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AFFIDAVIT OF SHANE FRANCIS DOWLING – 23 APRIL 2014

COURT DETAILS	
Court	Supreme Court of New South Wales
Division	Common Law
List	Defamation
Registry	Sydney
Case number	2014/114469

TITLE OF PROCEEDINGS	
First plaintiff	**Justine Munsie**
Second plaintiff	Kerry Stokes
Defendant	**Shane Dowling**

FILING DETAILS	
Filed for	Shane Dowling - Defendant
Filed in relation to	Response to plaintiffs application for contempt
Legal representative	Self-represented
Contact name and telephone	Shane Dowling – 0411 238 704
Contact email	shanedowling@hotmail.com

S Dowling

AFFIDAVIT

Name	Shane Dowling
Address	5 / 68-70 Curlewis St Bondi Beach
Occupation	Journalist
Date	23 April 2014

I affirm:

1 I am a journalist and publish a website called Kangaroo Court of Australia. I am the defendant in the defamation and application for contempt proceedings instituted by Kerry Stokes and Justine Munsie against me.

Preamble

2 Both proceedings against me are a clear abuse of process and procedure and should be struck out / quashed. There is no legal basis or justification for the proceedings instituted by Kerry Stokes and Justine Munsie and it is a clear attempt by them to use the legal system to intimidate and threaten a critic. That is why they want the suppression order, to hide and conceal their disgraceful conduct.

Kerry Stokes is a billionaire media mogul and his lawyers claim he needs protection from one blogger who publishes a website which is myself. That is not believable whatsoever and explains why Kerry Stokes did not sign an affidavit stating that as it would have been clear perjury.

Firstly we need to have a good look at the defamation proceedings and the suppression order put on them by Justice Harrison because that is where the application for contempt has its origins. It must be noted that neither Stokes or Munsie provided any evidence to support the Suppression order even though they had two chances. Initially when the order was put on (Monday 14th April) and again when the notice of motion was argued on Thursday 17th April. There is no justifiable reason for the failure to produce evidence to support their argument for a suppression order given that Munsie is a lawyer and they were represented by a number of lawyers and a barrister (Sandy Dawson) who alleges on his website he specialises in defamation law. (Although it must be noted that Mr Dawson is only a junior barrister.)

I am sure they aware of the High Court judgment in HOGAN v AUSTRALIAN CRIME COMMISSION & ORS [2010] HCA 21. It says in the judgements conclusions at parargraphs 40 to 45:

1. Leave of the Federal Court for News and Fairfax to inspect the Inference Schedule and the Accounting Advices should not be given if there remains in force an order made under s 50 which forbids or relevantly restricts their publication. In the absence of such an order, the question in such a case would be whether in circumstances where the evidence was tendered by a particular party that party might successfully oppose the making of an order under O 46 r 6(3) for inspection, upon the ground that the evidence contained material of a personal or private nature. Emmett J distinguished the situation respecting material on the file of the Court but not tendered and admitted into evidence, and said that the interests of open justice were not engaged there and that leave under O 46 r 6(3) should not be granted in such a case[27]. His Honour was correct in that conclusion.

S Dowling

2. However, if the file material has been admitted into evidence the interests of open justice are engaged. **Where, as here, the party in question adduces no evidence of apprehended particular or specific harm or damage,** particularly by disclosure of the Accounting Advices as Emmett J noted[28], leave properly will be granted under O 46 r 6(3).

3. However, there should be a different outcome where a relevant s 50 order remains in force or should not have been vacated. The administration of justice by the Federal Court, which is the focus of s 50, certainly includes not only the generally recognised interest in open justice openly arrived at[29] which is reinforced by the terms of s 17(1), but also restraints upon disclosure where this would prejudice the proper exercise of its adjudicative function. Bowen CJ pointed this out in ⇐ ***Australian*** ⇒ *Broadcasting* ⇐ ***Commission v*** ⇒ *Parish*[30]. His Honour went on to describe the litigation in *Parish* as analogous to a case where confidential information "is the subject-matter of the proceedings"; he concluded that it was in the interests of justice that the processes for determination of those very proceedings not destroy or seriously depreciate the value of that subject matter[31].

4. That is not this case. Nor, contrary to the appellant's submissions, does it provide a fairly close analogy to this case. The placing of material in evidence, even on the faith of what for the time being would be a restriction imposed by a s 50 order, is a matter of forensic decision. **The price of such a decision may be the subsequent disclosure, as is often the case in litigation, of embarrassing publicity[32]. It is no sufficient answer to brandish the term "inherently confidential", and rely upon the assumptions in favour of Mr ⇐ Hogan ⇒ made without an evidentiary basis.**

5. The decision of Emmett J was correct and the appeal to the Full Court properly failed.

Orders

1. The appeal should be dismissed. The appellant should pay the costs of the third respondents, News and Fairfax. The first and second respondents, the ACC and its Chief Executive Officer, were represented by the Commonwealth Solicitor-General, whose submissions were somewhat balanced between those of the other contestants. We would make no order for the costs of the first and second respondents.

3 Stokes and Munsie's barrister (Sandy Dawson) used the precedent Y and Z v W [2007] NSWCA 329 to justify the judgement and orders they sought. Mr Dawson said words to the effect that I had threatened or was using the threat of publishing scandalous material in an attempt to have Stokes and Munsei withdraw their proceeding against me. The problem being as with Hogan matter above "**That is not this case. Nor, contrary to the appellant's submissions, does it provide a fairly close analogy to this case.**" In fact it is nothing like my matter and it is a disgrace that Sandy Dawson would try and use it. Firstly, I have

not threatened anyone with publishing scandalous material and not has Mr Dawson produced any evidence to prove that I have. Secondly, Mr Dawson has produced no evidence that there would be any harm or damage done as per the Hogan matter where it says "**Where, as here, the party in question adduces no evidence of apprehended particular or specific harm or damage.**" For there to be evidence that Mr Stokes or Ms Munsei would withdraw their proceedings against me then they have to put that in an affidavit or give evidence from the witness stand which they have not. The reason they have not is quite clear, it would be a joke to suggest that a blogger could intimidate Kerry Stokes to withdraw his application. Stokes is the person who sued 22 respondents and spent $200 million in the infamous C7 case with the respondents including but not limited to News Ltd, Channel 9 and Channel 10 etc so to suggest he is scared of one blogger is a joke.

What Stokes is really worried about is as in the Hogan matter "**as is often the case in litigation, of embarrassing publicity".** In this matter Stokes would be seen as a bully trying to close down free speech and a critic who has outed him for being a perjurer. As we know perjury is a criminal offence and the concealment of a crime is a crime in itself. So it could be argued that the suppression order is criminal in that it is concealing Stokes crime of perjury.

Sandy Dawson failed to produce evidence even though he had two opportunities and on Monday the 14th and Thursday the 17th of April. As in the Hogan matter what Mr Dawson did was insufficient to put it kindly "**It is no sufficient answer to brandish the term "inherently confidential", and rely upon the assumptions in favour of Mr ⇦ Hogan ⇨ made without an evidentiary basis".** It is again worth mentioning that Justine Munsie is a lawyer and they had numerous layers representing them and a barrister yet failed to produce any evidence. This also puts Mr Dawson in clear breach of the Barrister Rules which I will deal with later in more detail.

4 **This affidavit will deal with the following issues:**

1. Background and history between Kerry Stokes, Justine Munsei and Shane Dowling.

2. Hearing Monday 14th April (Deceived the court – no evidence – judge said he did not know our history, abuse of the system. I was not there.

3. Hearing Thursday 17th April (no evidence - no evidence - application for contempt handed up in court designed to intimidate – Sandy Dawson asked court to charge me when they did not he did.

4. If Stokes and Munsie were really worried about being defamed they would not want a suppression order. They would want everyone to know that I had defamed them and that they had got justice in court. This is discussed by Bowen CJ in the Australian Broadcasting Commission v Parish (1980) judgement.

5. Kerry Stokes giving "Knowingly false evidence" as found by Justice Sackville in the C7 case or what was known as "Kerry Stokes versus The World" given he sued 22 respondents and lost the case and had to pay an estimated $200 million in total in legal fees for himself and the respondents.

6. Stokes – Frivolous and vexatious litigant – Using ligation against me to silence critic and conceal his previous perjury - Pressured and/or encouraged Munsie to be an applicant against me - C7 – Warburton Matter – Marsden matter — Margret Symons book.

7. Breach of Barrister Rules by junior barrister Sandy Dawson.

8. Contempt of Court Application should be struck out as should the original suppression order. The Channel 7 case against the Federal Police

Background

5 When considering any judgement or orders from these proceedings it is a must to understand the background between the two parties. These proceedings are a continuance of previous harassment against me by Kerry Stokes and his lawyer Justine Munsie from Addison Lawyers. Kerry Stokes previous threat in 2011

6 Kerry Stokes previous threat in 2011

In 2011 Kerry Stokes threatened me with defamation via his lawyer Justine Munsie for a post I published on the 23 May 2011 titled "Kerry Stokes, Seven Group Chairman and Australia's number one perjurer, has been charged with contempt of court".

The threatening letter from Munsie came on the 26th May and I published a post the same day titled "Kerry Stokes threatens legal action against blogger"

I never heard from Stokes and Munsie again because there was nothing they could do. If you Google "Kerry Stokes false evidence" it comes up everywhere such as the SMH – Herald Sun – ABC. An example being:

"A FEDERAL Court judge has accused Seven Network boss Kerry Stokes of giving 'deliberately false' evidence in his failed C7 pay TV case and condemned the action's $200 million legal bill as a 'scandalous' waste."

The judge who said Stokes gave "deliberately false" evidence is Justice Ronald Sackville who was a Federal Court judge at the time and who is now an acting judge at the NSW Supreme Court. Justice Harrison should have a talk to Justice Sackville if he wants to know what Kerry Stokes is like.

Someone who gives "deliberately false" evidence is a perjurer so it is fair and reasonable for me to call Stokes a perjurer. If it was not, Kerry Stokes would have followed through with his previous threat of defamation proceedings. He has the means to do so and the legal costs are nothing to him.

It is interesting that on the 17th March 2013 I published a post titled "Kerry Stokes, Australia's number one perjurer, also becomes the number one bribe taker if new media laws passed" and I never heard anything from Stokes or his lawyers.

Hearing Monday 14th April

7 The proceedings happened without my knowledge or consent on Monday (14/4/14) at the Supreme Court of NSW. There were no written reasons published for the decision to issue the suppression order.

Another of Kerry Stokes lawyers, Richard Keegan, told me on the (15/4/14) that Justice Harrison or Kerry Stokes lawyers (Addison Lawyers) could have phoned me before the hearing but deliberately did not. In fact Kerry Stokes and Justine Munsie give a reason of why they deliberately did not contact me at paragraphs 32 – 36 of their affidavit as they were worried I would do a post and report it. Kerry Stokes has been caught closing down the media.

8 There was no evidence tendered to the court to justify the suppression order and as an expert in this area of law their barrister Sandy Dawson would have known they were not entitled to a suppression order.

9 Justice Harrison in court on the 17th April has said words to the effect that he did not know there was history between the parties, such as the legal threat in 2011, when he issued the suppression order on the 14th April. Mr Dawson has clearly deceived the court in breach of his duty as an officer of the court and breached the barrister rules.

Hearing Thursday 17th April

10 Once again at the hearing (17/4/14) the applicants failed to produce evidence to support the judgement and orders they sought. This was the second chance the court Supreme Court of NSW had given them to do so yet they failed again. Why they were given a second chance given they deliberately deceived the court the first time I find disturbing.

If Stokes and Munsie were really worried about being defamed they would not want a suppression order

11 This is discussed by Bowen CJ in the Australian Broadcasting Commission v Parish (1980) judgement.

12 IN THE FEDERAL COURT OF AUSTRALIA

NEW SOUTH WALES DISTRICT REGISTRY

GENERAL DIVISION

Bowen C.J.(1), Franki(2) and Deane(3) JJ.

13 *"The common law principle that justice be administered publicly in open court is not only of general importance to the proper administration of justice (see, for example, Scott v. Scott (1913) A.C. 417 at pp. 477-8; Russell v. Russell (1976) 134 C.L.R. 495 at p. 520). It is of particular importance to the actual parties to litigation.* ***It is the prima facie right of every litigant to have the proceedings in which he is involved conducted with the benefit of the spur to exertion and the safeguard against improbity, arbitrariness and idiosyncrasy which their being open to public scrutiny imparts*** *(see Scott v. Scott, supra at p. 477 and Attorney-General v. Leveller Magazine Ltd. & Ors., supra at p. 252). The relevance of whether the other party to the litigation consents to a departure from the ordinary principle of the open administration of justice under the common law has long been recognized (see, for example, Andrew v. Raeburn (1874) 9 L.R. Ch. App. 522 at p. 523). In considering an application for an order for confidentiality under s.50, the weight to be given to the prima facie desirability of the evidence in proceedings before the Federal Court being open to the public may vary according to whether the other party to the litigation opposes, or consents to, the making of the order sought.* ***This is not only because an order under s.50 will affect the prima facie right of the litigant that the evidence in his particular case be open to public scrutiny. It is also because there is less likelihood of damage to public confidence in the administration of justice if an order for confidentiality is made in circumstances where the parties to the litigation are agreed that the order should be made, than if such an order is made in circumstances where the other party or parties protest against the relevant evidence being concealed from public scrutiny."***

14 *"**In some cases, the prima facie right of the individual litigant to open justice within the courtroom may be of heightened importance because of the nature of the proceedings. In, for example, proceedings for defamation where the vindication of reputation may be more important to the plaintiff than the solace of pecuniary damages, the plaintiff may have a special interest in ensuring that it is apparent to the public that all the evidence is open to public scrutiny so as to ensure that the proceedings which were legitimately regarded as a vehicle to clear his name cannot be wrongly seen as indicating that there is secret material which might tend to confirm the blackening of it.** It is conceivable that in proceedings such as those involved in the present case, where allegations of conduct in contravention of the Trade Practices Act are involved, the party against whom allegations are made, might likewise have a particular interest in ensuring that the whole of the evidence which the applicant is able to lead in support of the allegations is seen to be open to public scrutiny and assessment. In such a case, the opposition of the relevant party to the making of an order for confidentiality will plainly be of added weight in the decision as to whether such an order under s.50 of the Act should be made."* **(So why does Kerry Stokes want the suppression order? As it says above in defamation one would normally want everyone to know. Because Stokes is dodgy that is why. He is not trying to clear his name at all. He is trying to use the law to intimidate a journalist).**

15 *"The above are some of the factors which may tend to weigh against the making of an order under s.50 of the Act. Their relative importance in the weighing process will plainly vary from case to case. The same can be said of the factors which are liable to be present and to support the making of such an order. I turn to the consideration of some of those factors."*

16 *"There lies at the heart of our legal system the ideal of the attainment of justice under the law in the individual case.* ***Justice can be denied as much by effectively closing the doors of the courts to litigants as it can by an unjust or wrong decision.*** *The results of an undue discounting of legitimate claims to confidentiality are likely to be both the deterrence of the subject from having recourse to courts of justice for the vindication of legal rights or*

the enforcement of criminal law and the discouragement of willing co-operation on the part of witnesses whose evidence is necessary to enable the ascertainment of truth. ***The interests of the administration of justice plainly make it desirable that obligations of confidence be not*** **lightly overruled** and *that legitimate expectations of confidentiality as to private and confidential transactions and affairs be not lightly disregarded."* End of quote from the judgement. The judgement paragraphs were not numbered but the quote is towards the end of the judgement.

Kerry Stokes giving "Knowingly false evidence" as found by Justice Sackville in the C7 case

17 C7 Judgement – Justice Ronald Sackville - Seven Network Limited v News Limited [2007] FCA 1062 (27 July 2007)

BETWEEN: **SEVEN NETWORK LIMITED**
First Applicant

C7 PTY LIMITED
Second Applicant

AND: **NEWS LIMITED**
First Respondent

SKY CABLE PTY LIMITED
Second Respondent

TELSTRA MEDIA PTY LIMITED
Third Respondent

FOXTEL MANAGEMENT PTY LIMITED
Fourth Respondent

TELSTRA CORPORATION LIMITED
Fifth Respondent

TELSTRA MULTIMEDIA PTY LIMITED
Sixth Respondent

PUBLISHING AND BROADCASTING LIMITED
Seventh Respondent

NINE NETWORK AUSTRALIA PTY LIMITED
Eighth Respondent

PREMIER MEDIA GROUP PTY LIMITED
Ninth Respondent

AUSTRALIAN RUGBY FOOTBALL LEAGUE LIMITED
Twelfth Respondent

NATIONAL RUGBY LEAGUE INVESTMENTS PTY LIMITED
Thirteenth Respondent

NATIONAL RUGBY LEAGUE LIMITED
Fourteenth Respondent

FOXTEL CABLE TELEVISION PTY LIMITED
Fifteenth Respondent

OPTUS VISION PTY LIMITED
Sixteenth Respondent

AUSTAR UNITED COMMUNICATIONS LIMITED
Seventeenth Respondent

AUSTAR ENTERTAINMENT PTY LIMITED
Eighteenth Respondent

IAN HUNTLY PHILIP
Nineteenth Respondent

NEWS PAY TV PTY LIMITED
Twentieth Respondent

PBL PAY TV PTY LIMITED
Twenty-First Respondent

SINGTEL OPTUS PTY LIMITED
Twenty-Second Respondent

18 Yes that is right, Kerry Stokes sued 22 of the biggest companies in Australia, including the biggest media companies, and he was not intimidated. Those same media companies attacked Stokes day in and day out during the trial, especially when Stokes was in the witness stand giving "false evidence" as Justice Sackville said. Did Stokes ask for a suppression order then? Of course not. Yet he wants the court to now believe in this matter he is

intimidated by one blogger and if I write nasty things about him he will withdraw the proceedings so he needs a suppression order to protect him. It is not believable so much so that Stokes has refused to put the claim in an affidavit nor did his lawyer Justine Munsie in her affidavit and left it up to his barrister to deliberately mislead the court.

19 The Sackville J judgement at paragraph *391 "Even taking these matters into account, however, there were simply too many occasions on which Mr Stokes' evidence was implausible for me to regard him as a reliable witness on disputed issues. Sometimes it is extremely difficult or impossible to reconcile his version of events with the contemporaneous records, the reliability of which there is no good reason to doubt.* ***Sometimes Mr Stokes' evidence flies in the face of incontrovertible facts. Sometimes, he changed his evidence when confronted with material that made it virtually impossible to maintain the position he had previously adopted. Sometimes Mr Stokes' evidence conflicted with that of other witnesses (including, on occasions, witnesses called by Seven) whose accounts are, in my view, reliable."***

20 393 *"A trial judge in civil proceedings should exercise caution before pronouncing that a witness has given deliberately false evidence. Often it is necessary only to determine whether the witness' evidence, insofar as it is relevant to the issues, should be accepted in whole, in part or not at all. It may not matter very much, for the purposes of deciding the litigation, whether a witness found to be unreliable has told deliberate untruths or has given unsatisfactory evidence for other reasons."*

21 *394 "However, in this case a sustained and vigorous attack was mounted against Mr Stokes' credit, including his honesty as a witness. I think it appropriate to observe that, although some of the particular attacks on Mr Stokes' credit lacked cogency, there were occasions on which, in my opinion, he gave evidence that he knew was not true. One example was a particularly unconvincing denial that he did not share the objective of others within Seven of 'ramping' the price that News (through Fox Sports) would ultimately have to pay for the NRL pay television rights by outbidding Seven. Mr Stokes participated in a conference at which the objective was discussed*

and, on his own admission, said nothing to dissociate himself from the views expressed there. Mr Gammell gave evidence that everyone at the meeting agreed with the ramping objective. Internal Seven documentation makes it clear that ramping was, at the very least, a critical (if not the only) objective underlying the bidding by Seven for the NRL pay television rights. Mr Stokes' evidence on this issue was not only implausible but, I must conclude, deliberately false."

22 *398 "In summary, I cannot accept Mr Stokes as a reliable witness on matters that are in dispute, especially where there is contemporaneous documentation or cogent oral evidence that conflicts with his account."* End of quotation from the judgement

23 Based on the judgement of Justice Ronald Sackville above nothing Kerry Stokes says can be believed unless supported by a credible witness which does not mean his paid lawyer Justine Munsie.

Stokes – Frivolous and vexatious litigant – Using ligation against me to silence a critic and conceal his previous perjury - Pressured and/or encouraged Munsie to be an applicant against me - Warburton Matter – Margaret Simons book

24 Based on Justine Munsie's affidavit it is very clear that she is only a party to the proceedings because of pressure and/or encouragement of Kerry Stokes. This is very disturbing and needs to be investigated further.

25 Kerry Stokes should have been declared a frivolous and vexation litigant by all courts in the country after the C7 case given he sued 22 respondents, had to pay an estimated $200 million in legal fees and was declared by the judge as being someone who deliberately gave false evidence. On that basis alone Stokes proceedings against me should be struck out by the court.

Warburton Court Case

26 In 2011 Kerry Stokes was accused and later charged with contempt of Court in a proceeding Mr Stokes had initiated against a former employee from Channel 7, James Warburton, in an attempt to stop Mr Warburton from starting employment with Channel 10.

27 In a report on News.com.au on the 12/4/11 titled "James Warburton's lawyer accuses Seven's Kerry Stokes of contempt of court" It said:

"KERRY Stokes has been accused of interfering in Seven Media Group's legal battle with former executive James Warburton, a court heard today. Appearing for Mr Warburton, John West, QC, took issue with comments Mr Stokes, Seven Group's executive chairman, made in Perth yesterday after the West Australian Newspapers' shareholder meeting, which backed the $4.1 billion purchase of SMG, reported The Australian."

"Mr Stokes said after the meeting that he was sure SMG chief executive David Leckie would not have said the WAN board were "dopes" and "idiots". Mr Leckie strongly denied the allegation in court yesterday."

"Mr Stokes said: "If you are saying that James Warburton, in the process of trying to improve his case, may have embellished upon the truth, that would be closer to being accurate, I would think."

"Mr West today told the court: "The substance of it, your honour, is that he has taken it upon himself to publicly vilify a witness in this case ... To do that is to hold someone up to contempt."

"Mr Warburton, whose is Seven's former chief sales and digital officer, is currently under cross examination."

"Justice Michael Pembroke said he may raise the issue in his judgement."

http://www.news.com.au/finance/james-warburtons-lawyer-accuses-kerry-stokes-of-contempt/story-e6frfm1i-1226037847363

28 Kerry Stokes charged with contempt

Then on the 13th May 2011 the Sydney Morning Herald published the story titled: *"Stokes to face contempt of court charges next month"* which said: Contempt charges against Seven Group Holdings chairman Kerry Stokes will be heard on June 28.

The date was set at a directions hearing in the NSW Supreme Court on Friday before Justice Michael Pembroke.
The contempt charges emerged during Seven's legal bid to delay its former chief sales and digital officer James Warburton from taking up the chief executive's post at Ten Network Holdings.
Mr Stokes commented on the trial on April 11, at the conclusion of West Australian Newspapers Holdings Ltd's (WAN) shareholder vote to approve a proposed $4.09 billion takeover of Seven Media Group.
The transaction created a new company, Seven West Media.
It was reported Mr Stokes accused Mr Warburton of "embellishing" the truth in his evidence given during the trial.
Mr Stokes told reporters in Perth he was certain the chief executive of Seven Media Group, David Leckie, had not referred to directors of WAN as "idiots" and "dopes".

Mr Leckie denied he made those remarks during the trial, and his version of events received Mr Stokes's backing.
"If you are saying that James Warburton, in the process of trying to improve his case, may have embellished upon the truth, that would be close to being accurate, I would think," Mr Stokes was quoted as saying.
During the trial, Justice Pembroke said the comments were an unwelcome contribution.
"It is inappropriate at a minimum," Justice Pembroke said on April 12.
In his judgment, Justice Pembroke said Mr Warburton would have to wait until 1 January, 2012, before starting work at Ten, almost six months later than the intended start date of July 14.
Seven had sought to keep Mr Warburton from joining the rival network until October 2012.

http://www.smh.com.au/business/stokes-to-face-contempt-of-court-charges-next-month-20110513-1em07.html#ixzz2zbuNHMrM

29 The point is that Kerry Stokes clearly implied James Warburton was a perjurer when Mr Stokes had no proof of it when the matter was before the courts. Given this Mr Stokes is hardly in a position to complain about me or anyone for that matter making scandalous allegations in the media while a court case is afoot. I in effect have Justice Sackville supporting me in my claim that Mr Stokes is a perjurer. And Mr Stokes made his comment to most of the mainstream media while I only have my website.

Margaret Simons book

30 Journalist Margaret Simons published a book on Kerry Stokes last year titled *"Kerry Stokes: Self-Made Man"* and there was a story about it in the Sydney Morning Herald (19/10/13) titled: "Behind the veil" which starts off: ***"Media mogul Kerry Stokes has always tried to control the story of his life.*** *But an imminent unauthorised biography is about to change all that, writes Malcolm Knox."*

http://www.smh.com.au/entertainment/books/behind-the-veil-20131014-2vhbo.html#ixzz2zc4mBfec

The point is Stokes clearly has form on the board for trying to manipulate what is written about him. It is no different in this matter.

Breach of Barrister Rules by junior barrister Sandy Dawson

31 The applicants seek orders protecting Mr Dawson and their lawyers from anyone reporting who they are. One has to assume it is because they know they are acting in a scandalous manner and do not want people to know. If the court was to issue such a suppression order then the Barrister Rules and Solicitor Rules become a waste of time and the lawyer can do whatever they want.

Mr Dawson has been standing at the bar table giving evidence that he knows is false and has no documents to support the evidence which is in clear breach of numerous barrister rules. Some of those rules being:

29. A barrister seeking any interlocutory relief in an ex parte application must disclose to the court all factual or legal matters which:
(a) are within the barrister's knowledge;

(b) are not protected by legal professional privilege; and
(c) **the barrister has reasonable grounds to believe would support an argument against granting the relief or limiting its terms adversely to the client.**

Mr Dawson breached section 29 (c) numerous times for example during the hearing on Monday the 14th April when I was not there. Mr Dawson failed to tell Justice Harrison that there was history between myself and the applicants which included a threatening lawyer's letter for Munsie.

30. A barrister who has knowledge of matters which are within Rule 29(c):
(a) must seek instructions for the waiver of legal professional privilege if the matters are protected by that privilege so as to permit the barrister to disclose
those matters under Rule 29; and
(b) if the client does not waive the privilege as sought by the barrister:
(i) must inform the client of the client's responsibility to authorise such disclosure and the possible consequence of not doing so; and
(ii) must refuse to appear on the application.

As per section 30 above did Mr Dawson raise the issue with Stokes and Munsie and what was their answer or instructions and why didn't Mr Dawson refuse to appear for the applicants?

31. A barrister must, at the appropriate time in the hearing of the case if the court has not yet been informed of that matter, inform the court of:
(a) any binding authority;
(b) where there is no binding authority any authority decided by an Australian appellate court; and
(c) any applicable legislation; known to the barrister and which the barrister has reasonable grounds to believe to be directly in point, against the client's case.

As per section 31 above Sandy Dawson made no mention of the two precedents that I have mention in this affidavit when we were in court which support my case. Those being HOGAN v AUSTRALIAN CRIME COMMISSION & ORS [2010] HCA 21 and Australian Broadcasting Commission v Parish (1980). So didn't Mr Dawson mention those two precedents which support my position.

Bot those precedents are well known and Mr Dawson would have been are of them and by failing to mention them puts him in breach of section 31 of the Barrister Rules.

The applicants notice of motion at section 4 (e) names their lawyers and Sandy Dawson and says they are seeking a suppression order to stop me from publishing anything that is "calculated to expose any of them to hatred, ridicule and contempt"

This is an admission that Mr Dawson suspects his own "personal or professional conduct may be attacked". Given section 95 (f) of the barristers rules then Mr Dawson has no option but to stop representing Mr Stokes.

95: A barrister must refuse to accept or retain a brief or instructions to appear before a court if:
(f) the barrister has reasonable grounds to believe that the barrister's own personal or professional conduct may be attacked in the case;

I will obviously need to cross examine Sandy Dawson at the contempt trail given Mr Dawson deceived the court so he should stand down from representing Kerry Stokes now given section 95 (d) which states the below.

Sention 95: A barrister must refuse to accept or retain a brief or instructions to appear before a court if:
(d) the barrister has reasonable grounds to believe that the barrister may, as a real possibility, be a witness in the case;

I could point out other breaches by Mr Dawson but that will do for now.
http://www.nswbar.asn.au/docs/professional/rules/rules080811.pdf

Contempt of Court Application should be struck out as should the original suppression order. The Channel 7 case against the Federal Police

32 Contempt of court proceedings should be struck out – When they got the court order they deceived the court – which makes the court order improper which should also be struck out / quashed – they should be charged with contempt of court.

33 In the recent Federal Court matter between Channel 7, Mercedes Corby and the Federal Police Channel claimed that the Federal Police had deceived a magistrate to have search warrants falsely issued. Mr Stokes obviously learnt well from this as has done the same in this matter and deliberately deceived a judge to have a suppression order put on the case. Channel Seven also used to media to intimidate the Federal Police during the course of the proceedings running stories such as comparing them to the Stasi. The SMH reported on the 24/2/14 a story titled "Federal police raid was Stasi tactic, says Seven Network"

"Channel Seven has likened Australia's Federal Police to the Stasi, the much-feared communist-era East German secret police notorious for supporting terrorism and torturing its many victims."

"The segment follows a controversial incident last week when the AFP raided Seven's offices looking for evidence of a deal between the network and Bali drug smuggler Schapelle Corby."

And *"Earlier, Seven's commercial director Bruce McWilliam emailed Attorney-General George Brandis to demand he "do his job" and hold the AFP accountable."*

http://www.smh.com.au/entertainment/tv-and-radio/federal-police-raid-was-stasi-tactic-says-seven-network-20140224-33c3x.html#ixzz2zebEBC7F

Channel 7 and Stokes were definitely trying to intimidate and harass and threaten the federal police before, during and after the court proceedings by using their own media and other media. Stokes was also one the phone at the time making threats to politicians.

Now Stokes claims to be threatened by me, one blogger and what I might write. It is just not believable at all and to say that in court is scandalous and defamatory of me which has not stopped their barrister Sandy Dawson.

34 Public interest in this matter is huge as it is the old media and someone like Stokes who abuses their power (his TV stations and papers etc) v the new media (me and my website). Kerry Stokes believes he has all the rights in the world but people like me have no rights which are another reason why there should never have been a suppression order.

~~#SWORN~~#AFFIRMED at	Supreme Court of NSW
Signature of deponent	
Name of witness	TIBOR ANDRAS GABOR Justice of the Peace Registration 152729 in and for the State of New South Wales Agent Supreme Court of NSW Macquarie Street Sydney NSW 2000
Address of witness	
Capacity of witness	[#Justice of the peace ~~#Solicitor #Barrister #Commissioner for affidavits #Notary public~~]

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:

NSW Driver's Licence PTO

[1 "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth

NSW - Drivers Licence

Identification document relied on (may be original or certified copy)[1]

Signature of witness

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

23/04/2014

TIBOR ANDRAS GABOR
Justice of the Peace Registration 162729
In and for the State of New South Wales Australia
Supreme Court of NSW
Macquarie Street
Sydney NSW 2000

[1] certificate, passport or see Oaths Regulation 2011 or JP Ruling 003 - Confirming identity for NSW statutory declarations and affidavits, footnote 3.]