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Form 40 (version 3)
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Written Submissions by Shane Dowling – 29th January 2015

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	Notice of Motion filed by the applicant on the 14th of October
Legal representative	Self-represented
Contact name and telephone	Shane Dowling – 0411 238 704
Contact email	shanedowling@hotmail.com

Written submissions - Content

1. Preamble
2. Application to have matter transferred to Federal Court of Australia given the case deals with allegations of judicial corruption raised by the applicants (Kerry Stokes and Justine Munsie) in the NSW Supreme Court. Three Judges, Justice Hall, Justice Adams and Justice McCallum have in effect already found in Kerry Stokes favour and cleared themselves and or/other judicial officers of corruption
3. Application to have matter dismissed for the applicants failing to prosecute the case and abuse of process and to have Kerry Stokes declared a frivolous and vexatious litigant. (E.g Remember the C7 case or as it became known "Kerry Stokes v The World" were Channel 7 had to pay $200 Million in legal costs and Stokes was found to have given "deliberately false" evidence.
4. Notice of motion should be dismissed as an abuse of process. The applicant demanded orders that were given on the 29th of August 2014 (as per below) for the filing of a Notice of Motion by the 26th of September which they failed to do.

1. Preamble

This matter should have been thrown out of court long ago. The only thing keeping it going is judicial corruption aiding and abetting Kerry Stokes. This is scandalising the court and it is the judges and 2 registrars that have dealt with the matter that need to take responsibility for it. But it is all Australian judicial officers that should be ashamed of it.

Abuse of process – failing to prosecute their case – deliberate delaying tactics – Kerry Stokes will not allow case go to hearing

Kerry Stokes defamation proceedings are an abuse of process and he has never had any intentions what soever of going to hearing. A good example showing evidence of this is that he claimed I defamed him by calling him a perjurer. In 2011 I wrote an article accusing him of perjury and he threatened to take legal action but when I stood my ground he did nothing. Justice Sackville said in the 2006/07 Federal Court case known as C7 said Kerry Stokers gave evidence that was knowingly false. The definition of perjurer is someone who gives knowingly false evidence. So the truth defence would clearly succeed. In the applicants own affidavit file on the 15th of April 2014 they even quote the relevant section form Justice Sackville in the c7 matter so they themselves know their defamation case against me is futile.

Mr Stokes motivation for the defamation matter clearly points to compensation he and Channel received off the Federal Police in regards to the Schapelle Corby police raids. This matter was in the Federal Court and Mr Stokes and Channel Seven were seeking compensation from the Federal Police at the same time they instituted proceedings against me and my article dealt with the same subject matter. (That being the police raids on Channel 7)

By their own admissions they became aware of the article they complain of at the time it was published in February 2014 but took no action for 2 months. All of Sudden in April 2014 things were

so urgent they needed a Super Injunction to make me take down the article and to make sure I did not tell anyone about defamation proceedings.

The Super Injunction was that dodgy it lasted 2 days. But I was charged by Mr Stokes for contempt of court for breaching the corrupt super injunction and found guilty. I now have a criminal record because of Kerry Stokes. Yet the Justice Adams and Justice Nicholas refused to charge Mr Stokes for contempt of court for the private communication with Justice Lucy McCallum and Justice Ian Harrison. Both Justice Harrison and Justice McCullum had ex-parte hearings with Mr Stokes barrister Sandy Dawson and both have failed to publish written reasons for the orders they issued at the ex parte hearings. This is a clear breach of common law.

2. Application to have matter transferred to Federal Court of Australia

It is well known precedent that is a court hearing relates to a judicial offer of that court then the matter will be transferred to another court or an interstate judicial officer will be brought in the hear the matter. This is because of perceived bias. So to protect the public's confidence in the courts the matter is transferred. A prime example of this precedent is that Justice Michael Adams of the Supreme Court of NSW is currently suing Fairfax Media and journalist Jack Waterford in the Federal Court of Australia.

Justice Hall handed down a judgement overturning Justice Harrison and in effect found that I had no defence and therefore had defamed Justice Harrison.

Justice Adams issued orders making me take down a number of posts which had allegations of judicial corruption against Justice Harrison, Justice McCallum and even Justice Adams himself. Yes, Justice Adams in effect heard his own case. It must be noted that Justice Adams has been accused of being corrupt by Fairfax Media which I can vouch for. He is as corrupt as they come.

Justice Lucy McCallum said at a directions hearing on the 31st of October that she would not deal with my matter and transferred it back to Registrar Kenna. The reason Justice McCallum gave for this was that she had read what I had written about her online and said that it was defamatory and because of that she should not deal with the matter.

That is three Supreme Court judges that have already ruled in Mr Stokes favour regarding whether or not my writing are defamatory. Cleary the matter needs to be transferred otherwise the court looks like a joke to the public and they will lose confidence in the court.

3. Application to have matter dismissed for the applicants failing to prosecute the case and abuse of process and to have Kerry Stokes declared a frivolous and vexatious litigant.

Kerry Stokes is well known for being a frivolous and vexatious litigant and is a running joke in the legal community because of it. He usually uses Channel 7 as the vehicle for his frivolous and vexatious litigation and to defame people. Two examples are:

The C7 Case where Kerry Stokes and Channel 7 sued over 20 companies and lost and had to pay an estimated $200 million in legal fees. Stokes appealed and lost. Justice Sackville who heard the matter found that Kerry Stokes had perjured himself.

Mercedes Corby where Channel 7 paid an estimated $2 million for defamation in 2008 for accusing her of being a drug dealer etc.

Kerry Stokes charged with contempt of court last year because I wrote about judicial corruption and his involvement in it and I complained to the Premier, Attorney-General and Chief Justice Bathurst. Corrupt judges Justice Harrison and Justice Nicholas supported him in that and I was found guilty and fined $2000 and had indemnity costs awarded against me.

Kerry Stokes will not inforce the indemnity costs as he is having a sexual relationship with Justine Munsie. She is also being paid to represent Mr Stokes in this matter. Mr Stokes is worried if he does try and enforce the costs that it will be referred to the Office of the Legal Services Commissioner for investigation and the truth will be exposed

4. Notice of motion should be dismissed as an abuse of process.

I am ready to go to hearing now and my defence has been filed and only requires the standard discovery and interrogatories. This is what Kerry Stokes is avoiding like the plague. As soon as the court issues interrogatories and discovery against Mr Stokes he will withdraw the proceedings.

I filed a defence in April 2014 and that defence still stands as it has not been challenged nor is there any justification to challenge it.

Sandy Dawson claims my defence only states the law which is not true, even more so when put together with my first defence which has not been challenged. Bew that as it may, even it I did only state the law, as you will see below in the High Court precedent Lange v ABC they do the same. That was good enough for the High Court so my defence should be good enough for the Supreme Court of NSW. It must be remembered that I still have written and verbal submissions that I can put before the court so what I have filed so far is not my full defence.

⇦ Lange ⇨ v ⇦ Australian Broadcasting Corporation ⇨ ("Political Free Speech case") [1997] HCA 25; (1997) 189

CLR 520; (1997) 145 ALR 96; (1997) 71 ALJR 818 (8 July 1997)

HIGH COURT OF AUSTRALIA

BRENNAN CJ,

DAWSON, TOOHEY, GAUDRON, McHUGH, GUMMOW AND KIRBY JJ

DAVID RUSSELL

LANGE PLAINTIFF

AND

AUSTRALIAN BROADCASTING

CORPORATION DEFENDANT

BRENNAN CJ, DAWSON, TOOHEY, GAUDRON, McHUGH, GUMMOW AND KIRBY JJ. The principal questions arising from this case stated by Brennan CJ are whether the Court should reconsider two decisions which hold that there is implied in the Constitution a defence to the publication of defamatory matter relating to government and political matters and, if so, whether those decisions are correct.

The case stated arises out of a defamation action brought in the Supreme Court of New South Wales by Mr David Lange , a former Prime Minister of New Zealand, ("the plaintiff") against the Australian Broadcasting Corporation ("the defendant")[1].

The defendant has relied on the decisions of this Court in *Theophanous v Herald & Weekly Times Ltd*[2] and *Stephens v West Australian Newspapers Ltd*[3] to plead a defence against an action brought by the plaintiff in respect of matters published when he was a member of the New Zealand Parliament. Paragraph 10 of the Amended Defence initially alleged that the matter complained of was published:

"(a) pursuant to a freedom guaranteed by the Commonwealth Constitution to publish material:-

(i) in the course of discussion of government and political matters;

(ii) of and concerning members of the parliament and government of New Zealand which relates to the performance by such members of their duties as members of the parliament and government of New Zealand;

(iii) in relation to the suitability of persons for office as members of the parliament and government of New Zealand.

(b) (i) in the course of discussion of government and political matters;

(ii) of and concerning the plaintiff as a member of the parliament of New Zealand and as Prime Minister of New Zealand;

(iii) in respect of the plaintiff's suitability for office as a member of the parliament of New Zealand and as Prime Minister of New Zealand;

(iv) in respect of the plaintiff's performance, conduct and fitness for office as a member of the parliament of New Zealand and as Prime Minister of New Zealand;

(c) in circumstances such that:

(i) if the matter was false (which is not admitted) the defendant was unaware of its falsity;

(ii) the defendant did not publish the matter recklessly, that is, not caring whether the material was true or false;

(iii) the publication was reasonable

and, by reason of each of the matters aforesaid, the matter complained of is not actionable."

Subparagraphs (a)(ii), (iii), (b)(ii), (iii) and (iv) were subsequently abandoned by the defendant.

Paragraph 6 of the Amended Defence pleads a defence of common law qualified privilege. The particulars of this defence allege that the matters complained of related to subjects of public interest and political matters and that the defendant had a duty to publish the material to viewers who had a legitimate interest in the subjects of the matter complained of and a reciprocal interest in receiving information relating to those subjects. The subjects of public interest and political matters are particularised. They relate to political, social and economic matters occurring in New Zealand.

End quote**********

Form 4 (version 1)

ORDER

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**
Number of plaintiffs	**2**
First Respondent	**Shane Dowling**

DATE OF ORDER

Date made or given	29 August 2014

SHORT MINUTES OF ORDER

1. The plaintiffs file and serve any motion and evidence in support by 26 September 2014.
2. The defendant file and serve any evidence in response to plaintiffs' motion by 10 October 2014
3. Proceeding listed for further directions on 15 October 2014.

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The above were orders issued on the 29th of August 2014 because Sandy Dawson demanded the right to be able to file a notice of motion. He deliberately ignored the orders and filed a notice of

motion on the 14th of October which was the day before the directions hearing. On the 15th of October Mr Sandy Dawson refused to explain to the court why he ignored the court orders.

On the 15th of October Mr Dawson's admitted in court that even if their notice of motion is successful to have my defence struck out that they will not object to me filing a new defence. Mr Dawson had to make this concession because as I had pointed out there is a recent precedent by Justice McCullum where a self-represented litigant had his defence struck out and he was referred the courts Pro Bono panel to get assistance with writing his defence. See: Graham v Powell (No 2) [2013] NSWSC 2026 (13 December 2013)

So what is the purpose of the notice of motion then? It is clearly time delaying tactics to drag the proceedings out. Acting Registrar Rebel Kenna was fully aware of this and was happy to help her mate Sandy Dawson out. It was Rebel's orders that she issued on the 29th of August 2014 that Mr Dawson breached and Rebel did not even bother to ask Mr Dawson why he breached the orders.

Defamation matters are meant to be dealt with informally. The applicant has never asked for further of better particulars which shows they are just abusing the system.

End of written submissions

By Shane Dowling – 29/1/2015 S Dowling