received a letter from Mr Bradley attaching an unfiled Summons and 3 affidavits on Supreme Court forms, Equity Division and threatening to apply to the Duty Judge on the Monday if I did not cease to act for Mr Porter. I was not shown the affidavits. The cover letter gave me a deadline to return the brief by 5pm on Sunday 2 May 2021.
- 73 It was Greek Easter that weekend and I had planned to spend the time with my family taking part in cultural festivities. My solicitors responded to the letter by about 4pm on Sunday and asked for an indication by 9am Monday of what Ms Dyer intended to do with the threatened proceedings. Most of the weekend was spent seeking advice from my lawyers and speaking to Ms Giles and Mr Porter.
- 74 No response was received from Mr Bradley to the letter from Mr George. The threat to commence proceedings in the Equity Division by approaching the Duty Judge on Monday was not carried out, nor was it withdrawn. Another week passed and there was no further correspondence.
- 75 The Defence was filed in the Porter proceedings at about 9pm on Tuesday 4 May. The Reply was filed about 2 hours later. I worked on the matter all week, until 2 - 3am some mornings because objections were made to the Defence and a suppression order was sought over parts of it which required interlocutory applications and evidence to be prepared and filed. I appeared in the Porter proceedings in the Federal Court before Jagot J at 9:30am on 7 May 2021. The appearance was live streamed.
- 76 Orders were made that required submissions and evidence in support of the various orders in Mr Porter's interlocutory application to be filed and served. I worked on this material over that weekend and much of the following week. The interlocutory application is set

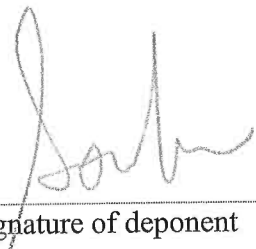


down for hearing on 1 and 2 June 2021 (the dates were chosen to accommodate my convenience) and I am briefed to appear at that hearing (on my own).

- 77 On 7 May 2021 Justice Jagot also nominated trial dates extending six weeks and starting late September or early October. I am briefed to appear to run that trial for Mr Porter. A junior has not yet been appointed for the trial.
- 78 From 30 April until 10 May I worked about 50 hours on the Porter matter. The hours I have identified in this affidavit do not include the times outside those dates (before 15 March and since 10 May). Those figures also do not include the dozens of hours that I do not charge in this matter having regard to the fact that my client is an individual and that the number of hours spent on the matter is already significant.
- 79 The number of hours I have worked on the matter is more than a usual brief because my instructions are to get the matter to hearing as soon as possible, this year. Given the urgency and the amount of work that needs to be done I have refused other briefs to ensure that I have the time needed to get the evidence prepared in June and July.
- 80 I was notified of these proceedings at about midday on Monday 10 May 2021.

Affirmed by the deponent
at Sydney, in New South Wales
on 19 May 2021
Before me:

)
)
)
)
)


Signature of deponent



Signature of witness

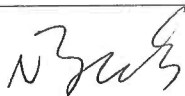
Nathan Buck, Solicitor
Level 22, 85 Castlereagh Street
SYDNEY NSW 2000

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 I saw the face of the deponent
- 2 I have confirmed the deponent's identity using the following identification document:

Driver Licence

Signature of witness



This Affidavit was signed and witnessed over audio-visual link in accordance with section 14G(2) of the *Electronic Transactions Act 2000* (NSW).



Certificate identifying annexure

No. NSD 426 of 2021

Federal Court of Australia

District Registry: Sydney

Division: General

Joanne Elizabeth Dyer

Applicant

Sue Chrysanthou SC

First Respondent

Charles Christian Porter

Second Respondent

Annexure "SC-1"

This and the following page is the annexure marked "SC-1" in the affidavit of Theognosia (Sue) Chrysanthou affirmed before me on 19 May 2021.

Before me



Nathan Buck
Solicitor
22/85 Castlereagh Street Sydney NSW 2000

Nathan Buck

Subject: Jo Dyer

From: Sue Chrysanthou
Sent: Sunday, 14 March 2021 12:37 PM
To: Matthew Richardson <richardson@153phillip.com.au>
Subject: RE: Jo Dyer

Hi Matthew,

Thanks for your email. You have set out your position, so I should record mine.

I settled a concerns notice for Dyer against News as a favour to you. I had one conference for that purpose about mid-November and to my recollection we also had a short telephone call about me speaking to Justin Quill to see if News were interested in a settlement but those talks went nowhere. I have never acted for James Hooke. The brief has ended given that News responded negatively and we advised that the defamation was not a strong one and defensible as opinion (and indeed barely defamatory). I do not hold any documents (and in fact was not briefed with any – I just looked at yours). You have agreed that I have no confidential information that is not now in the public domain. I did not send a fee agreement or an invoice because of the nature of my assistance, I agreed not to.

I take the cab rank rule seriously and do not think I should be swayed by how people feel and how badly I might be criticised in the media. I am interested to know what Bruce told you. When he spoke to me he could not identify any actual conflict but said that I will look bad and he was concerned for me. I appreciated his advice as a friend but that is not the test.

As I have told you – I have taken advice from Kieran, Arthur Moses and Bret Walker. I have also satisfied myself on this matter. The question is not should I accept the brief. The question is – do I have a proper basis to refuse it? Other than the fact that your friends will react badly – you have not given me a proper reason. If you think I have a proper ethical reason to refuse – please tell me. Otherwise I do not understand your position of fundamental disagreement. If a conflict arises, I will of course reconsider my position.

I don't have any of the emails but will call Michael Bradley in the morning. I understand why you do not want to be on the call – thanks for letting me know.

Sue

Sue Chrysanthou

153 Phillip Barristers,
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From: Matthew Richardson <richardson@153phillip.com.au>
Sent: Sunday, 14 March 2021 11:00 AM
To: Sue Chrysanthou <chrysanthou@153phillip.com.au>
Subject: Jo Dyer

Dear Sue

I've given some thought to this situation overnight and in particular your request that I join a call with Jo where you advise her of your decision to take Porter as a client. I have also spoken with Bruce - I didn't realise you had already spoken with him. He explained to me the view he expressed to you.

While I accept this is your decision to make and you have obtained some advice that supports it, we are in fundamental disagreement. I just keep thinking how I would feel if I was in the position of James and Jo and the answer is not good.

I've decided I won't participate in this call with you and Jo as you have requested. I am concerned that my being on the call with Jo (even if I say nothing) will make me look complicit in your decision which I am not. If she asks me what I think I will be forced to express a negative view about what you are doing. The call could also end up being contested which would put me in a very difficult position. In any event Bradley was the solicitor and if anyone should be on the call it's him.

Jos email address is jdyer@softtread.com.au (in my inbox there are plenty of emails passing between Jo, James Michael and ourselves from 20 Nov to 28 Jan so it wasn't hard to find - her mobile number is on many of them).

Regards

Matthew Richardson
Barrister
153 Phillip Barristers

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Certificate identifying annexure

No. NSD 426 of 2021

Federal Court of Australia

District Registry: Sydney

Division: General

Joanne Elizabeth Dyer

Applicant

Sue Chrysanthou SC

First Respondent


Charles Christian Porter

Second Respondent

Annexure "SC-2"

This and the following page is the annexure marked "**SC-2**" in the affidavit of Theognosia (Sue) Chrysanthou affirmed before me on 19 May 2021.

Before me



Nathan Buck
Solicitor
22/85 Castlereagh Street Sydney NSW 2000

Nathan Buck

Subject: Michael Bradley

From: Matthew Richardson <richardson@153phillip.com.au>

Date: 31 March 2021 at 8:09:45 pm AEDT

To: Sue Chrysanthou <chrysanthou@153phillip.com.au>

Subject: Michael Bradley

Dear Sue

Michael Bradley called earlier today.

He advised that your solicitors sent a letter to him yesterday in which they stated (something approximating) that I had conveyed to you my view that there was no confidential information imparted during the course of your retainer for Jo. It didn't sound to me as if that letter included some of the other things I said to you including for instance my view that I did believe there was a conflict because James and Jo would probably be witnesses in the ABC case.

At any rate my recollection of our discussion (which I didn't expect to appear in a solicitor's letter) is that I agreed I couldn't point to any specific piece of confidential information imparted by Jo or James that is not now in the public domain.

I do recall at the conference a fairly long background discussion (before we got to [REDACTED]
[REDACTED] in which there was discussion of [REDACTED]
[REDACTED]

Regards

Matthew Richardson
Barrister

153 PHILLIP
BARRISTERS

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