

AMMENDED DEFENCE – FEBRUARY 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	Defence of plaintiffs claim
Contact name and telephone	Shane Dowling 0411 238 704
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HEARING DETAILS

If the proceedings do not already have a listing date, they are to be listed at [time, date and place to be inserted by the registry]

PLEADINGS AND PARTICULARS

- 1 I will be relying on a number of sections of the NSW DEFAMATION ACT 2005 as well as common law defences. It must be noted that at the time of writing this defence that 3 Judges have so far failed to publish written reasons in relevant hearings. Those three are Justice Lucy McCallum, Justice Ian Harrison and Acting Justice Robert Hulme. All three had ex parte hearings with the applicants and have still not published reasons. Justice McCallum and Justice Harrison both had ex parte hearings early last year and still have not justified it. These judgements are important from a defence view point given the applicants claims against me.

Also the applicants have recently filed a new proceeding against me, but not their full claim in the new proceeding, which might have a bearing on the overall defence.

I should also point out that Justice Hoeben has only given me 21 days to prepare the amended defence even though the applicants are given as much time as they want to do whatever they want in court. Also Justice Hoeben refused to refer me to the courts Pro Bono panel for assistance in preparing the defence. Justice Hoeben refused this even though there are precedents that say he should have especially for a self-represented litigant. Justice Hoeben also refused to transfer the matter the Federal Court of Australia for hearing even though the applicants have raised matters regarding judicial corruption concerning at least 3 Supreme Court judges who are Justice Ian Harrison, Justice Lucy McCallum and Justice Michael Adams. All three judges as well as Justice Peter Hall have also already made findings in Kerry Stokes favour saying that my articles are defamatory.

Justice Hoeben has also refused to allow the discovery and interrogatories that I sought from the applicants. When they are allowed it will I suspect have an influence on my defence.

2 Preamble

Kerry Stokes and Justine Munsie's claim against me is frivolous and vexatious at the extreme. They threatened me with defamation in 2011 and failed to follow through with it when I wrote an article calling Mr Stokes a perjurer. In 2013 when I wrote another article calling Mr Stokes a perjurer there was no contact or threat which was because what I wrote is true. As the evidence shows 4 Federal Court judges made findings that Kerry Stokes gave "knowingly false" evidence and evidence that he "knew was untrue". Kerry Stokes lawyers never challenged this even though it was central to them winning or losing a case worth hundreds of millions of dollars to Channel 7 and Kerry Stokes. (Channel 7 had to pay an estimated \$200 million in costs alone) For those reasons I will deal with the Kerry Stokes perjury allegations first in my submissions because once that it understood it is easy to see how frivolous and vexatious his whole claim is.

Their reason for suing me now is because the article I wrote in April 2014 about the Schapelle Corby police raid on Channel 7 was an obstacle to them getting an apology and compensation from the Federal Police.

In 2006 / 2007 Kerry Stokes gave evidence in the matter: Seven Network Limited v News Limited [2007] FCA 1489 (26 September 2007)

Justice Ronald Sackville in his judgement said that Mr Stokes "*gave evidence that he knew was not true*" and "*deliberately false*" etc.

The definition of a perjurer is some who: "makes a false statement under oath".

Kerry Stokes appealed Justice Sackville's judgement but not his critical assessment of Mr Stokes evidence. If Channel 7 and Mr Stokes had appealed that element and had it overturned it would have gone a long way to helping them overturning the whole judgement on appeal. The fact that they did not appeal the findings that Mr Stokes giving evidence that was "deliberately false" and "he knew was not true" is very telling as they in effect admitted that it was true.

Kerry Stokes should be in jail for perjury, not suing for defamation and the fact that he is suing for defamation scandalises the NSW Supreme Court.

3 The legal defences that I will be relying on are: 1. Defence of Justification, 2. Defence of contextual truth, 3. Defence of qualified privilege (Both the statutory and common law defences) and 4. the Defence of honest opinion.

4 25 Defence of justification

It is a defence to the publication of defamatory matter if the defendant proves that the defamatory imputations carried by the matter of which the plaintiff complains are substantially true.

4.1 Defence – I plead that everything that I have written and the imputations are substantially true which complies with UCPR 14.32(2) as per paragraph 32 of the judgement of Justice Hoeben in *Munsie v Dowling (No 4)* (11th February 2015)

The relevant pleading I will deal with first is second plaintiff (Kerry Stokes) "5 "(g) *The second plaintiff has repeatedly committed perjury*"

The relevant facts, matters and circumstances that I rely to prove the imputation that Kerry Stokes is a perjurer is set out below. In summary I am relying on 2 court judgements. The first being a single Judge and the second being a judgement of three judges. Also the fact the Kerry Stokes did not appeal is very telling. A Jury would clearly find that Mr Stokes is a perjurer and that he perjured himself numerous times.

In 2006 / 2007 Kerry Stokes's \Channel 7 sued over 20 parties in what became known as "Kerry Stokes versus the World". The actual matter name was: *Seven Network Limited v News Limited [2007] FCA 1489* (26 September 2007)

Channel 7 lost badly and had to pay the others party's costs which were estimated at \$200 million. In the judgement Justice Sackville smashed Kerry Stokes credibility as a witness.

Channel 7 and Mr Stokes appealed but did not challenge Justice Sackville's assessment of Kerry Stokes. The full bench of the Federal Court of Australia said in paragraphs 326 to 330:

Seven Network Limited v News Limited (includes corrigendum dated 2 March 2010) [2009] FCAFC 166 (2 December 2009)

Justices MANSFIELD, DOWSETT AND LANDER JJ

1. THE DISPUTE

1 The heart of the dispute in this case is the complaint by 'Seven' (as I call the Applicants) that in May 2002 it was forced to shut down the business of C7 Pty Ltd ('C7'), a producer and distributor of sports channels for Australian pay television platforms. Seven says that the closure of C7's business was forced on it because some of the Respondents, notably the News, PBL and Telstra parties and their associated corporations, engaged in anti-competitive conduct in contravention of ss 45 and 46 of the *Trade Practices Act 1974* (Cth) ('*Trade Practices Act*'), during the period from 1999 to 2001.

And:

326 The appellants called Mr Stokes who was at the relevant time a major shareholder in Seven Network and Non-executive Chairman of Seven Network between June 1995 and July 1999, and CEO from August 1999 to October 2000. **The trial Judge made a number of adverse findings about Mr Stokes' evidence and about Mr Stokes. Although those findings are not under challenge on this appeal, this Court must have regard to those findings because Mr Stokes' evidence was critical in relation to Seven's s 46 case and relevant to Seven's s 45 case.**

327 His Honour took into account a number of factors in favour of Mr Stokes in assessing the reliability of Mr Stokes' evidence but, notwithstanding those matters, his Honour said at J [391]-[392]:

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. So far as contemporaneous records are concerned, there may be, as Mr Sumption submits, a difference between an apparently reliable record that omits reference to a discussion or event that a witness says took place, and a similar record that includes reference to a discussion or event that the witness denies occurred. However, Seven adduced no evidence to counter the inference that the minutes of board and committee meetings within Seven were intended to be reasonably reliable records of the meetings prepared by competent people. In any event, it is often difficult to think of a plausible reason why the contemporaneous records would have omitted reference to a particular discussion or event that Mr Stokes said took place, if indeed it did. Further, Mr Stokes on a number of occasions denied knowledge of important information, such as the state of C7's negotiations

with Austar, that the contemporaneous documentation overwhelmingly suggests was drawn to his attention. (Trial Judge's emphasis.)

328 His Honour then observed that Mr Stokes was subject to a vigorous cross-examination which called his honesty into question and his Honour said at J [394]:

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.**

329 In the end result, the trial Judge said that he would not accept Mr Stokes as a reliable witness where any matter was in dispute, especially where there was contemporaneous evidence or cogent oral evidence which was in conflict with Mr Stokes' evidence.

330 The appellants did not take issue with his Honour's findings in respect of Mr Stokes' evidence and this Court should have regard to those findings when considering his evidence on where factual findings involving his evidence are called into question.

Seven Network Limited v News Limited [2007] FCA 1062 (27 July 2007)

Justice Sackville

385 It is one thing for Mr Stokes to have been prepared to pursue this litigation notwithstanding the enormous outlay of costs incurred by Seven (in which he has a substantial interest). It is quite another for him to have been willing to give evidence.

386 In retrospect, it may have been possible for Seven to conduct this litigation without Mr Stokes going into the witness box. In his final oral submissions, Mr Sumption was at pains to contend that issues of credit, so far as Seven's witnesses are concerned, go primarily to causation and damages, rather than liability. No doubt this submission recognises the difficulties in the path of accepting some of the evidence given by Seven's witnesses. But it also reflects the fact that Seven perhaps might have run its case without Mr Stokes subjecting himself to cross-examination. In the absence of Mr Stokes, Seven might have been foreclosed from persisting with its more extravagant claims for relief, but for the most part these have been effectively abandoned in any event.

387 Mr Stokes' willingness to give evidence is somewhat perplexing. Not only must he have known that he would face a gruelling cross-examination, but it must have been apparent to him well before he stepped into the witness box, that his account of events was likely to prove vulnerable at many points. As became clear in the course of cross-examination, his evidence was repeatedly at odds with the contents of the contemporaneous documentation. Time after time, Mr Stokes asserted that important discussions had taken place at board meetings or elsewhere, when the relevant minutes

or other contemporaneous records contained no reference to them. He also maintained that he had been unaware of matters that, according to the records, had been discussed in his presence. This judgment is replete with examples.

388 Mr Stokes is plainly a highly intelligent, shrewd and determined person. These attributes, and others, have undoubtedly contributed to his very considerable business success. It would be surprising if a person of Mr Stokes' intelligence and shrewdness did not appreciate the difficulties in the path of accepting much of his evidence, insofar as it was a matter of dispute. **It would be particularly surprising, given that Seven had access to and availed itself of legal advice at every stage of the litigation (and indeed on many occasions beforehand). This is not a dispute (or series of disputes) in which expense has been spared. Mr Stokes' legal advisers would have had every opportunity to draw his attention, in an appropriate way, to the apparent disparities between his version of events and the contemporaneous documentation.**

389 In assessing Mr Stokes' evidence I have taken into account a number of factors in his favour. They include the following:

- Mr Stokes was willing to give evidence in the face of the matters to which I have referred and to confront what was bound to be (and was) a searching cross-examination;
- no witness could be expected to recall accurately all relevant events that occurred six or seven years before the trial;
- some of the attacks on Mr Stokes ultimately went nowhere (such as the suggestion that certain documents were deliberately backdated);
- Mr Stokes clearly regards himself as a strategist and innovative thinker, whose role, even as CEO of Seven, was not to descend to the detail even of apparently important transactions;
- Mr Stokes' strengths (and interests) do not lie in the meticulous completion or scrutiny of paperwork (a trait that tends to be much more highly prized by lawyers than by business people); and
- Mr Stokes was required to endure a very long and challenging cross-examination and, perfectly understandably, was affected by weariness from time to time.

390 I should also record that there were occasions on which Mr Stokes made concessions in a reasonably straightforward manner. An example of what I regard as an important concession was his agreement that the successful offer Foxtel made for the AFL pay television rights (through the Foxtel Put) was '*a good price*' (for Foxtel).

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.**

392 So far as contemporaneous records are concerned, there may be, as Mr Sumption submits, a difference between an apparently reliable record that **omits** reference to a discussion or event that a witness says took place, and a similar record that **includes** reference to a discussion or event that the witness denies occurred. However, Seven adduced no

evidence to counter the inference that the minutes of board and committee meetings within Seven were intended to be reasonably reliable records of the meetings prepared by competent people. **In any event, it is often difficult to think of a plausible reason why the contemporaneous records would have omitted reference to a particular discussion or event that Mr Stokes said took place, if indeed it did. Further, Mr Stokes on a number of occasions denied knowledge of important information, such as the state of C7's negotiations with Austar, that the contemporaneous documentation overwhelmingly suggests was drawn to his attention.**

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.

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.**

395 **Similarly, I must conclude that Mr Stokes' professed ignorance about the state of negotiations between Seven and Austar could not have been a mere failure of memory.** This evidence went to the damages sought by Seven and Mr Stokes understood its importance. **Mr Stokes repeatedly denied that matters came to his attention over a substantial period of time, notwithstanding much documentary evidence to the contrary. The inaccuracy of Mr Stokes' evidence on this point, in my view, was not the product of inadvertence.**

396 **Having said that, it is also appropriate to record my view that the unreliability of Mr Stokes' evidence was, in part, a product of his reconstruction of events through the prism of self-interest, layered with more than a little wishful thinking.** Mr Stokes' evidence demonstrates that he was extremely resolute and persistent in pursuit of his and Seven's business objectives, sometimes to the point of obstinacy. His relentless attempts to enlist the ACCC as an ally in Seven's battles with its opponents are examples of both persistence and, to a marked degree, apparent over-optimism.

397 Mr Stokes demonstrated a tendency both in his actions and evidence to see the commercial world, particularly the propriety of his competitors' conduct, in rather black and white terms. (This trait has not proved an insuperable obstacle to Seven itself switching allegiances, as shown by its alliance with Ten in bidding for the AFL broadcasting rights in 2005.) **A rather Manichaean view of the commercial world may or may not explain Mr Stokes' propensity to engage in litigation** (a propensity of which the Respondents sought to

make much, although it hardly seems to be unique in the television industry). But it may help to explain how he could believe that particular discussions or events occurred, or that certain beliefs were expressed or opinions held, when the objective evidence strongly suggests otherwise. **A firm grasp of the facts, in the lawyer's sense, is evidently not a prerequisite to business success.**

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.

5 26 Defence of contextual truth

It is a defence to the publication of defamatory matter if the defendant proves that:

(a) the matter carried, in addition to the defamatory imputations of which the plaintiff complains, one or more other imputations ("contextual imputations") that are substantially true, and

(b) The defamatory imputations do not further harm the reputation of the plaintiff because of the substantial truth of the contextual imputations.

4.1 In my defence it is easily provable that Kerry Stokes is a perjurer. Any other claims or imputations whether right or wrong would not do any further harm to his reputation.

6 30 Defence of qualified privilege for provision of certain information

(1) There is a defence of qualified privilege for the publication of defamatory matter to a person (the "recipient") if the defendant proves that:

(a) the recipient has an interest or apparent interest in having information on some subject, and

People who read my website, Twitter account and Youtube videos are people who follow my site by email, follow my Twitter account and follow my YouTube account. These are all opt-in services. For example on the top right hand side of my website it says "Follow this site via email". People enter their email address and receive an email they must click on to confirm. When this is done they are on my email list and every time I publish a new article they receive an email letting them know. It works in a similar matter with Twitter and YouTube. They do this because they have an "interest in having information on the matters that I write about which is judicial corruption, political corruption and associated matters.

Other readers do keyword searches on Google etc because they have an interest in that subject and come to my site that way because I have written about that subject and show up on the searches.

(b) the matter is published to the recipient in the course of giving to the recipient information on that subject, and

This is similar to (a). What I publish is in the course of giving my followers information on the subjects that I write about and what they want to read about. That's why they follow my website in the first place.

(c) the conduct of the defendant in publishing that matter is reasonable in the circumstances.

Almost everything that I write about is in the media to some degree and I most times put links back to the source. For example I call Kerry Stokes a perjurer on my website. But I put a link back to the source material such as Justice Sackville's judgement where he said Stokes gave "knowingly false" evidence and evidence that he "knew was untrue".

(2) For the purposes of subsection (1), a recipient has an apparent interest in having information on some subject if, and only if, at the time of the publication in question, the defendant believes on reasonable grounds that the recipient has that interest.

If a recipient of my articles no longer have an interest in what I write they can unsubscribe at any time. If they are still subscribers when I publish my articles I believe "on reasonable grounds that the recipient has" an interest in what I publish at that time.

(3) In determining for the purposes of subsection (1) whether the conduct of the defendant in publishing matter about a person is reasonable in the circumstances, a court may take into account:

(a) the extent to which the matter published is of public interest, and

The matters that I publish about have a huge public interest as they deal with corruption in the government, judiciary and private sector who influence government.

(b) the extent to which the matter published relates to the performance of the public functions or activities of the person, and

The matters raised issues of government corruption and influence. E.g. Threatening government officials and bribing judges.

(c) the seriousness of any defamatory imputation carried by the matter published, and

The matters are very serious and need to be dealt with in open court by a jury.

(d) the extent to which the matter published distinguishes between suspicions, allegations and proven facts, and

The articles that I have written distinguish "between suspicions, allegations and proven facts" very well are the articles always have many references.

(e) whether it was in the public interest in the circumstances for the matter published to be published expeditiously, and

There is always a huge public interest to have matters of corruption published ASAP.

(f) the nature of the business environment in which the defendant operates, and

I operate in the online world mostly and it has a very fast news cycle.

(g) the sources of the information in the matter published and the integrity of those sources, and

A lot of my sources are the mainstream media and court judgements. An example is that I am relying on the judgements of 4 federal court judges who said that Kerry Stokes gave "knowingly false" evidence and evidence that he "knew was untrue" while he was in the witness stand under oath.

(h) whether the matter published contained the substance of the person's side of the story and, if not, whether a reasonable attempt was made by the defendant to obtain and publish a response from the person, and

The stories I publish are generally in mainstream media at least to some degree or court judgements. It is pointless to ask Kerry Stokes to verify if he is a perjurer or not.

(i) any other steps taken to verify the information in the matter published, and

If it is a court judgement it is on record and no need to verify.

(j) any other circumstances that the court considers relevant.

Kerry Stokes defames people all the time very Channel Seven and his other media and should not have such a glass jaw. He is also a frivolous and vexatious litigant.

(4) For the avoidance of doubt, a defence of qualified privilege under subsection (1) is defeated if the plaintiff proves that the publication of the defamatory matter was actuated by malice.

I write about anyone and everyone. There is no malice on my behalf. In fact Kerry Stokes has done me a favour as he has helped me identify corrupt judges in the NSW Supreme Court.

(5) However, a defence of qualified privilege under subsection (1) is not defeated merely because the defamatory matter was published for reward.

7 Defence of Qualified Privilege – Common Law

To put my common law qualified privilege defence in context I will start off with the High Court of Australia Precedent *Lange v ABC*

**← 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*****

8.1 My Defence for Qualified Privilege – Common Law is:

I rely on the decision above of *Lange v ABC* and also the HCA decisions in *Theophanous v Herald & Weekly Times Ltd*[2], *Stephens v West Australian Newspapers Ltd*[3] and *Coleman v Powell* (2004) to plead a defence against the action brought by the plaintiffs:

(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 Australia which relates to the performance by such members of their duties as members of the parliament and government of Australia;

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

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

(ii) of and concerning the plaintiffs who have influenced members of parliament and also are arguably part of the government given Kerry Stokes influence etc. E.g. Mr Stokes donates to Malcolm Turnbull's election fund, has meetings with politicians to discuss government policy and attends Senate Committee hearings to answer questions and discuss policy etc. Mr Stokes and his son Ryan also sit on Government Boards etc.

(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."

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 I as 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 Australia.

8 I will also be relying on the Defence of Justification for the all other imputations claimed by the applicants. As for the other imputations in paragraph 5 of the applicants amended statement of claim there are numerous news articles that I will rely on which prove the truth of what I wrote and the imputations that the applicants complain of are true. Some of the news articles include the following:

Channel Seven film crew start filming at Schapelle Corby's villa at the Sentosa Seminyak in Bali

- by: *Kristin Shorten in Bali*
- 1 year ago February 13, 2014 4:13PM

A CHANNEL Seven film crew is setting up equipment outside Schapelle Corby's luxury resort villa for her first interview since being freed from jail.

Yesterday cameramen and producers arrived at Sentosa Seminyak in Bali — where the Corby clan has been holed up since Monday — ahead of the exclusive tell-all.

Today they have been seen shooting footage outside Corby's villa and in the resort's restaurant.

It's understood Seven may have booked out the resort's signature restaurant Salt, owned by Australian celebrity chef Luke Mangan, for filming tonight.

It's unclear whether the imminent interview will take place today or whether the film crew are just shooting background footage for the interview.

However Seven would be growing increasingly anxious to record the interview as soon as possible, as tension inside Corby's villa rises.

SCHAPELLE'S FIRST MEAL OUT OF JAIL - WHO COOKED, WHAT SHE ORDERED

Seven won the race to snare the first interview with the drug smuggler, to be conducted by Mike Willessee.

The veteran journalist has been in Bali for more than a week awaiting the former jailbird's flight to freedom.

This comes as critics voice their disapproval of Corby's accommodation and reported \$2 million interview deal with the Seven Network.

Already Channel Seven Sunrise co-host David Koch has criticised the decision to pay for her story.

The governor of Kerobokan Prison, Farid Junaedi, told the Denpost newspaper that Corby would be "stupid" to do such an interview.

Queensland Premier Campbell Newman has also warned that his government would seek to prevent Corby from profiting from her situation.

[SCHAPELLE CORBY'S PRIVATE HIDEAWAY REVEALED](#)

Newman said he would be asking his Attorney-General Jarrod Bleijie if payments to Corby could be stopped under Queensland's proceeds of crime laws.

On Monday the convicted drug smuggler's mother Rosleigh Rose allowed Seven cameras exclusive access to film her reaction as she watched from Brisbane as Schapelle was bundled out of Kerobokan Prison and through to Bali's Indonesian parole office.

The vision is thought to be a part of a multifaceted media deal worth in excess of \$2 million, including the first interview to air on Seven's Sunday Night program, with other stories to roll out across the Seven Media Group's publishing assets including New Idea magazine.

[SCHAPELLE'S SURPRISE PAROLE VISIT IN PRIVATE HIDEAWAY](#)

Channel Seven has paid the Corbys almost \$5 million in total — \$3 million in previous defamation payments and a further \$2 million for an exclusive interview.

The huge sum saw Corby take extraordinary steps to protect her exclusive deal, shrouding her face in scarfs and a hat to ensure the first image of her face goes to the highest bidder.

The \$2 million plus deal is one of the biggest in Australian history and follows months of speculation Schapelle could step out of jail and become an instant multi-millionaire, finally pocketing the dollars the rest of her family has done during her incarceration for smuggling 4.2 kilos of cannabis nine years ago.

Rosleigh Rose showed her contempt for Nine's telemovie Schapelle, wearing a provocative T-shirt during Seven's cross this morning which read: "dead men can't sue."

Swaddled in scarfs and a checked black and white hat, Schapelle kept her face largely covered during her exit from jail, maximising the impact of any media deal for TV or magazines.

Having clearly lost the ratings battle to Seven's INXS on Sunday night — and the news race to ink a deal with Corby — Channel Nine have thrown the dice again and aired an "encore" of its telemovie on Monday night after pulling just over 1.3 million viewers nationally.

<http://www.news.com.au/national/channel-seven-film-crew-start-filming-at-schapelle-corbys-villa-at-the-sentosa-seminyak-in-bali/story-fncynjr2-1226826281309>

The ‘Curse of the Corbys’: Is Seven’s big interview dead in the water?

- by: *NICK BOND AND ALISON STEPHENSON*
- From: *news.com.au*
- February 18, 2014 10:52AM

SCHAPELLE Corby’s release from prison last Monday set off an intense week for both the Corby family and the Channel 7 network.

For a time, it appeared Seven had paid handsomely for what would undoubtedly be the biggest TV interview of the year. Now, little over a week later, Seven’s offices are being raided by the Australian Federal Police and the likelihood of the interview taking place is diminishing, as the Corby family agree to cooperate with the Indonesian authorities.

The whole thing is quickly becoming one of the biggest media furores in recent times.

“You have to be careful what you wish for,” Head of News & Current Affairs for Channel Nine, Darren Wick, told *news.com.au*.

“We’re not in the business of gloating, but there’s clearly been a backlash of public opinion within Bali and Indonesia. There is a cost for an interview like this and it’s not just financial, it’s damage to the brand also, it’s messy. This is one of those cases where we are happy to sit on the sidelines.”

Wick described the AFP raid on Seven as “extraordinary”, but he believes Seven could well have paid the reported \$2-3 million in a packaged deal.

“While we’d love to have the interview — we never got to make an offer, mind you — my bosses here, David Gyngell etc, have always expressed caution. There’s always a limit to everything and there’s no way we’d want to try to find those millions at the expense of someone else’s job.”

An industry source echoed Wick’s sentiments to *news.com.au*, adding: “We call it the ‘Curse of the Corbys’ — everyone gets burned, everything goes arse up”.

But according to Steve Allen from marketing and brand strategist agency Fusion Strategy, today’s raid will have absolutely “no effect” on the perception of the Seven Network to their wide and varied audience.

“No, not at all, no effect,” he told *news.com.au*. “I can understand that the AFP would be interested in what has (gone on) but I still don’t understand why the AFP has done this. It remains a real mystery.”

Media lawyer Justin Quill from Kelly Hazell Quill told *news.com.au* that the raid by the Federal Police was most likely a “fact finding mission” to see what has and has not been paid to Corby, but added that it seemed “heavy handed” and that there are less intrusive ways of gathering information.

“The first point of call is usually to request information,” explained Mr Quill. “If there is no response then you can go through the correct authorities.”

“There is nothing illegal in Channel 7 paying for the (Corby) interview. I see it like paying for a Beyoncé interview. It’s just entertainment. The only real criticism is that they are paying a convicted drug trafficker so the proceeds might be seized once she receives them.”

When asked whether other television stations must be rubbing their hands together with glee over the latest developments in the Corby interview saga, Mr Quill said: “I’m sure they are.”

Many have questioned how Corby’s payment could be blocked under the Proceeds of Crime Act, given her crime occurred on foreign soil.

news.com.au understand that any benefit derived by Corby would likely fall within the definition of “literary proceeds” under the Act. Literary proceeds is defined to include any “benefit that a person derives from the commercial exploitation of the person’s notoriety resulting, directly or indirectly, from the person committing an indictable offence or a **foreign indictable offence.**”

It’s also worth noting, given the pressure exerted in the past week from Indonesian government officials seeking to block the interview, that Indonesia is ranked 132nd in the 2014 [World Press Freedom Index](#). Australia is ranked at number 28.

So how did it all go so wrong for Seven?

Here’s a recap of the dramatic events of the past week:

February 10

[Schapelle Corby released from prison](#). It’s reported [Sunday Night reporter Mike Willesee](#) and producer Andy Byrne are waiting outside the corrections office to whisk her away with a fleet of four private cars and security guards.

Media reports state that Corby is being paid up to \$2 million dollars by Channel 7 to tell her story.

February 11

The Seven network’s biggest star, David Koch, [slams the network’s decision to pay Corby](#) while on air presenting the *Sunrise* program.

“I reckon we should have nothing to do with her as a network,” Koch says.

“I totally disagree with paying a convicted drug smuggler \$2 million. I know Indonesia is corrupt and all that sort of stuff, but she is convicted.”

Later he refers again to the controversial payment in a call-out to viewers to enter the show’s cash giveaway competition.

“How would you like to win some Mega Cool cash without spending time in an overseas jail?” he asks.

February 12

[Indonesian authorities pay Schapelle Corby an unscheduled visit.](#)

Corby's parole team visit her at the Sentosa Seminyak resort where she is staying, where they spoke to her sister Mercedes and brother-in-law Wayan Widyartha.

The governor of Kerobokan Prison, Farid Junaedi, tells the Denpost newspaper that Corby would be "stupid" to do a paid interview.

"On parole, she is still considered as a prisoner, though she's free and outside," he is quoted as saying.

"I've made it clear to the family that if she's willing to be interviewed, that would be stupid of her."

Queensland Premier Campbell Newman also warns that his government would seek to prevent Corby from profiting from her situation.

February 14

Corby is warned by Indonesia's Deputy Justice Minister not to conduct a tell-all interview or face having her parole being revoked.

Speaking in Bali, Denny Indrayana says any interview could cause unease in the community which could be a breach of her parole.

He says he is echoing the thoughts of the Justice Minister Amir Syamsuddin, with whom he has discussed the matter.

February 17

Nurses attend the luxury resort where Schapelle Corby is staying under the name of 'Jodie Hawkins'. Channel 7 staff including *Sunday Night* producer Andy Byrne and a number of their personal security detail are seen separately leaving and returning to the resort.

Byrne says he does not know if veteran journalist Mike Willesee's interview with Corby will still go ahead, but refuses to answer further questions.

February 18

[Channel 7's Sydney headquarters are raided by the Australian Federal Police](#), with officers searching for anything relating to Corby.

The television network's cameras filmed the raids at the Jones Bay Wharf offices, which were carried out by Australian Federal Police officers.

It is understood the raid is relating to any material or documentation involving the network and the Corbys and any rumoured paid interviews. The network's Martin Place offices are also understood to have been raided.

Sunday Night Executive Producer Mark Llewellyn was contacted for comment but has not responded to news.com.au's calls.

Has the Corby interview saga harmed Seven? Have your say in the comments below.

Comments on this story

- [Read all 6 comments](#)

- *sidney marshall of robina* Posted at 2:24 PM February 19, 2014

Yes what a worry about raiding the T V station such an expensive waste by the authorities . Bryon and Tom got it right .

- *Concerned resident* Posted at 8:22 AM February 19, 2014

Hmmm interesting...did the Federal or State Government intervene to stop Mark "Chopper" Read from being paid / profiting from his crime by telling his story to multiple tv channels, writing his book or consulting on his movie? Why is there now such special attention given to Corby?

- *Byron of Southport* Posted at 8:33 PM February 18, 2014

If the AFP are so keen to find any monies paid to Corby, does the \$4000-plus per night hotel villa they are staying in, courtesy of Channel Seven, count as a "payment or consideration"?

<http://origin.ls.goldcoastbulletin.com.au/news/gold-coast/the-curse-of-the-corbys-is-sevens-big-interview-dead-in-the-water/story-fnj94idh-1226830489537>

Schapelle Corby parole: Channel Seven's Mike Willesee talks down rumoured deal with drug smuggler

By [John Taylor](#) in Bali and staff

Updated 12 Feb 2014, 5:09pm Wed 12 Feb 2014, 5:09pm

Channel Seven journalist Mike Willesee has labelled as "way silly" claims that his employer secured a multimillion-dollar deal with Schapelle Corby, who was released on parole from an Indonesian jail yesterday.

According to several media reports, Channel Seven will pay up to \$3 million for exclusive rights to the 36-year-old convicted drug smuggler's story.

The network has also reportedly paid for Corby to stay in the luxury Sentosa Seminyak resort in Bali, where Willesee is also staying.

Corby arrived at the resort on Monday after being released from Bali's notorious Kerobokan Prison, where she served nine years of a 20-year sentence.

While not denying a deal had been done with Corby, Willesee said the suggestion she had been paid \$2 million or more was "false".

"I don't know what the figure is, but I know that's crazy," he told media outside the Sentosa complex.

"It's not up there at all.

"Everyone is entitled to their opinion, but all I know is the published figures are way silly. They're false."

[Look back at how events unfolded as Schapelle Corby was released on parole.](#)

Australian magazine Woman's Day today published a photo on its website showing Corby standing beside her brother, both holding bottles of beer.

It is the first time she has shown her face since leaving jail.

Woman's Day claims Corby was escorted to her hotel by private security guards hired by Seven, and news crews have since stationed themselves outside.

Several of Willesee's high-profile network colleagues today voiced disquiet over the network's reported payments to Corby, including Sunrise host David Koch, who called on his bosses to boycott the Corbys.

"I reckon we should have nothing to do with her as a network," he said on air this morning.

"I totally disagree with paying a convicted drug smuggler \$3 million.

"I know Indonesia is corrupt and all that sort of stuff, but she is convicted."

Seven sports presenter Jim Wilson weighed in on Twitter, saying Corby should have made a statement before giving any interview.

[#Corby](#) the whole scarf over the head was ridiculous yesterday, walk out give a statement & then go and do your sit down tell all, done !

— Jim Wilson (@Jim_Wilson7) [February 10, 2014](#)

He later added: "Anyway I want to hear from Schapelle, in her words no tele movies or write arounds, from her own mouth!"

CHANNEL SEVEN MONEY WOULD FALL WITHIN PROCEEDS OF CRIME LAWS

Australia has proceeds of crime legislation to ensure criminals do not profit from their crimes, but the question now is whether Corby would be able to circumvent it from Indonesia.

Natalie Skead from the University of Western Australia Law School says any money being paid to Corby from Channel Seven would fall within the Australian law.

"I can't see how she could keep the money. The legislation is watertight, it is directed at precisely this kind of situation, this type of crime," she said.

"If the money is paid by Channel 7 it is not a realistic outcome for her to keep it, if that money is sourced from Australia, it falls within the legislation."

Ms Skead says the laws also cover services, such as the luxury hotel room where Corby is currently staying.

CORBY'S PAROLE CONDITIONS

Schapelle Corby will have to report to her parole officer in Indonesia regularly. Parole will be revoked if she:

- Commits a crime
- Is accused of committing a crime
- Causes discomfort to society
- Fails to report to her parole officer three times in a row
- Fails to report a change of address
- Fails to follow or obey programs organised by her parole officer

Corby would have to convince a court that she should be allowed to keep the money, Ms Skead says.

"The court may take into account whether there is social, cultural or educational value in the story, or if there is a public interest, but I'm not sure whether a public interest argument would have legs," she said.

"The only basis I can see is that her story may be of some educational value - or she may want to argue personal hardship, that she's already paid a high enough price.

"It's not necessarily a good argument, but it's an argument she could make."

Ms Skead says speculation that Corby could try to get around proceeds of crime laws by getting a family member to negotiate on her behalf or putting the money in a trust, is unlikely to succeed.

On social media Treasurer Joe Hockey said paying a convicted trafficker sends all the wrong messages.

But Indonesian authorities say as far as they are concerned it is legal.

Ketut Artha, head of the Correctional Board in Bali, said: "Basically she can give interviews."

"But before she does that she has to ask permission from us," he said.

He also cautioned that parole officers are closely watching what the Australian says and does.

"If she doesn't take parole seriously it would only bring harm to herself," he said.



[Photo: Schapelle Corby's face was concealed when she was released from prison yesterday. \(AAP: Johannes Christo\)](#)

Corby, a former beauty therapy student, was 27 when she was arrested in 2004 after authorities at Denpasar airport found 4.1 kilograms of marijuana in her bodyboard bag.

During her trial in 2005, Corby's defence team argued she was a victim of an elaborate drug-smuggling syndicate run by baggage handlers.

She was found guilty in May 2005, sentenced to 20 years in jail and fined more than \$13,000.

She has always maintained her innocence, and over the years she exhausted her avenues of appeal with no success in overturning her conviction.

In 2012 she was granted a five-year sentence cut after she applied for clemency from president Susilo Bambang Yudhoyono.

Combined with other small reductions in her sentence for good behaviour, Corby applied for parole after satisfying the requirement of serving two-thirds of her sentence.

She will have to live on the island under strict parole conditions until 2017. It is expected she will live with her sister, Mercedes, in her Kuta home in southern Bali.

<http://www.abc.net.au/news/2014-02-11/channel-seven-journalist-willesee-not-aware-of-payments-made-to/5252442>

Kerry Stokes 'threatens to quit' War Memorial over AFP raids over Channel Seven's bid for Schapelle Corby interview

The World Today

By [Lexi Metherell](#), staff

Updated 20 Feb 2014, 6:49pm Thu 20 Feb 2014, 6:49pm



Seven West Media chairman Kerry Stokes is threatening to quit his government positions in anger at Australian Federal Police raids in relation to Seven's bid for an interview with Schapelle Corby, the ABC understands.

Police searched the network's Sydney offices on Tuesday for evidence that proceeds of crime laws were being breached in relation to the convicted drug smuggler.

The AFP has defended its actions but the network maintains police over-reacted.

A source has told The World Today that Mr Stokes is now threatening to quit his government positions, including his membership of the Australian War Memorial Council.

Mr Stokes - who joined the council in 2007 and was re-appointed to another term in 2011 - is reportedly one of its most generous donors.

Seven has not responded to a request for a response.

The federal minister responsible for the War Memorial, Michael Ronaldson, says he does not discuss conversations between himself and members of those organisations.

Seven's commercial director, Bruce McWilliam, is demanding an apology from the AFP.

"They came in with these massive guns on their hips with the jackets sort of tucked in behind them so they were exposed," he said.

"The police have over-reacted and I just think ... it's incumbent on them to apologise."

SEVEN DEFENDS RIGHT TO NEGOTIATE WITH CORBY

Seven says it was complying with an order to produce documents under the Proceeds of Crime Act, issued by the AFP on February 11.

It says it still had time to produce those documents when the raids happened.

Mr McWilliam says among the documents Seven gave police was correspondence between the network and Corby's sister, Mercedes.

He has defended the network's right to negotiate with Corby.

It's not a crime to negotiate with a criminal, to do an interview - and it's not a crime to pay a criminal for an interview.

Bruce McWilliams

"It's not a crime to negotiate with a criminal to do an interview - and it's not a crime to pay a criminal for an interview. Everyone should be quite aware of that," he said.

"The only crime, the only thing that the act permits is that the government can seize any proceeds paid."

Seven West Media has also alleged that federal police gave false information in the raids on the Seven Network over its dealings with Corby.

Mr McWilliam claims officers made misleading accusations about a lawyer to secure a warrant for the raids.

That has been strongly rejected by the AFP.

"Claims that the appropriate authorisation was not obtained in relation to yesterday's warrants are strongly refuted by the AFP," it said in a written statement.

"These warrants were legally authorised, and during their execution, AFP members behaved in full accordance with their responsibilities and legal obligations."

FLURRY OF CALLS AS THE RAID HAPPENED

Mr McWilliam phoned Communications Minister Malcolm Turnbull, who is his former legal partner, as the raids began on Tuesday morning to ask what was happening.

That prompted a flurry of phone calls among Cabinet ministers.

It is understood Mr Turnbull called Justice Minister Michael Keenan, whose office says he had been informed of the raids as they were happening, not before.

Mr Turnbull then spoke to Attorney-General George Brandis, who then had a conversation with Mr Stokes.

A Seven spokesman says Mr Stokes is currently travelling overseas.

<http://www.abc.net.au/news/2014-02-20/stokes-afp-raids-on-seven-over-schappelle-corby/5272814>

Kerry Stokes threatens to quit War Memorial over AFP raids on Seven

Seven West Media chairman Kerry Stokes is understood to have threatened to resign from the Australian War Memorial Council in anger at [Australian Federal Police raids](#) on the Seven network.

Stokes, who joined the council in 2007 and was re-appointed to another term in 2011, has been one of the War Memorial's most generous donors.

Stokes has purchased and donated four Victoria Cross medals, worth around \$600,000 each, to the memorial.

In 2012 he donated over 800 glass-plate negatives depicting Australian soldiers in World War I.

Sources said Mr Stokes' departure would come as a blow for the War Memorial as it prepares to commemorate the centenary of Anzac Day next year.

Fairfax Media asked Veterans' Affairs Minister Michael Ronaldson this morning whether Mr Stokes had resigned from the council.

A spokesman for Mr Ronaldson responded: "The Minister has responsibility for a number of Boards, including the Australian War Memorial Council, and does not discuss conversations between himself and members of those organisations."

A Seven spokesman said Mr Stokes was currently travelling overseas.



Kerry Stokes, pictured at the Australian War Memorial, has threatened to resign from its council in protest at an AFP raid on the Seven Network. *Photo: Penny Bradfield*

<http://www.smh.com.au/national/kerry-stokes-threatens-to-quit-war-memorial-over-afp-raids-on-seven-20140220-332wd.html>

Schapelle Corby can remain in luxury villa, but television interview still banned: Indonesian minister

Date

February 26, 2014



Nice digs ... Schapelle Corby will be able to remain at the five-star Sentosa Seminyak villas where she has been staying since her release from prison in Bali. *Photo: Justin McManus JZM*

Jakarta: Indonesia's law and human rights minister has softened his stance on Schapelle Corby's accommodation, saying she is welcome to stay in her luxury villa as long as she needs for a "transitional adjustment period".

However, Minister Amir Syamsuddin still appeared to be adamant that Corby should not do an interview, paid or unpaid.

Mr Amir's comments late on Tuesday suggest he has read the letter delivered to his Jakarta office by Corby's sister Mercedes and brother-in-law Wayan Widyartha last week, and heeded at least one of their arguments.



Interview ban ... Schapelle Corby has been warned by the Indonesian authorities not to do an interview with Channel 7 or risk returning to jail. *Photo: Jason Reed*

Ms Corby and Mr Wayan pleaded in the letter for Schapelle to be allowed to do the interview with reporter Mike Willesee for the sake of her mental health. They said it was the only way to clear out the other reporters waiting to a glimpse of her.

They also argued that forcing the family to leave the five-star Sentosa Seminyak villas to move into their Kuta compound would distress their neighbours because of the media pack camped outside.

Mr Amir appeared to adopt that argument on Tuesday, conceding that Corby could stay where she was because of “the problem she will cause her neighbours”.

Her current accommodation — presumably paid for by Channel Seven, which is hoping to secure an exclusive interview — has caused controversy in Indonesia because it does not seem fitting for a drug convict.

But Mr Amir said it was “only temporary”.

“She is seeking calm and quiet according to the report from the Bali Corrections bureau ... As long as her staying there is not causing restlessness, it's not a problem,” the minister said.

However, asked if the interview was still forbidden, Mr Amir said it would “create a feeling of injustice” if Corby “instantly acquired” payment from Channel 7.

“I feel that any activity that might cause restlessness and social jealousy needs to be avoided,” Mr Amir said.

He acknowledged the statement in the Corbys’ letter that Schapelle would not be paid for the interview, but added that an interview “still has the potential to cause restlessness in the community”.

Corby’s parole conditions are simple, but government regulations allow broad political discretion for it to be revoked, including the “community restlessness” clause.

Strong negative public reaction to Corby’s behaviour immediately after she was released on February 10 caused anger in Indonesia in an election year, putting pressure on politicians to crack down on her.

But despite the consistent view of the minister and his deputy that an interview should not take place, Willesee and the Corby family are still sequestered together and hoping to be able to conduct the exclusive without seeing Schapelle sent back to Kerobokan prison.

9 I will also be using the articles themselves, relevant transcript and judgements and lack of judgements as evidence. An example being an article on my website:

Justice Lucy McCallum takes bribes and does judicial favours for her friends

I have had to take the previous post that was here down in the short term by orders of Justice Adams of the Supreme Court of NSW. I will write a new post soon.

Below is transcript showing Justice McCallum having a hearing with Kerry Stokes barrister Sandy Dawson without my knowledge or consent. It is very dodgy to say the least. All three of them should be put in jail.

IN THE SUPREME COURT

OF NEW SOUTH WALES

COMMON LAW DIVISION

McCALLUM J

TUESDAY 6 MAY 2014

2014/114469 – JUSTINE MUNSIE v SHANE DOWLING

Mr A Dawson for the Plaintiff

No appearance for or on behalf of the Defendant

(Mr Dawson moved on the notice of motion seeking short service.)

(Her Honour declared that she had been briefed as a barrister in the past by Ms Munsie. No objection to her Honour dealing with the matter. Her Honour requested that the defendant be advised.)

AFFIDAVIT OF ELIZABETH MUNSIE OF 14/04/14 READ

AFFIDAVIT OF RICHARD MICHAEL KEEGAN OF 17/04/14 READ

DAWSON: This motion arises out of applications which have been before Harrison J in previous weeks in his capacity as duty judge.

On 14 April 2014 the plaintiffs moved on an ex parte basis for an injunction to restrain the publication of a defamatory matter and for at least an interim suppression order. The reasons were explained to his Honour. I will give your Honour an overview.

On that day his Honour declined to make any interim injunction, brought the matter back before his Honour on Thursday of that week, the Thursday before and on that day there was a contested hearing.

On 14 April his Honour made an interim suppression order which was communicated annexed with the other orders to the defendant.

Between the 14th and 17th the defendant breached the suppression orders in various ways. The details of that is not necessary to descend into at the moment.

When the matter came before his Honour on the contested hearing, on the application for the injunction, on Monday 14th, the plaintiffs articulated an additional basis for the injunction that had been sought and for the injunction to be granted in wider terms sought on the Monday in light of the fact that there had been a breach of the suppression order and conduct amounting to, on the plaintiffs' application, contempt of the kind designed to intimidate parties to the proceedings; in other words, on another view and alternative basis, for relief of an injunctive kind.

After argument on the Thursday, his Honour reserved, having accepted an undertaking of the defendant of a limited kind as to future publication. His Honour did not make any other interim orders in respect of publication or any other matter and his Honour delivered judgment on 24 April.

At para 25 of that judgment Harrison J recorded that (read). That is not, on the plaintiffs' point of view, accurate. What must have appeared to his Honour was that, in articulating the further and additional basis for the injunction, the plaintiffs had in some way abandoned the original basis for the application. In any event, whatever transpired, the application for the injunction on the defamation basis hasn't been determined and the plaintiffs wish to have that application heard and determined.

HER HONOUR: And what is the urgency which warrants the abridgement of the time for service?

DAWSON: The urgency is that the key publications remain on line. The proceedings are for a permanent injunction to restrain the publication of that material. No award of damages is sought in the statement of claim which commenced the proceedings, and the longer the plaintiffs go without their application for interrogatory relief being heard and determined, hopefully in their favour, the less is the value finally sought in the formation of a permanent injunction.

On the plaintiffs' case, this is the strongest kind of case for a defamation injunction because Mr Dowling hasn't been able to and did not offer any evidence to suggest that he was in a position to defend the allegations that have been made and which have defamed the plaintiffs and Harrison J makes some remarks about the nature of the material which strengthens the plaintiffs' resolve on that front.

For example, at para 45 of his Honour's reasons, his Honour says (read).

I attempted to have the proceedings relisted before Harrison J last week. His Honour declined to relist it and he is on leave this week, so there is no opportunity to go back before his Honour, which might seem to be the most obvious first course. If Thursday isn't convenient—

HER HONOUR: It's not a question of convenience, I don't know that it's proper for me to hear it, is it? We could wait and see if there is an objection.

DAWSON: Perhaps if the matter were to come back for directions tomorrow and Mr Dowling could indicate.

HER HONOUR: I have to say, Mr Dawson, whilst I could well appreciate the anxiety that might be caused by the failure to determine the application on that primary basis on which it was put, given that the application was originally heard on 17 April 2014 and the passage of time between then and now, it's difficult to see any urgency such as to warrant abridging the three day period to two days, or one day.

DAWSON: Two days to three days would see us come back on Friday.

HER HONOUR: If you serve by 5 pm today. Why not serve it by 5 pm today and have it returnable on Friday and that doesn't involve an abridgement?

DAWSON: We could do that if your Honour is against us on an abridgement of time.

(Discussion re date.)

HER HONOUR: At the moment I am not persuaded that there is such urgency to warrant the abridgement of time between now and Thursday.

DAWSON: the application was brought promptly upon the plaintiffs becoming aware of the publications. If your Honour goes to the affidavit of Ms Munsie of 14 April, in para 4 (read). One of the concerns, having become aware of the existence of the article, is the matter referred to by Ms Munsie in para 11 (read).

HER HONOUR: What was Google's response?

DAWSON: There has been no response. The Google search does indicate that whatever might be said about the relative absurdity of Mr Dowling's website, we wouldn't accept it necessarily falls into that category, but whatever is searched as the most popular search engine is bringing this up when Mr Dowling's name is mentioned.

(Mr Dawson sought instructions as to the matter coming back before her Honour on Friday.)

(Short minutes of order handed up by Mr Dawson.)

HER HONOUR: I note orders 1 to 4 in the short minutes of order.

I grant leave to the plaintiffs to file in Court the affidavit of Justine Melissa Munsie sworn 6 May 2014.

Notice of motion filed in Court.

oOo

Justice McCallum did abridge the above notice of motion and it was set down 2 days later before the Duty Judge Justice Hall. McCallum looked after her friends Justine Munsie and Sandy Dawson.

Transcript from FRIDAY 16 MAY 2014 before HAMILL J

Where Kerry Stokes barrister says the below in relation to Justine Munsie (who ia the first plaintiff) and Justice Lucy McCallum

Dawson: Now the reason it is not going to the defamation list, as it ordinarily would, your Honour, is that **her Honour McCallum J who is the defamation list judge, when she was at the bar was briefed regularly by the first plaintiff, who was a solicitor.** And we anticipated Mr Dowling may have a different view. But we anticipated that that might cause Mr Dowling some concern. And that, rather than waste time and put it into the defamation list for him only to take that point when her Honour would inevitably raise it, we should raise it now and raise it before another judge of the division.

10 31 Defences of honest opinion

(1) It is a defence to the publication of defamatory matter if the defendant proves that:

(a) the matter was an expression of opinion of the defendant rather than a statement of fact, and

Everything that I write on my website is my honest opinion.

(b) the opinion related to a matter of public interest, and

Everything that I write about, which is mainly corruption, is in the public interest

(c) the opinion is based on proper material.

I base my opinions on material available on mainstream media sites and court judgements etc.

Sections (2) and (3) not relevant

(4) A defence established under this section is defeated if, and only if, the plaintiff proves that:

(a) in the case of a defence under subsection (1)-the opinion was not honestly held by the defendant at the time the defamatory matter was published, or

(b) in the case of a defence under subsection (2)-the defendant did not believe that the opinion was honestly held by the employee or agent at the time the defamatory matter was published, or

(c) in the case of a defence under subsection (3)-the defendant had reasonable grounds to believe that the opinion was not honestly held by the commentator at the time the defamatory matter was published.

(5) For the purposes of this section, an opinion is based on **"proper material"** if it is based on material that:

(a) is substantially true, or

(b) was published on an occasion of absolute or qualified privilege (whether under this Act or at general law), or

(c) was published on an occasion that attracted the protection of a defence under this section or section 28 or 29.

(6) An opinion does not cease to be based on proper material only because some of the material on which it is based is not proper material if the opinion might reasonably be based on such of the material as is proper material.

33 Defence of triviality

It is a defence to the publication of defamatory matter if the defendant proves that the circumstances of publication were such that the plaintiff was unlikely to sustain any harm.

Justice Harrison in his judgement of April 2103 said there would be no harm to Kerry Stokes or Justine Munsie. On that alone the defence of triviality is well and truly arguable and could and should be put to a jury

Videos

I also have a number of Video's that I will tender as evidence. E.g. David Koch complaining about Channel 7 paying Schappelle Corby

Witnesses – Defamation Proceedings

I will require both applicants for cross examination. That being Kerry Stokes and Justine Munsie.

I will also require a number Seven West Media employees (Channel 7) for questioning. They include but are not limited to David Koch and Samantha Armytage who host the Sunrise program on Channel 7 and Michael Willesee who also does reporting for Channel 7.

The matter could and should be heard by jury.

My defence includes but is not limited to the above as the applicants are still to file their full claim and also to answer interrogatories and comply with discovery.

SIGNATURE

Signature

Capacity

Defendant

Date of signature

26/2/2015