IN THE HIGH COURT OF AUSTRALIA

SYDNEY REGISTRY

No. of 20__

BETWEEN:

Shane Dowling
Applicant

and

Justine Munsie
First Respondent
Kerry Stokes
Second Respondent
Ryan Stokes
Third Respondent

Pursuant to Rule 6.07.2 of the *High Court Rules* 2004 I direct the Registrar to refuse to issue or file this document without the leave of a Justice first had and obtained by the party seeking to issue or file it.

Justice of the High Court of Australia

Dated 23rd of MAY 2019

APPLICATION FOR REMOVAL

To: The Respondent

Attn: Martin O'Connor – Addisons Lawyers – Level 12 / 60 Carrington St Sydney 2000

The applicant applies for an order under section 40 of the *Judiciary Act* 1903 removing the whole of the cause now pending in the Supreme Court of NSW which is proceeding number 2014/114469 between Justine Munsie, Kerry Stokes and Ryan Stokes v Shane Dowling.

Part I:

1.1 The matter be removed to the High Court of Australia.

1.2 The matter in the NSW Supreme Court 2014/114469 be stayed until this application is determined by the High Court of Australia.

1.3 Such further or other orders as the court thinks fit.

Part II:

[*A concise statement of the constitutional or other question.*]

2.1 Are allegations that a judge and/or judges take bribes protected from defamation laws as it would otherwise infringe on the implied freedom of political

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communication political communication as per the 1997 High Court of Australia judgment Lange v ABC and the 2006 High Court of Australia judgment Coleman v Power.

2.2 Are SLAPP lawsuits (Strategic Lawsuit Against Public Participation) legal in Australia as this is a blatant SLAPP Lawsuit and is part of numerous other SLAPP lawsuits by Kerry Stokes and his associated companies?

2.3 Can applicants have a defamation judgment in their favor when they provided no evidence at the final hearing?

2.4 Does a Supreme Court judge (Justice Clifton Hoeben) have the constitutional power and/or legal authority to hear a matter where a party to the matter has done 4 months jail which was partially for calling Justice Clifton Hoeben a paedophile?

2.5 Does the NSW Supreme Court have the constitutional power and/or legal authority to hear a matter where Chief Justice Tom Bathurst ordered senior court staff to make a complaint to the NSW Police and Commonwealth Director of Public Prosecutions (CDPP) about the applicant (Shane Dowling) that wasa latter withdrawn because it was malicious?

Part III:

[*A brief statement of the factual background to the application.*]

3.1 The following matter Munsie v Shane Dowling – Has not been finalized but a judgment was handed down in May 2018 in the applicants favor after a hearing in April 2017. This started out as a defamation claim against me by Kerry Stokes and his lawyer Justine Munsie regarding Seven paying Schapelle Corby for an interview etc before Justice Ian Harrison. Ryan Stokes was added as an applicant in 2015 in relation to other articles I published regarding Ryan abusing his position as Chairman of the National Library of Australia for the benefit of his Father Kerry by blocking the NLA from archiving my website because I wrote about Kerry Stokes being a perjurer in the infamous C7 court case.

3.2 On Monday the 14th of April 2014 at an ex parte hearing before Justice Ina Harrison Kerry Stokes and his lawyer Justine Munsie instituted defamation proceedings against me in the NSW Supreme Court. The next day (Tuesday 15/4/14) at about 7pm they served the paperwork via email. A super-injunction, suppression orders and non-publication orders had been issued.

I publish a judicial corruption website and could not believe they had managed to get a super-injunction and I thought I was about to be stitched-up in a major way so for protection I published an article telling people I had been sued for defamation and that a super-injunction had been issued. I also sent an email of complaint about the super-injunction to the NSW Premier, Attorney-General and Chief Justice.

3.3 On Thursday the 17th of April 2014 a hearing was held and while I was at the bar table the applicant's barrister Sandy Dawson served me a notice of motion charging me with contempt. Justice Ian Harrison allowed it but I now know from Justice Lucy McCallum that it was unlawful for me to be served at the bar table which both Sandy Dawson and Justice Ian Harrison would have known.

3.3 On the 24th of April Justice Ian Harrison handed down a judgment quashing the super-injunction, suppression orders and non-publication orders. The judgment is: Munsie v Dowling [2014] NSWSC 458 (24 April 2014).

3.4 On the 16th of May 2014, after a hearing on the 8th of May 2014, Justice Peter Hall overturned Justice Ian Harrison's judgment and re-instated Justice Ian Harrison's non-publication orders. This was as dodgy as it comes and was in effect a backdoor appeal of Justice Ian Harrison's judgment and should never have been allowed. The judgment is: Munsie v Dowling [2014] NSWSC 598 (16 May 2014)

3.5 For the applicants contempt charge against me for breaching the super-injunction (even though it was lifted after a few days and was never justified) I was fined $2000 which I never had to pay.

3.6 The applicants provided no evidence to support their claim at the final hearing in April 2017 as their barrister Sandy Dawson argued they did not have to provide evidence as they had my defence dismissed and because they had interim orders for the suppression orders. But they only provided hearsay evidence from their lawyers Richard Keegan to support the interim orders (which is allowed under section 75 of the 1995 evidence act) which means they now have final orders

based in hearsay evidence even though hearsay evidence is not allowed at a final hearing as per the 1995 evidence act.

3.7 Since this matter has started I have lost count of the number of articles and social media posts the court have ordered me to take down. It is a classic SLAPP Lawsuit.

3.8 The affidavit used to start the matter was written by Justine Munsie who said in the affidavit she had permission from Kerry Stokes to write the affidavit for him which means not only was Justine Munsie an applicant in the matter she was being paid by Kerry Stokes to represent him in the same matter. This is powerful evidence of attempting to pervert the course of justice and conspiracy to pervert the course of justice by Kerry Stokes, Justine Munsie, Ryan Stokes and their barrister and lawyers.

3.9 On the 17th of April I filed and served a notice of motion to charge the applicants and their lawyers with contempt of court etc.

3.11 Justice Clifton Hoeben is dealing with this matter in the defamation list and 2 other matters involving me and refuses to stand down from hearing it.

Perceived bias and real bias by Justiec Clifton Hoeben

3.12 Justice Hoeben's refusal to recuse himself from the matter scandalizes the court given I did 4 months jail last year because I was found guilty for calling Justice Clifton Hoeben a paedophile, calling Registrar Christopher Bradford a suspected paedophile and known bribe-taker and breaching 2 suppression orders because I wrote about the contempt charge. Justice Tom Bathurst has had justice Clifton Hoeben dealing with 3 associated matters and he has refused to stand down from those matters where there is clear perceived bias and real bias.

3.13 This matter was before Justice Clifton Hoeben on the 3rd of May and he dismissed my Notice of Motion on the 13/5/19 as he said I need leave of the court which he refused. The respondents had not asked for the matter to be dismissed and had emailed me draft orders for the filing of evidence and had a barrister in

court for the purpose of directions. Justice Hoeben had taken it upon himself to summarily dismiss my notice of motion for contempt which denied me natural justice. See judgment: Munsie v Dowling [No 11] [2019] NSWSC 540 (13 May 2019)

3.14 Justice Hoeben claims in his judgment at paragraph 4 that I was did not appear at the final hearing before Justice Rothman on the 24th of April 2017. That is not true and a blatant lie and even Justice Rothman's judgment (21/5/18) says so. (Munsie v Dowling (No 10) [2018] NSWSC 709 (21 May 2018)) It is no surprise that Justice Hoeben would lie about this as he clearly despises me.
At paragraphs 11 and 12 of Justice Hoeben's judgment he deals with my application for him to recuse himself based on a previous judgment which he refuses to recuse himself. Nowhere in his judgment does Justice Hoeben mention I requested he recuse himself given I did 4 months jail last year because I was found guilty for calling Justice Clifton Hoeben a paedophile, calling Registrar Christopher Bradford a suspected paedophile and known bribe-taker and breaching 2 suppression orders because I wrote about the contempt charge. Nor does Justice Hoeben mention that I requested he recuse himself given the police charged me with a criminal offence which related to the email I sent the court on the 6th of September 2016 I sent an email to all the judges of the Supreme Court of NSW accusing 15 judges, 2 registrars and 1 magistrate of being paedophiles or suspected paedophiles and raising allegations of judicial bribery. The CDPP later dropped the charge because it was blatantly malicious.

Part IV:

[*A brief statement of the applicant's argument in support of the removal.*]

4.1 The applicants never filed any evidence except hearsay evidence at the interlocutory stage of the proceedings and they argued at the final hearing 3 years later in 2017 that they didn't need to produce any evidence because they had been granted in interlocutory injunctions.

Section 75 of the EVIDENCE ACT 1995 allows for hearsay evidence at the interlocutory stage of proceedings and which the applicants produced hearsay evidence mostly from their lawyer Richard Keegan. But to rely on the interlocutory

orders at the final hearing means they in effect used hearsay evidence, and only hearsay evidence, which is against the law, at the final hearing to justify their claim. This does nothing more than scandalize the court and is blatantly corrupt.

The reason they did this is because the applicants did not want to perjure themselves especially as Kerry Stokes was previously found by Justice Sackville to have given evidence that he knew was untrue and evidence that was deliberately false in the infamous C7 matter.

4.2 NSW judges should not hear the matter given the I spent 4 months in jail last year because I was found guilty for calling Justice Clifton Hoeben a paedophile, calling Registrar Christopher Bradford a suspected paedophile and known bribe-taker and breaching 2 suppression orders because I wrote about the contempt charge. I was also charged by the police with a criminal offence which related to the email I sent the court on the 6th of September 2016 I sent an email to all the judges of the Supreme Court of NSW accusing 15 judges, 2 registrars and 1 magistrate of being paedophiles or suspected paedophiles and raising allegations of judicial bribery. The CDPP later dropped the charge because it was blatantly malicious. Police statements show that the police charge was driven by Chief Justice Tom Bathurst which is another reason why NSW judges should not hear any matters involving me.

Part V:

[*Any reasons why an order for costs should not be made in favour of the respondent in the event that the application is refused.*]

Kerry Stokes, Ryan Stokes and their lawyer Justine Munsie have abused the legal system over and over again since 2014 running numerous SLAPP lawsuits against me and this matter is a prime example of a SLAPP lawsuit.

Part VI:

[*A list of the authorities on which the applicant relies, identifying the paragraphs at which the relevant passages appear.*]

Lange v Australian Broadcasting Corporation [1997] HCA 25, (1997) 189 CLR 520

R v Magistrates' Court at Lilydale; Ex parte Ciccone [1973] VR 122

Ebner v The Official Trustee in Bankruptcy [2000] HCA 63

Part VII:

[*The particular constitutional provisions, statutes and statutory instruments applicable to the questions the subject of the application set out verbatim. If more than one page in length, this Part should be attached as an annexure.*]

Common Law as per the precedents in the above authorities.

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Dated: 23/5/19

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[*Applicant*]

To: The Respondents

Attn: Martin O'Connor – Addisons Lawyers – Level 12 / 60 Carrington St Sydney 2000

20 **TAKE NOTICE:** Before taking any step in the proceedings you must, within **14 DAYS** after service of this application, enter an appearance in the office of the Registry in which the application is filed, and serve a copy on the applicant.

The Applicant is represented by:

[*Firm name, address for service, telephone and facsimile numbers and email address*]

or

The Applicant's address for service is:

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