

IN THE SUPREME COURT
OF NEW SOUTH WALES
COMMON LAW DIVISION

5 REGISTRAR KENNA

MONDAY 24 AUGUST 2015

2014/00114469 - JUSTINE MUNSIE v SHANE DOWLING

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Mr Dawson appeared for the plaintiff
Defendant appeared in person

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REGISTRAR: I will have Mr Dowling brought in so that if necessary our Sheriffs can return to where they need to be.

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DAWSON: I should announce my appearance for the plaintiffs, Mr Dowling is in person as the Court knows. Registrar I will hand up if I may some proposed orders.

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DEFENDANT: Before we get there I think we need to decide when you are going to step down and when you are going to be replaced by another person.

DAWSON: I will just provide a copy of what I am handing up to Mr Dowling. Can I just outline very briefly where the matter is up to.

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DEFENDANT: It's gone nowhere for 18 months.

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DAWSON: Mr Dowling has filed a defence in two parts, following on from Justice Hoben's order striking the defence out, that was earlier this year. We have, now we have considered Mr Dowling's latest attempt at the defence decided we need to bring another application. We filed a motion last Monday which was 17 August which seeks various orders including an order striking the defence out. This set of orders here is solely for the purpose of setting a timetable for the exchange of evidence in the usual way and if it's possible from this list to allocate a hearing date, or perhaps it can come back for directions with a view to it being referred to the duty Judge if that is more appropriate, so that's all we seek today, there's no substantive issue for determination from our point of view and they're the dates we propose but if Mr Dowling wants some more time we are very flexible about that. For example if he wants more time to file his evidence or more time to consider ours we have no difficulty with that.

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REGISTRAR: Mr Dowling what do you have to say about this timetable?

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DEFENDANT: Well you need to step down for starters. In relation to this timetable this has been going on for 18 months as we all know in this matter and I know you are fully aware. You've been told to help Mr Dawson here

sweep it under the carpet. Once interrogatories and discovery are ordered Kerry Stokes will withdraw straight away because he's not going to perjure himself again like he did in the C7 case back in 2006 or 7 he perjured himself, so once interrogatories and discovery are issued which you are refusing to do,
5 a number of Judges have refused to do, this matter will be withdrawn, a prime example is Allan Jones recently got sued for defamation and soon as they issued their interrogatories and discovery to the Queensland politician he withdrew the matter straight away.

10 Now you want this to continue in court with their dodgy applications, this is the second application they have had, same time waster. It is a cart before the horse scenario, I am entitled to interrogatories and discovery, there's a list there, there's an affidavit there, Justice McCallum said all I had do was send the other party that list and they were to respond which they refused to do.

15 Now as soon as that goes down they are going to be withdrawing the matter because Kerry Stokes is a grub, he is a tax cheat, he is a fraudster, he is a sleaze and he won't answer interrogatories and discovery and you are aiding and abetting them, you want me in here, you want me to continue in the
20 manner that I am but just fighting for justice. Don't you hiss at me, you are the sicko, Dawson, I am at the Bar table and he is hissing at me trying to put me off, what a grub I will refer you to the Bar Association

REGISTRAR: Mr Dowling just focus on me.

25 DEFENDANT: Well I don't really want to, I can tell you the truth, but I want you to step down, you are fully aware I said last year in October that I would be making a complaint to ICAC about you and you said "I can't wait". Now to sit there and lie and say there are no other Registrars available is garbage. I've
30 seen the list this morning. I noticed Hedge was on and I think Hedge may be even come from the Federal Court, there used to be a Hedge up there. There's plenty other Registrars you can refer it to them and let them deal with it.

35 REGISTRAR: But I would be satisfied that I'm biased or there was some sort of conflict of interest and as I indicated to you earlier--

DEFENDANT: It says on here--

40 REGISTRAR: Would you sit down please, you can have an opportunity to respond to me, as I indicated earlier my job is to case manage the motion which means I get you listed before a Judge so that a Judge determines it. I don't determine it. I don't see how I am acting in any form of conflict or with a
45 conflict of interest, I don't see how I am being biased to either side so what I will do is I will case manage the motion today and you will get an opportunity to respond to the timetable and tell me whether or not you have any issue with the dates and the timetable and I will list it for hearing today. You don't have to come back and see me that way you can just go straight to a Judge.

50 DEFENDANT: That's good news.

REGISTRAR: If you are satisfied with the orders that I make today you can file a motion seeking to review me, you can prepare that motion and go straight to the duty Judge.

5 DEFENDANT: Before you set it down for a Judge I just want to make I don't get that paedophile, Gary Neilson. I don't want that paedophile Judge Gary Neilson.

10 REGISTRAR: I don't believe that there is a Judge Neilson here. Now do you have any issue with putting on an affidavit by 11 September 2015 taking into account that they're going to give you one by 1 September.

15 DEFENDANT: Mr Keegan(?) said we can hear my argument for my discovery and interrogatories at the same time, Mr Keegan told me outside.

REGISTRAR: At the hearing of the motion?

DEFENDANT: Yes, this motion, yes.

20 DAWSON: Can I just say we have no difficulty if Mr Dowling wants to renew that application--

DEFENDANT: It's not renewed.

25 DAWSON: --he made a similar application before Justice Hoeben and it was rejected as being premature apart from anything else but if Mr Dowling wants to renew it, I have indicated to him in an attempt to assist him that an application for discovery and interrogatories in any case, but in particular a
30 defamation case would not be entertained until the close of the pleadings and given that we are attempting to strike out the defence it would seem--

35 DEFENDANT: It's the cart before the horse how can I have my full defence until I got the interrogatories and discovery so how can they be knocking it out before I got my full defence. They - I am at the Bar table, you are interrupting me I, I always have in my argument, you are meant to wait for your turn.

40 REGISTRAR: Let's get back to the timetable, regardless, I understand the plaintiff's position is that you can re-ventilate these issues at the hearing of the motion.

DEFENDANT: No, no, no, I want orders today saying discovery which there's an affidavit from November last year with the discovery and interrogatories in it.

45 REGISTRAR: So you know the date so I can be specific?

50 DEFENDANT: No, it's November last year, I think it might be 24th, I don't know, November, I know it's November last year. There's not a whole heap of affidavits in there so there's an affidavit from last November with interrogatories and discovery. I spoke to Justice Lisa McCallum when we were

there last year and she said I only have to send the other party a list, I don't need to file an affidavit and all that and I will need to update, make additional interrogatories and discovery request, because they filed further claims against me, they made me take down other articles, so we'll have the orders that that affidavit is dealt with.

REGISTRAR: And can that be done by 11 September which is contemplated in these orders or do you need more time?

DEFENDANT: Well we are getting a bit - that affidavit can be dealt with and I can e-mail the other party further interrogatories and discovery in relation to the further matters that they proceeded against me in relation to other articles, so the order is that - what's today's date, I forget?

REGISTRAR: It's 24 August.

DEFENDANT: I want a date that I can e-mail, just e-mail, the other party further interrogatories and discovery request and I can e-mail the Registry which is what is meant to be the proper process as far as Justice Lucy McCallum said last year, you just e-mail the request in for discovery and interrogatories as per the orders on the draft processes on the Supreme Court website. So that's all I am asking for today, number 1 that affidavit from November last year is dealt with in this notice of motion, the future hearing date.

REGISTRAR: At the hearing of this motion. Now--

DEFENDANT: And I am giving an opportunity to e-mail them further requests for discovery and interrogatories which will also I think I need an e-mail address to e-mail it into the Court because that is the proper process.

REGISTRAR: Well you don't need to e-mail it through to the Court, you can send the request to them and then you can attach it to your affidavit so it's part of your evidence, saying this is the request that I sent to them.

DEFENDANT: Well I don't really need to file another affidavit I don't think.

REGISTRAR: It might be best if you do send over a further request for interrogatories and further categories for discovery that you attach that to an affidavit saying on this date I served them with a further request for interrogatories and discovery.

DEFENDANT: And that will have the date of the previous one in there as well.

REGISTRAR: When can you send your request for further interrogatories and categories of discovery to the other side?

DEFENDANT: Well if I would need to do it by affidavit format--

REGISTRAR: You can send your request to them just by way of letter but when you are submitting it to the Court it will have to be what you sent to them you'll annexe to an affidavit.

5 DEFENDANT: On that day, on that day of the hearing I can hand it up to the Court.

REGISTRAR: Well it is best if we get it in advance so the Judge can have a look at it in advance, so when do you think you can get the categories and
10 interrogatories request over to the plaintiff.

DEFENDANT: I am just bringing up my calendar, where is my calendar? There we go. So they want me on 11 September, which is one, two - what's the hearing date, let's work back from the hearing date.
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REGISTRAR: I was going to find out how long you needed and then I could - if you think you need a little bit longer I will give you a little bit longer, it means I push the hearing out a little bit longer.

20 DEFENDANT: Well quite often the hearing date mightn't be for three months or something, so if the hearing date is not for three months I'll maximise--

REGISTRAR: How long do you think it will take to hear both aspects?

25 DAWSON: If both are going ahead Registrar it is probably safe to call it a day I think.

REGISTRAR: One day.

30 DEFENDANT: I don't have a day, I can tell you now, whatever day it is set the maximum time I will have to be out this front door is quarter to three, I work.

REGISTRAR: We are just going to give it a day so that a Judge will be
35 available and they won't be allocated other items. Now I've got listings in October from mid-October, I've got 15, 16, or 23, but if you need more time I have November listings.

DEFENDANT: If it's not till 15 October then let's work back from that.
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REGISTRAR: Let's just see if everybody's available on the 15th

DAWSON: Is there anything earlier than that Registrar?

45 REGISTRAR: I don't have anything else, that is the very first day I have.

DEFENDANT: What day is that?

REGISTRAR: That will be--
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DAWSON: I can't do those days I am afraid Registrar but I could do something in--

5 DEFENDANT: You said one day, what have we got two days for?

REGISTRAR: No, I was just giving multiple days to see if the parties were available.

10 DEFENDANT: In their application they were talking about two days, that's why I thought two days.

DAWSON: Is there anything, if it suits Mr Dowling, in the week of 23 November.

15 DEFENDANT: You see they are trying to play it out but it really doesn't worry me because there's a whole heap of things going down you've lost the game already Dawson.

20 REGISTRAR: I have 27 November.

DEFENDANT: See he's been told by Stokes to drag it out forever because once they get the interrogatories and discovery which they are going to have to answer at some stage they are going to pull the pin on the case, just like that clown did up in Queensland when he took on Alan Jones. That only happened
25 a couple of weeks ago. Sue Jones for defamation, as soon as the interrogatories and discovery Tedesci pulled the pin because he was - and that's the same as Stokes here so they're trying to play it out to November. We were here August last year, August last year we came here--

30 DAWSON: I will say two things in response to what Mr Dowling has just said, one I in fact asked for an earlier date when I first rose that disproves what he's just said and two he can rest assured Mr Stokes--

35 DEFENDANT: Oh you play the game all the time.

DAWSON: --will not drop these proceedings. Registrar can I suggest these orders then, to accommodate Mr Dowling and our application, orders one--

40 DEFENDANT: Well why doesn't he answer the discovery and interrogatories.

DAWSON: Orders one, two and three should have after the word "evidence" these words inserted and I don't ask the Court to note this we can send through a typed up version, I wouldn't ask the Court to take my dictation with great respect but can I suggest these changes, after the word "evidence" the
45 words "in relation to the plaintiff's motion filed 17 August 2015" that would appear in orders one, two and three, the dates can remain unless Mr Dowling wants more time for his evidence. Order four should refer to the hearing date of 27 November 2015, there should then be orders five and six and again we can prepare a note of these and send them in but I would propose order five in
50 these terms, "any application by the defendant for discovery orders and/or to

administer interrogatories be filed and served on and before” whatever date Mr Dowling wants but obviously in advance of the hearing and then order six would simply need to be the defendant’s motion to be listed for hearing, or the defendant’s application to be listed for hearing with the plaintiff’s motion. I
5 think one of the difficulties Mr Dowling had last time was that there was in fact no application before the Court which was a procedural hurdle to the matter being dealt with.

10 REGISTRAR: I seems Mr Dowling has been getting some conflicting information that her Honour had been, Justice McCallum had indicated - I don’t know I wasn’t present in the Court room--

15 DEFENDANT: Yes, I know, I got conflicting - Justice McCallum slapped you down she said you shouldn’t be telling me I need to file a notice of motion she said you’ve just got to send it to the other party and--

20 DAWSON: That’s a procedure Registrar that operates in the Defamation List and that’s why I said “application” it doesn’t need to be a formal motion but it does need to be an application for discovery and/or interrogatories so that we’re on notice and so the court knows what the--

DEFENDANT: Well I am going to e-mail it and attach it to an affidavit, that will do the trick.

25 DAWSON: --proposed interrogatories are and what the proposed categories are. Mr Dowling has already given us some proposed interrogatories in discovery categories but I gather from what he said he wants to add to those in light of recent substantive developments in the proceedings which is why I have proposed those orders so he is not prejudiced and he can catch it all up
30 and put it into one global application.

DEFENDANT: Well that’s what I just said I was going to do, I’ll do another affidavit.

35 REGISTRAR: What date can you do that by Mr Dowling for you to serve a further request to administer interrogatories and categories for discovery by?

40 DEFENDANT: What is the date in November you were going to have Mr Dawson?

DAWSON: 27 November was the hearing date I think.

REGISTRAR: And you are available on 27th Mr Dowling?

45 DEFENDANT: Mondays is what days I am available.

DAWSON: That’s not a Monday.

50 REGISTRAR: That’s a Friday.

DEFENDANT: Well I work Fridays.

REGISTRAR: Well we'll try to find another date to suit.

5 DEFENDANT: Mondays.

DAWSON: Is the 30th free by any chance Registrar.

10 REGISTRAR: Mr Dowling would you be available on the Tuesday, I have got 1 December.

DEFENDANT: I work on Tuesdays.

15 REGISTRAR: Do you work Tuesday through Friday? Is that correct?

DEFENDANT: I can probably push out a Wednesday morning but I even work Monday night so I've got to be out of here by quarter to three, but that's fine, we can tell the Judge and the Judge can deal with that.

20 REGISTRAR: Okay, look I will list it on 30 November, I will have to re-jig something at this end, but that's fine to accommodate all the parties.

DEFENDANT: So that is a Monday is it?

25 DAWSON: Yes.

REGISTRAR: So that will be a Monday.

30 DEFENDANT: 30th - and the order is, well we'll explain the order I have to file, send them interrogatories and discovery, the new ones, and then file it as an affidavit.

35 REGISTRAR: Correct. So when can you send over your further request to administer interrogatories and categories of discovery.

DEFENDANT: Well it's not till 30 November I don't see - I should have plenty of time to deal with it.

40 REGISTRAR: If you will just give me a date I will put it in.

DEFENDANT: Well 30 November I may as well not leave it till beginning of November.

45 REGISTRAR: So you are saying 2 November?

DEFENDANT: That's a Monday is it?

REGISTRAR: That's a Monday.

50 DEFENDANT: Yes.

DAWSON: What about the dates for your evidence, can you do your affidavit on the strike out application by then?

DEFENDANT: I can do that by the Monday as well 2 November.

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DAWSON: I think Mr Dowling is proposing 2 November for order 2 as well, Registrar, we have no difficulty with that.

DEFENDANT: Well I don't think I will be filing much more - well I don't know, I'll reserve that right but I don't think I'll be filing any further evidence.

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REGISTRAR: We'll change order 2 to 2 November and order 3?

DAWSON: Order 3 could be 9 November. On that basis Registrar could order 1 perhaps refer to 21 September, given that there is no rush.

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DEFENDANT: What is it 21 September?

DAWSON: Yes. If you get our stuff on the 21st you've got six weeks or something to respond, you've got a week to put a reply on. Registrar would it assist if we prepared a typed version with those orders set out and circulated not only to the Court but to Mr Dowling as well.

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REGISTRAR: That's fine I'll read out the orders, I am just making those additional amendments, I think order 2 will have to have "after evidence in relation to plaintiff's notice of motion filed 14 August 2015" and any application--

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DAWSON: Yes and order 3 - oh I see.

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REGISTRAR: --for discovery or to administer interrogatories so that Mr Dowling can put his further request attached to that same affidavit.

DEFENDANT: I also request as part of my defence that I asked her last time that Justice Michael--

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REGISTRAR: Justice Adams.

DEFENDANT: --Adams publish a judgment, which he did do, the problem we got is in part the application is relevant to judicial bribery against Justice Lucy McCallum, Justice Ian Harrison and Justice David Davies, all three of them had ex parte hearings with Mr Dawson here and issued orders against me but all three have failed to publish reasons. Now until they publish those reasons which they legally have to do I can't prepare my full defence, obviously, because I am accusing them of judicial bribery number one, number two I would like the Judge to hear the motion first after this matter be transferred to the Federal Court based on the allegations of judicial bribery and we know Judges of the New South Wales Court take bribes because it has been on all the media that the mafia has been bribing them 2.2 million to have

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someone have a reduced sentence recently. So the first motion that needs to be dealt with on that day is that the matter be transferred to the Federal Court on perceived bias, we got a Royal Commissioner down the road, done a lot less than that and he's been asked to stand down. Now I've got allegations
5 against numerous judges here of taking bribes, refusing to publish written reasons why they had ex parte hearings. Mr Dawson refuses to give reasons why he had those ex parte hearings and they refused to publish those reasons because they can't justify it. Now until they get those reasons I can't prepare my full defence. Now they don't want to publish those reasons because once
10 they do they are in a lot of trouble, they can't justify those ex parte hearings.

DAWSON: Registrar can I then suggest, Mr Dowling is probably a walking, talking reason as to why ex parte hearings are more attractive but can I suggest that--
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DEFENDANT: Because they're the only ones you can win you are--

DAWSON: --we add in to orders 2 and 5 before the words "for discovery" et cetera, for transfer of the proceedings to the Federal Court so that order 5
20 will read "in the application by the defendant for transfer of the proceedings to the Federal Court or discovery orders and/or interrogatories" et cetera and then those words could probably be added to or audited as you suggested in relation to the other application the defendant has foreshadowed.

25 DEFENDANT: The application can be in affidavit format Registrar because I can't afford to be filing notice of motions, they cost \$500 or whatever they are.

REGISTRAR: You can apply for a post payment of the filing fee.

30 DEFENDANT: You can issue that order here, "Mr Dowling can make an application by affidavit to be filed by" that date I have been given, 2 November.

REGISTRAR: Mr Dowling would you like me to ask the Registry to send you a copy of these orders?
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DEFENDANT: Yes, by e-mail, you did that last time I think, ShaneDowling@hotmail.com. Make sure you all visit the website KangarooCourtofAustralia, you can read that top Judges take bribes there, never been sued by one of them. Mr Stokes has sued half the country, hasn't
40 he?

REGISTRAR: Now there is no dot between Shane and Dowling.

45 DEFENDANT: No, just one word, ShaneDowling@hotmail.com.

REGISTRAR: I will make the following directions. I will direct the defendant to serve a further application to administer interrogatories and for discovery by 2 November 2015. I will make orders 1 through 5 of the orders handed up in court today as amended by me and I will just read them on, due to the
50 amendments, order one is the plaintiff is to file and serve any evidence in

relation to the plaintiff's notice of motion filed on 14 August 2015 on or before 21 September 2015. Order 2 the defendant is to file and serve any evidence in relation to the plaintiff's notice of motion filed 14 August 2015 and any application for further discovery and interrogatories and for transfer to the
5 Federal Court on or before 2 November 2015, the plaintiffs to file and serve any evidence in reply on or before 9 November 2015.

I will list the plaintiff's notice of motion filed on 14 August 2015, along with the defendant's application for discovery and to administer interrogatories and
10 application to transfer the proceedings to the Federal Court for hearing on 30 November 2015, with an estimate of one day.

Written submissions are to be filed and served by 23 November 2015 and just to make it clear the defendant's application to administer interrogatories and
15 for discovery is to be heard with the plaintiff's notice of motion and I will ask the Registry to provide the defendant with a copy of these orders to ShaneDowling@hotmail.com.

20 DAWSON: Thank you Registrar.