



5 June 2015

Our Ref: MOC:RMK:SEV001/4058

Mr Shane Dowling
5/68-70 Curlewis Street
BONDI NSW 2026

PRIVATE & CONFIDENTIAL

Dear Mr Dowling

Munsie v Dowling – Supreme Court of NSW proceeding: 2014/114469

We attach, by way of service, orders made by the Supreme Court of New South Wales earlier today in this proceeding.

As you will see the orders relate to false accusations made about Mr Ryan Stokes and accordingly he will now be added as the third plaintiff to this proceeding when the second further amended statement of claim is filed next week.

In accordance with order 3 made today, we attach the following:

1. The affidavit of Richard Michael Keegan sworn 5 June 2015;
2. Exhibit A on the application (being the document entitled "Imputations 5 June 2015");
3. Orders made on 5 June 2015.

Yours faithfully

Richard Keegan
Senior Associate

Direct Line: (02) 8915 1075

Direct Fax: (02) 8916 2075

Email: richard.keegan@addisonslawyers.com.au

AFFIDAVIT OF RICHARD MICHAEL KEEGAN – 5 JUNE 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	<u>Justine Munsie</u>
Number of plaintiffs	<u>2</u>
Defendant	<u>Shane Dowling</u>

FILING DETAILS

Filed for	Justine Munsie and Kerry Stokes plaintiffs
Filed in relation to	Plaintiffs' notice of motion
Legal representative	Martin O'Connor, Addisons
Legal representative reference	RMK: MOC
Contact name and telephone	Martin O'Connor, +61 8915 1027

AFFIDAVIT

Name Richard Michael Keegan
Address Level 12, 60 Carrington Street Sydney NSW 2000
Occupation Solicitor
Date 5 June 2015

I say on oath:

- 1 I am a solicitor employed by Addisons and act for the plaintiffs.
- 2 I am authorised by the plaintiffs to swear this affidavit on their behalf and make this affidavit based on my personal knowledge or else on information provided to me by the plaintiffs, which information I believe to be true.
- 3 Justine Munsie, the first plaintiff, is a solicitor and a partner of Addisons. She was admitted to practice in New South Wales in 1997.
- 4 Mr Stokes, the second plaintiff, is the Chairman of Seven West Media, whose media assets include the Seven Network which broadcasts news, current affairs and other programs throughout Australia.
- 5 The plaintiffs commenced this proceeding for defamation on 14 April 2014.

History of dealings with the NLA

- 6 In late 2013 the second plaintiff became aware that the National Library of Australia's (NLA's) web archiving section had been archiving blog posts written by the defendant, in its web archive PANDORA (Pandora Archive). The second plaintiff was concerned with accusations made against him in the defendant's articles published at his website <http://kangarocourtofaustralia.com/>.
- 7 On 2 September 2013, the second plaintiff sent a letter, by email, to the NLA's web archiving section setting out the first plaintiff's concerns and requesting that the defendant's website or specified publications be removed from the Pandora Archive. Annexed to my affidavit and marked "A" is a copy of that letter.
- 8 I am informed by the second plaintiff, and believe it to be true, that neither he nor his son, Ryan Stokes, had any involvement with the NLA's decision making following from that letter.




- 9 I am informed by the second plaintiff's son, Ryan Stokes, and believe it to be true, that neither he nor his father, the second plaintiff, had any involvement with the NLA's decision making following from that letter.
- 10 On or about 3 March 2014, the defendant sought, from the NLA, access under the Freedom of Information Act 1982 to correspondence between a complainant and the NLA in relation to his website. On or about 1 May 2014 he was granted (partial) access to some documents.
- 11 On or about 1 May 2015, the defendant was granted greater access to the documents that he sought, as a result of a decision of the Privacy Commissioner on 27 March 2015.

The defendant's publications relating to the Pandora Archive

- 12 On or about 29 March 2015, the defendant published an article on his website entitled "Kerry Stokes & the NLA lose Freedom of Information legal battle against KCA Blogger" (available at: <http://kangarocourtofaustralia.com/2015/03/29/kerry-stokes-the-nla-lose-freedom-of-information-legal-battle-against-kca-blogger/>). Exhibited to my affidavit and marked **Confidential RMK1** is a copy of that article.
- 13 On or about 10 May 2015, the defendant published an article on his website entitled Channel 7's Ryan Stokes thrown under a bus for corruption as Chair of the National Library (available at: <http://kangarocourtofaustralia.com/2015/05/10/channel-7s-ryan-stokes-thrown-under-a-bus-for-corruption-as-chair-of-the-national-library/>). Exhibited to my affidavit and marked **Confidential RMK2** is a copy of that article.
- 14 I am informed by the second plaintiff, and believe it to be true, that neither he nor his son, Ryan Stokes, were aware of either of these articles published by the defendant before 5 June 2015.


History of dealings with the defendant

- 15 The plaintiffs commenced this proceeding for defamation on 14 April 2014.
- 16 Interlocutory injunctions restraining publications made by the defendant were obtained on 14 April 2014; 16 May 2014; 4, 11 and 13 June 2014; and 17 February 2015.
- 17 On 31 July 2014, his Honour Nicholas AJ found the defendant in contempt of court based on publications made contrary to suppression order and ordered the defendant to pay a fine of \$2000.




- 18 Throughout the history of these proceedings, when orders sought by the plaintiffs have been made, or the plaintiffs have contacted the defendant seeking to have him comply with orders he has been hostile, aggressive and difficult to deal with.
- 19 On the last occasion he was notified that the plaintiffs were seeking orders before Hulme AJ, he did not attend court. After orders had been obtained, and attempts were made to contact the defendant, he responded by leaving a voicemail in the following terms: "Hey Cock Breath. Shane Dowling here. Can you return my call ASAP. Ok. Bye". Exhibited to my affidavit and marked **Confidential RMK3** is a File Note made on 18 February 2015 setting out phone conversations, in relation to the last occasion the plaintiffs sought orders in this proceeding, where the defendant made similar comments.
- 20 On the last occasion orders were obtained by the plaintiffs and were served on the defendant, the defendant responded by publishing further material (on Twitter and by email) in breach of those orders.

SWORN at Sydney

Signature of deponent 

Name of witness Melissa May Corbutt

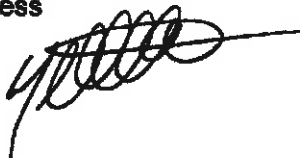
Address of witness Level 12, 60 Carrington Street
Sydney NSW 2000

Capacity of witness Solicitor of the Supreme Court of New South Wales, holding a current practising certificate under the Legal Profession Act 2004 (NSW)

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 known the deponent for at least 12 months.

Signature of witness




ADDISONS

Document No 2
This and the following 1 page(s) comprise
the annexure marked "A" to the affidavit of
RICHARD MICHAEL KOERBLIN sworn on 5 JUNE
2015 before me:


Justice of the Peace/Solicitor of the Supreme Court

2 September 2013

Our Ref: JMM:SEV001/4037

Web Archiving Section
National Library of Australia
Parkes Place
Canberra ACT 2600

By Email:
pkoerblin@nla.gov.au
webarchive@nla.gov.au

Attention: Dr Paul Koerblin, Manager Web Archiving

Dear Sirs

Kerry Stokes AC

We act for Mr Kerry Stokes AC.

We are instructed to write to you regarding the inclusion, in your web archive PANDORA (Pandora archive), of a number of blog posts authored by Mr Shane Dowling and which appear on the website kangarocourttoaustralia.com. We refer specifically to the following blog posts:

1. *"Kerry Stokes, Seven Group Chairman and Australia's number one perjurer, has been charged with contempt of court":*

<http://pandora.nla.gov.au/pan/130333/20111122-1058/kangarocourttoaustralia.com/2011/05/23/kerry-stokes-seven-group-chairman-and-australias-number-one-perjurer-has-been-charged-with-contempt-of-court/index9e92.html>

2. *"Kerry Stokes threatens legal action against blogger".*

<http://pandora.nla.gov.au/pan/130333/20111122-1058/kangarocourttoaustralia.com/2011/05/28/kerry-stokes-threatens-legal-action-against-blogger/index.html>

Mr Stokes is concerned by the accusations made in these blog posts, namely that:

- (a) he has been charged by the relevant authorities for contempt of court; and
- (b) he has been charged with and found guilty of perjury;

both of which are manifestly false.

Liability for Defamation

Mr Stokes regards the publishing of these accusations as a very serious matter.

The accusations are highly defamatory in nature and, as the publisher of the PANDORA archive, the National Library of Australia is liable for their publication on the archive.

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In those circumstances, Mr Stokes would be well-entitled to commence proceedings against the National Library of Australia seeking urgent interlocutory relief to have the blog posts removed and damages subsequently awarded to him for the damage which such false and defamatory accusations can create.

Mr Stokes has been and will continue to deal separately with the owner of the Kangaroo Court of Australia website, Mr Dowling.

PANDORA's policies

It would also appear that the blog posts and their content clearly fall foul of PANDORA's terms as set out in its Disclaimer, thereby warranting their immediate removal from the PANDORA archive.

For instance, the Disclaimer provides as follows:

"Content that is known to breach the law will not be included and access will be removed in respect to content that is subsequently proven to be in contravention of the the [sic] law."

The content on Mr Dowling's blog posts contravenes the law in that it, among other things, gives rise to an action for defamation against him. As such, it is content which should be removed from the PANDORA archive.

Moreover, it is difficult to see how these blog posts were deemed suitable for archiving by the National Library of Australia in the first place. To our understanding, the PANDORA archive is intended to be a selective archive where material is generally subjected to rigorous selection guidelines before being approved for archiving, with the ultimate aim of archiving material of national significance with long-term research value. It is unclear how these blog posts, and indeed the Kangaroo Court of Australia website as a whole, meet the selection guidelines or the overall purpose of the PANDORA archive.

Action required

In light of the above, Mr Stokes requests that:

- the Kangaroo Court of Australia website and its content; or
- In the alternative, the blog posts at 1 and 2 above and their content;

be immediately removed from the PANDORA archive.

In the meantime, Mr Stokes fully reserves his rights. Please note that if this matter is not resolved to our client's satisfaction in the manner outlined above, he will consider approaching the Court for the appropriate orders without any further notice to you.

Yours faithfully

Justine Munsie

Partner

Direct Line: (02) 8915 1011

Direct Fax: (02) 8916 2011

Email: justine.munsie@addisonslawyers.com.au

Ex. (A)

Imputations for 5.6.15

First article

For second plaintiff:

- (a) The plaintiff engaged in corrupt conduct by using his son's position as chairman of the National Library of Australia to archive a website.

Third plaintiff:

- (a) The plaintiff engaged in corrupt conduct as chairman of the National Library of Australia by archiving a website his father Kerry Stokes wanted removed.

Second article

Second plaintiff

- (b) The plaintiff has engaged in corrupt and criminal conduct in that he took advantage of his son's position of the National Library of Australia to have a website removed from the library's archive.

- (c) The plaintiff is one of Australia's biggest tax cheats.

- (d) The plaintiff paid a bribe to his son in his capacity as chairman of the National Library of Australia in order to procure a decision in his favour in relation to a request he had made to have a website removed from the library's archive.

Third plaintiff

- (a) The plaintiff acted corruptly as chairman of the National Library of Australia for the benefit of his father Kerry Stokes by deciding to remove a website from the library's archive at the request of his father.

- (b) The plaintiff lied when he denied making the decision to remove a website from the National Library of Australia's archive.

- (c) The plaintiff misused his position as chairman of the National Library of Australia to make a decision which favoured his father even though he had a clear conflict of interest and he knew the decision was against internal recommendations and was without legal justification.

- (d) The plaintiff, as chairman of the National Library of Australia, accepted a bribe from his father to make a decision in his father's favour



Issued: 5 June 2015 5:05 PM

JUDGMENT/ORDER

COURT DETAILS

Court	Supreme Court of NSW
Division	Common Law
List	Defamation
Registry	Supreme Court Sydney
Case number	2014/00114469

TITLE OF PROCEEDINGS

First Plaintiff	Justine Munsie
Second Plaintiff	Kerry Stokes AC
First Defendant	Shane Dowling Refer to Party Details at rear for full list of parties

DATE OF JUDGMENT/ORDER

Date made or given	5 June 2015
Date entered	5 June 2015

TERMS OF JUDGMENT/ORDER

ORDERS:

1. Affidavit of Richard Michael Keegan sworn 5 June 2015 filed in Court.
2. Plaintiff to file a Notice of Motion to be made returnable before Common Law Duty Judge at 10am on 11 June 2015.
3. Orders made as per Plaintiff's SMO in the following terms:
 - 3.1 The plaintiffs serve the defendant by email shanedowling@hotmail.com by 6.30pm on 5 June 2015 and thereafter, in person, if practicable with copies of the following:
 - a) The affidavit of Richard Michael Keegan sworn 5 June 2015
 - b) Document entitled Imputations for 5.6.15 (Exhibit A)
 - c) These orders
 - 3.2 The defendant be restrained until 5pm Thursday 11 June 2015 from publishing:
 - a) The First Article
 - b) The Second Article
 - c) The alleged imputations set out in document titled Imputations for 5.6.15 (Exhibit A)
 - d) Any matter of and concerning the plaintiffs to the same effect as the First and Second Article
 - 3.3 The question of costs of the application is reserved.
 - 3.4 Proceeding listed for further directions on Thursday, 11 June 2015 at 10am before the Common Law Duty Judge.

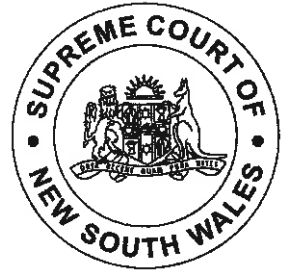
DIRECT REGISTRY TO INCLUDE USUAL SEQUESTRATION ORDER.

Orders to be entered forthwith.

To Shane Dowling. If you disobey paragraph 3.2(a,b,c,d) of this order you will be liable to sequestration of property and to imprisonment.

This matter is listed for Duty (Common Law) on 11 June 2015 10:00 AM before the Supreme Court - Civil at Supreme Court Sydney.

Estimated duration: 5 Minutes



Signature M.Cesta-Incani (L.S.)
Capacity Chief Clerk
Date 5 June 2015

If this document was issued by means of the Electronic Case Management System (ECM), pursuant to Part 3 of the Uniform Civil Procedure Rules (UCPR), this document has taken to have been signed if the person's name is printed where his or her signature would otherwise appear.

PARTY DETAILS

First Claim

Plaintiff(s)

First Plaintiff
Second Plaintiff

Justine Munsie
Kerry Stokes AC

Defendant(s)

First Defendant

Shane Dowling